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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable BENJAMIN L. CARDIN, a Senator from the State of Maryland.

PRAYER

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

Let us pray.

Eternal Lord God, help us this day to praise Your Name, ponder Your precepts, and live for Your glory. May we praise Your Name by living with gratitude because of the gifts of life, liberty, and joy. Teach us to ponder Your word as we seek Your wisdom in the privacy of our prayerful encounters with You. Lord, we desire to honor You with our lives by exemplifying those attitudes and traits that give the world a glimpse of Your divine plan.

Today, use the Members of this body for Your purposes. Draw them so close to You that their work will not be a burden but a delight. Empower them to serve our land in the spirit of children rejoicing in doing Your will.

We pray in Your strong Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable BENJAMIN L. CARDIN 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 10, 2007.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BENJAMIN L. CARDIN, a Senator from the State of Maryland, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

WELCOMING THE PRESIDING OFFICER

Mr. REID. Mr. President, I am happy to see the Presiding Officer who is presiding for the first time—a new Senator, longtime Member of Congress, but we are happy to see you presiding over the Senate.

SCHEDULE

Mr. REID. Mr. President, yesterday, we made significant progress on the ethics and lobbying reform bill. This will go a long way toward helping to reduce cynicism about this body. We began debate on the bill. The Republican leader and I offered a strong substitute amendment that made numerous important improvements to the underlying bill. And then I offered an amendment to strengthen the bill even further. Then we have had a number of other Senators come to the floor and make statements, offer amendments. And I think that is certainly appropriate.

Mr. President, I do emphasize this morning this is not a campaign finance reform bill. My personal feeling is campaign finance reform needs a very close going over. We need to hold extensive hearings on this issue. There are a lot of very complicated issues dealing with campaign finance reform, some of which deal with not only the Rules Committee but the Finance Committee because there are tax implications. I respectfully submit to my colleagues—both in the majority and minority—this is not the place to do rifle shots on campaign finance reform. I was a real cynic in the past about doing anything with, for example, 527s. I now think we have to take a look at a lot of these campaign finance issues, including 527s. But it has to be done in a thoughtful, probative way. I hope we can do that.

This is not a campaign finance bill. Campaign finance is an important issue, and we are going to have a full consideration of campaign finance in this Congress. But this bill is not the place for those amendments.

I look forward to Senators continuing to offer amendments today and hope we can make more progress in the coming days to wrap up this bill next week. We will wrap up the bill next week, even if it is a long week. If things slow down or there appears to be some stalling, I will have to see if cloture is the only alternative, which it might be. But for now let's keep moving forward. I have had people come to me and say they have some amendments to offer. I think that is very important. This is an open process. People should be able to do that.

We are going to be in a period of morning business for an hour, as soon as I and the Republican leader sit down. The majority will control the first half hour and the minority will control the last half hour. Once morning business closes, the Senate will resume the consideration of the ethics bill.

As I have said, there are a number of amendments pending. And as I have indicated, there are other Members who are interested in offering amendments today. I hope we will be in a position later this morning to take action on some of these pending amendments. The managers have expressed their desire to work with Members in regard to these two amendments.

The two managers of this bill are two of our finest. Senator FEINSTEIN in the past has managed bills as a member of the Appropriations Committee. Senator BENNETT is someone who has a great knowledge of Senate procedures. He is, in my opinion, a Senator's Senator. He does such a good job in everything he is involved in. We have two very good, thoughtful managers of this bill. If anyone can move this forward, I know the two of them can.

RECOGNITION OF THE MINORITY LEADER

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

LOBBYING AND ETHICS REFORM LEGISLATION

Mr. MCCONNELL. Mr. President, I would like to say to my good friend, the majority leader, I share his view that we ought to make progress on this bill. There are a number of amendments already pending. We will be working together during the course of the morning to get some votes scheduled. I share his view that we ought to finish this bill next week. So we will be going forward in a cooperative frame of mind.

This is an important piece of legislation. It has bipartisan support, as illustrated by the fact that the majority leader and myself are cosponsors of the substitute he offered yesterday. This is a piece of legislation that ought to be passed and ought to be passed soon in the Senate and will be done with a broad bipartisan basis of support.

So I look forward to working with my friend during the course of the day to get votes in the queue so we can move forward.

Mr. President, I yield the floor.

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

Mr. REID. Mr. President, if I could say one thing before the Republican leader leaves. I want everyone to hear what I said before. The first measure Senator MCCONNELL and I introduced, S. 1, will be the most significant lobbying and ethics reform bill since Watergate, if nothing else happens. And then we went a step further and, on a bipartisan basis, offered the substitute amendment which moves the ball down the field by a long way.

This bill is significant, and if nothing else happens other than S. 1 and the substitute, this will be a tremendously important piece of legislation in the annals of the history of this country. We have a lot of other people who want to improve the bill in their mind, and that is what this amendment process is all about. But we cannot lose sight of the fact that this is a significant move forward in ethics and lobbying reform with the two measures that have been put forward on a bipartisan basis. We have done already, some good work for the Senate.

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

Mr. MCCONNELL. Mr. President, I might add, I agree with everything the majority leader said. This substitute is essentially what passed the Senate last year 90 to 8. The Senate is ready to act or close to ready to finish this important piece of legislation. We were last year. It was bogged down in the legislative process in dealing with the other body. But we are going to pass this next week with an overwhelming bipartisan vote. And the majority leader and I will be working together to make that possible.

I yield the floor.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for up to 1 hour, with the first half of the time under the control of the majority and the second half of the time under the control of the minority.

The Chair recognizes the deputy majority leader.

IRAQ

Mr. DURBIN. Mr. President, tonight President Bush will address our Nation. The subject is one that is on the minds of virtually every American. It is Iraq. According to the accounts in the press, President Bush will be announcing that he will be increasing the number of U.S. forces in Iraq, perhaps by 20,000 troops.

If these news accounts are correct, that means an additional 20,000 American service men and women will be sent into harm's way or ordered to remain there for longer tours of duty.

This morning on television, on CNN, they interviewed the families of some soldiers who are now headed for their third tour of duty. There was a sad, heartbreaking interview with a mother—her two small children nearby, and her soldier husband sitting just a chair away. She said she could not be prouder of her husband. She considered him a hero and a brave man and that he would answer the call of duty whenever. But she said, in her words: It is just so frustrating trying to raise this family with my husband being called to duty over and over and over again.

Our hearts go out to those families. Our prayers are with them and the troops as this decision is made to escalate this war in Iraq, to raise the number of troops from 144,000 to possibly 164,000 or higher.

These troops follow these orders because they are the best and the bravest. They march off to war, risk their lives, away from those they love because they are sworn to protect this great Nation. We can never thank them enough for what they are doing. Every moment of debate that we have on the floor of this Senate about the policy of our Government toward Iraq should not diminish nor detract from our great debt of gratitude to these men and women and their families.

I will be joining a number of my colleagues this afternoon as we sit with the President for a final briefing before his decision. Sadly, I am afraid that decision has already been made. It is the wrong decision. For reasons I do not understand, President Bush has reversed a position which he took early on. His position was that he would heed the advice and counsel of the men and women in uniform, of the generals in the field, of those who were in command and could see the actual battle on a day-to-day basis. The President told us, over and over again, he would only dispatch as many troops as they asked for. But clearly that has changed.

General Abizaid, who was the leader, the commanding general of CENTCOM, who oversaw Iraq and Afghanistan, told us in November he saw no reason for more U.S. troops. Let me read what General Abizaid said in testimony before Congress just weeks ago:

> I met with every divisional commander, General Casey, the core 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?

General Abizaid went on to say:

> 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 to do this work.

General Abizaid said:

> I believe that more American forces prevent the Iraqis from doing more, from taking more responsibility for their own future.

Those are the words of the commanding general in Iraq a few weeks ago. Those were words which the President told the American people repeatedly would be his guidance in making decisions about whether to send more troops into battle. Those are words which the President tonight will ignore and reject.

There is a sad reality. The sad reality is this: 20,000 American soldiers, too few to end this civil war in Iraq; too many American soldiers to lose. I do not understand the President's logic. I do not understand how 20,000 troops could significantly make any difference.

Will there be a time line for these troops? If this is, in effect, a surge, as the White House has characterized it over and over again, is it temporary in nature? Well, if it is a surge that is temporary in nature, it betrays another position taken by the White House. How many times have we been told we cannot talk about an orderly

withdrawal from Iraq or redeployment? How many times have we been told we do not talk about when we are going to bring American soldiers home for fear the enemy in Iraq will wait us out?

If this increase and escalation of troops is temporary in nature, then it betrays the argument which the White House has made now for years. If we are going to add 20,000 troops, how can we guarantee that the enemy will not ''wait us out''?

I find it hard to follow the President's logic. I don't understand why he believes 20,000 troops will change the complexion of a civil war. I certainly don't understand how sending troops in on a temporary basis is going to result in anything of a positive nature. Army Chief of Staff Peter Schoomaker said:

We should not surge without a purpose and that purpose should be measurable.

What is the purpose? How will it be measured, and what is the timeline for completion? When does the President expect these troops and the 144,000 other American troops currently in Iraq to return home? The President may not want to use the word ''escalation,'' but that is the word that fits because if he is going to increase the number of troops, increase the danger to our soldiers, it is an escalation of this war. Like Presidents Kennedy, Johnson, and Nixon, President Bush is saying that he is sending more troops because conditions on the ground demand it.

In 1966, President Lyndon Johnson said:

Our numbers have increased in Vietnam because the aggression of others has increased in Vietnam. There is not, and there will not be, a mindless escalation.

But that escalation was followed by many others because American Presidents were trying to win someone else's civil war and because they were refusing to recognize the fundamental reality.

It is that the Iraqis, if we send in 20,000 more troops, will assign 20,000 troops or more to match. I suggest that that is a departure from what we have heard from this White House. Every schoolchild in America can recite the mantra: As they stand up, we will stand down. We have heard this over and over and over again. The suggestion that, as the Iraqi soldiers stand up and take responsibility, American soldiers can come home, that has been the promise. But if this is the bargain today, 20,000 American troops to generate 20,000 Iraqi troops, then we have changed the mantra. The mantra now is, as American troops stand up, Iraqi troops will stand up. If that is, in fact, the new policy, how can there ever be any end in sight?

We understand the reality. After almost 4 years, in a war that has lasted longer than World War II, we understand that we cannot win on a military basis. The President said it. Secretaries of Defense have said it. The generals in the field have said it. The Iraq war can only be stabilized and won on a political and economic basis. And to start with, we must disband the militias. The notion that leaders like Sadr can create a militia, a death squad, which can roam the streets of Baghdad and the roads of Iraq with impunity, suggests that there will be no stability and no security under these circumstances. The simple fact is, there is no sharing of power.

When I visited Iraq the second time a few weeks ago with Senator JACK REED of Rhode Island, we visited ministries which provide services almost exclusively to one religious sect. The health ministry, under the control of Mr. Sadr, is a ministry which provides few if any services to Sunnis. The Sunni population, which is about a third of the population of Iraq, doesn't get the hospitals and doctors. This ministry just helps Shias.

I also talked to some people in the field. I said: When it comes to police protection, how does that work?

Well, if you go into Baghdad and go into the police station, you will quickly learn whether it is a Shia or Sunni police station. Shia police don't arrest Shia civilians, and Sunni police don't arrest Sunni civilians. That is how badly fractured the society of Iraq is today. Is there anyone who believes that 20,000 American troops will change that? That decision has to be made by that Government's leaders to change Iraq and move it toward a nation and away from warring factions.

Some are skeptical. They argue that this division in Islam is 14 centuries old, and it is naive for westerners such as Americans and the Brits to believe that the arrival of the best troops in the world is somehow going to quell the flames of this battle that has gone on for centuries. It certainly isn't. It isn't going to change the circumstance without new political leadership. We need to establish civil order in Iraq. We need to make certain that we have leadership in this government that makes hard decisions that moves it toward a true nation. That is the answer to the stability of Iraq, not 20,000 American soldiers and marines, sailors, and airmen who are now going to add to the ranks of those who risk their lives every day.

It is time for the President to also be honest with the American people about the cost of this war. As of this morning, 3,015 American troops have died in Iraq; 7 times that number have come home disabled, maimed, blinded, suffering amputations and traumatic brain injury. That is the human legacy which is the paramount concern we all have.

There has also been another legacy of cost, almost $2 billion a week that we are spending in the war on Iraq, money taken out of the United States and away from the very real needs of our Nation being spent over there. Yet here in the fourth year of this war, less electricity is being generated in Iraq than on the day we invaded. There is an opportunity for us to provide drinking water, but it, unfortunately, hasn't been successful, despite 4 years of effort. Sewage facilities, jobs, the most basic things, the most basic services by which you judge a society, those measurements tell us that we have failed to produce in Iraq as promised.

That is the reality, despite some $380 to $400 billion having been spent by the United States in the 4 years we have been involved in this war. Now the administration is preparing another supplemental request. I read in the papers this morning that they are going to try to keep it under $100 billion. They come in and call this war an unanticipated emergency appropriation. We are now in the fourth year of unanticipated emergency appropriations. Sadly, every dollar we are spending in Iraq is a dollar not spent in America and a dollar of debt left to our children.

This President is the first President in the history of the United States, despite all the conflicts Presidents have faced, to call for a tax cut in the midst of a war, making our deficit situation even worse. The President needs to be much more honest with the American people in terms of the real cost of this war.

Let's speak for a moment about the state of our military. Again, they are the best and bravest in the world. Meeting with them on my recent trip, I left with pride that they would put on the uniform and risk their lives for our country. But our military has paid a heavy price, not just in the deaths and casualties but in the fact that they have lost combat readiness, equipment. They have been weakened in a world where we can't afford to be weak. This President refuses to replenish the troops as needed. Our National Guard units in Illinois and across the Nation have about one-third of the equipment they need to respond to a domestic crisis or if activated again in Iraq. There is little or no effort to replenish these troops as they must be. We struggle, offering bonuses and incentives to bring in more recruits and retain those who are currently serving, understanding that our ranks are thinning because we have asked so much of these men and women who serve us.

General Abizaid told the Senate Armed Services Committee in November that the military does not have the capacity to maintain an additional 20,000 soldiers and marines in Iraq. It will be interesting to see how the President suggests we find these soldiers and marines that he now wants to send over in the escalation of this war.

General Abizaid said:

The ability to sustain that commitment is simply not something we have right now with the size of the Army and the Marine Corps.

That was the general's testimony just a few weeks ago. Yet the President has decided to ignore the general's statement and to call for more troops. I don't doubt the Pentagon can find somewhere to get additional troops, extending the tours of duty of those who

are currently there, for example; and I don't doubt that our brave men and women will bear this ever-increasing burden. But I ask, at what cost to our Nation, at what cost to its families?

We have to ask as well: How does sending more troops represent the change in direction so clearly called for by the American people when they voted this last November? Tragically, this idea of escalating the war is more of the same. Tonight I expect the President to use the word ''change'' repeatedly, but I have seen little to give me hope that he will actually implement change or a new direction in our policy in Iraq.

I want Congress and the American people to finally ask the hard questions. For the 4 years of this war, this Congress has been supine. It has refused to stand up and accept its constitutional responsibility to hold this administration, as it should hold every administration, accountable for its conduct and spending. That is why I am heartened to know that even this week, we will have our first hearings before the Senate Armed Services Committee and the Senate Foreign Relations Committee, hearings by Chairman LEVIN and Chairman BIDEN, in an effort to ask some of the hard questions about the policies we have in Iraq.

This line of inquiry is long overdue. Simple things need to be asked. First, some accountability when it comes to the money that is being spent. We have all heard about the abuses, the profiteering. It doesn't make America any safer or help our troops at all. It pads the bottom line for private companies, many of whom benefit from no-bid contracts, but it doesn't make us any safer. We need to hold the Department of Defense accountable, to make sure that taxpayers' money is well spent, to make sure that the money being spent for our troops is, in fact, providing them with the best equipment and everything that was promised. That inquiry is long overdue.

We are also, of course, going to face the reality that this civil war in Iraq is getting worse and not better. When 3,000 civilians die in the course of a month, it is an indication of a society that is out of control.

We will soon be approaching the fourth anniversary of the invasion. I can remember when the vote was cast on the floor of the Senate. It was late at night. It was a week or two before the election. Several of us who had voted against this use of force because of our serious concerns didn't know, of course, what it would mean in the next election or how this would play out ultimately.

We stand here today, some 4 years later after that vote, and realize that this decision to invade Iraq was the most serious strategic mistake in foreign policy made by this country in the last four decades. One has to go back to the decision in Vietnam to continue to escalate that conflict, long after we had any prospect of success or victory, to find an analogy in recent memory.

The time came under President Gerald Ford when he faced the reality of Vietnam. It is time for President Bush to face the reality of Iraq. The reality is this: America has paid a heavy price. We have paid with American blood. We have paid with American sacrifice. We have paid with American treasure. We have given the Iraqis so much. We have deposed their dictator. We put him on trial. He will no longer be on the scene in any way, shape, or form since his execution. We have given them a chance to draft their own constitution, hold their own free elections, establish their own government. We have protected them when no one else would. America has done everything promised in Iraq. The reality, though, is we have done what we can do. Now it is up to the Iraqis. It is up to them to stand and defend their own country.

Sending in 20,000 more troops at this moment says to the Iraqis: Don't worry. America will always be there to bear the brunt of battle so that Iraqis don't have to.

That is not the right approach. The best approach is for us to start redeploying our troops on a systematic basis so that the Iraqis know that it is their responsibility and their country that they must stand and defend. It is time for us not to send more American troops into danger but to bring American troops out of danger and back home. That needs to start and start immediately.

Instead of the President's escalation of the war within the next 6 months, we should begin to redeploy our troops so that it truly becomes an Iraqi effort to create an Iraqi nation. Our end goal, as the Baker-Hamilton Iraq Study Group showed us, should be redeployment, repositioning of the majority of our forces by the first quarter of 2008. Escalation is not a blueprint for success. It is a roadmap to where we have already been.

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

Mr. DURBIN. I am happy to yield.

Mr. GREGG. I have been wondering what the specific position of the Democratic leadership was on the other side of the aisle relative to Iraq. If I understand it correctly, it is that we should redeploy—which, I presume, is a euphemism for withdraw—is that correct?

Mr. DURBIN. The redeployment would take the troops out of Iraq and, perhaps, position them in a nearby country. We would still be involved in trade, still be involved in hunting down al-Qaida forces and trying to stop terrorism. Yes, our feeling is—and I think the Senate vote on this—we should begin redeploying troops on a 4-to-6-month basis.

Mr. GREGG. Mr. President, if I may use the term withdraw, I have heard the term withdraw being used, but apparently it doesn't mean the troops would be coming out of Iraq. The Senator further suggested that that should be done immediately, is that correct?

Mr. DURBIN. Our feeling is that we could not do it immediately. The Baker-Hamilton study group suggested that we would basically redeploy our troops over a 15-month basis. That would suggest an orderly movement of troops of maybe 10,000 a month. But if you did it precipitously, it would create a danger for our troops and an instability. I think if we had an orderly redeployment, withdrawal, the Iraqis would get the message that they have to step in as American troops are redeployed.

Mr. GREGG. The Senator used the term ''immediately'' in his statement. That is why I wanted to clarify that. So we should withdraw over the horizon, i.e., redeploy, the Senator said, and that withdrawal should be at a pace of about 10,000 troops per month, and that process should begin immediately, I guess, and that it would be completed within 18 months, being the first quarter of 2008. Is that basically the specifics of how the Senator would approach the situation on the ground?

Mr. DURBIN. What I described to you is the Baker-Hamilton proposal. I did make exceptions for leaving troops there for training purposes and for hunting down al-Qaida terrorists, those specific circumstances. My feeling is that over a 4-to-6-month basis, we need to establish timelines so our troops could start moving away from Iraq and the Iraqis can step in. I use 10,000 a month because that is the way the math works if you follow Baker-Hamilton. It could be zero troops withdrawn or redeployed in the first 60 days, and 20,000 or 30,000 at some future time.

My personal belief is that until the Iraqis understand that we are leaving, they will not accept the responsibility to defend their own government and country, and they won't make the hard political decisions to put an end to the civil war.

Mr. GREGG. I appreciate the specifics from the assistant leader. I have not heard specifics from the other side of the aisle. I think it is constructive.

Can I continue to ask the question, however, to get a sense of what the specific proposals are from the other side. The President is going to send up a supplemental estimated to be over $100 billion. We have already had one of approximately $70 billion. So we are talking of a total supplemental of $170 billion. This additional supplemental would be, I presume, to cover what is being represented in the press as potentially a surge in troops and additional spending of significant dollars for reconstruction. Is it the position of the Senator that that $100 billion is more money than needs to be spent? In other words, if the proposal of the Senator, which is a withdrawal over the horizon, to begin over the next 2 or 3 months, accelerated to the point where it was completed by the beginning of 2008, averaging about 10,000 people per month—is it therefore the Senator's position that if you pursue that course

of action, you would not need $100 billion?

Mr. DURBIN. I don't serve on the Armed Services Committee, but it is my guess that redeploying troops is also a very expensive endeavor—maybe as expensive as deploying them and holding a position. So I don't know if there will be a savings if there is a redeployment. Although I voted against the use of force resolution that led to the invasion, I voted for every penny this administration asked for for the troops. I believe—and I think my fellow colleagues on the Democratic side, and I am sure on the Republican side—that they don't want to shortchange the troops either as they stay in Iraq or if they are redeployed from Iraq. I would judge the supplemental under those circumstances. What will it cost to redeploy them safely?

Mr. GREGG. I thank the Senator; he is always forthright. I will ask a followup question. Does the Senator believe this supplemental that is coming up, as I believe, should go through the regular order rather than being declared an emergency and have authorization language, or go through the authorizing committee for review and then go to the appropriating committee and then come to the floor?

Mr. DURBIN. I don't speak for the leadership or anybody in the caucus, but I believe that. This notion that we are dealing with an unanticipated expenditure in the fourth year of this war is a charade. I think it would be better for us to deal with this in the regular appropriations process so that we can integrate the cost of the supplemental with the actual expenses of the Department of Defense and do our best to meet the needs of our soldiers and yet not waste taxpayer dollars.

Mr. GREGG. I appreciate the Senator's courtesy in allowing me to ask him some questions.

Mr. DURBIN. Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. Without objection, the time on the majority side will be reserved, and the Senator from New Hampshire is recognized.

CONFRONTING A CONUNDRUM

Mr. GREGG. Mr. President, I rise to discuss again what I consider to be the single largest quality-of-life issue we have confronting us as a nation. That is the issue of how we pay for my generation, the baby boom generation, which is about to begin to retire and the effect our retirement as a generation will have on the capacity of our children to be successful and have a quality of life that is equal to what we have had as a nation.

We confront a conundrum. The baby boom generation has been the most productive and most resilient generation in the history of the Nation. As a result, through each decade of its growth, beginning in the 1950s when it added a lot of elementary schools, right through the 1960s, 1970s, 1980s, 1990s, and into the 2000s, when it created a huge engine of economic activity in this country because there are so many of us, so highly educated and so aggressive as a productive engine for the whole Nation, we have been able to contribute to society and to our Nation the highest quality of life in the history of our Nation—in the history of the world, for that matter.

But now this generation, which is the largest generation in our history, is going to begin to retire. All of the retirement systems were built up over the years in order to benefit people who retire in our Nation, to make sure they can retire with dignity, Social Security, Medicare and, to a lesser extent, Medicaid. It was based on the promise that Franklin Roosevelt had, which is that you would have a lot of people working and a few people retiring. In 1950, the concept was that you would have, for example, 13 people working for every 1 person retired, so that the working Americans would be able to not only earn a good living for themselves but would also be able to support those people who are retired.

Well, that equation fails in the present projected future because the baby boom generation doubles the number of retirees from approximately 35 million to 70 million, and from a system which had 13 people working for every 1 person retired in the 1950s to about 2 people working for every 1 person retired by 2025. So you go from a pyramid to a rectangle and you have those working people trying to support the people who are retired. There are not enough people working to do that. So you create a huge burden and basically a fiscal crisis of inordinate proportion.

I have a chart nearby that clearly reflects this problem. This simply shows three costs that the Federal Government incurs, which are Social Security, Medicare, and Medicaid, the three largest entitlement accounts, as they are referred to.

Those accounts make up about 8 percent of our gross national product today. Historically, the Federal Government spends about 20 percent of GDP. If it gets much above that 20 percent of the GDP, it becomes an extreme burden for the productive side of our economy and you end up with people being able to produce less because the Government is taking so much out of their paycheck and productivity drops and quality of life drops.

So we have as a nation always sort of maintained within a fairly small range this concept that the Federal Government should spend about 20 percent of GDP. That goes way back. This chart takes us back to 1962. In times of war, that spikes, and it has historically—especially in World War II. But that is the traditional amount.

However, the problem we confront is that the cost of Social Security, Medicare and Medicaid alone—those three items—because of the retirement of this huge generation and the price which it will take to pay benefits for that generation, actually will absorb 20 percent of GDP in the mid 2020 period, which is not that far away. It is within 20 years, which is not that far. We will actually have a situation where three Federal programs are using all of the dollars which historically the Federal Government has used in order to support the purposes of the Federal Government. So that would mean, theoretically, that the only thing you could pay for would be those three programs. You could no longer pay for national defense, which is the first responsibility of Federal Government; you could not pay for education, health care, environmental protection, or all of the things the Federal Government does that are significant in improving the quality of our standards of life.

That, however, doesn't end the problem, because the cost of this generation continues to go up. In fact, just those 3 programs break through the 20-percent line and go well up into the high 20 percent—28, 29 percent of GDP, as projected—as we head out into 2030 to 2040.

Basically, what you see is the fact that we are headed toward a situation where the cost of these three programs alone will essentially bankrupt our country. The practical implications of this are that the younger generation, the people working for a living, our children and grandchildren, will have to pay a tax burden that is so high that their discretionary income won't be able to be spent on educating their children with a better college education, or on buying a home, or on living a better lifestyle. Their discretionary money will go to taxes to support the cost of these three entitlement programs.

This is not a sustainable idea. This is not an idea that any responsible person involved in governance could subscribe to. Certainly, one generation has no right to pass on to another generation a set of costs that is going to bankrupt the capacity of the next generation to live as good a quality of life as the prior generation was living. It is not right, fair, or appropriate.

Another thing this chart shows is that, as a practical matter, you cannot tax your way out of the situation. A lot of people say: we will just raise taxes. You cannot tax your way out of the situation. You cannot raise taxes high enough to pay for the costs we are going to incur as a result of these entitlement programs having to benefit so many Americans.

Why? It is very simple. Historically, Federal taxes have been 18.2 percent of GDP. Today we have Federal tax of 18.4, 18.5. So we are over the historic norm today. Once you get Federal taxes up above 20 percent and they head toward 23, 24, 25 percent, or even higher, in order to accomplish the coverage of these costs, you are essentially going to be taxing productive Americans at a level where you would reduce dramatically their productivity..

It is sort of a downward spiral event. It is akin to killing the goose that is laying the golden egg situation. You cannot lay a tax burden on a productive people and expect them to continue to be productive because human nature, the natural response to something such as that, is people become less productive. As they see 60, 70, 80 percent of their next dollar they earn going to the Federal Government or to taxes, they are going to be less inclined to go out and earn that next dollar because they are keeping so little of it. That is just human nature.

So it is a downward spiral event. Once you get taxes above a certain level, they stop producing revenues because people do tax avoidance activity or, alternatively, they simply stop being productive and society stops investing, capital formation drops off, jobs stop being created, and you basically drive yourself into a severe recession or you become less competitive with the rest of the world, which doesn't have the same problem.

We cannot tax your way out of this issue. We actually have to address the fundamental, underlying problem, which is that these programs, as they are presently structured, are not sustainable in the future, and we have to figure out a way to make them sustainable.

There are many ways to do this. There is no one solution to this problem. There is no magic bullet out there, although with Social Security it is a much simpler exercise in the sense of moving parts. But there are many ways to continue to deliver high-quality retirement services in Social Security, Medicare, and Medicaid but have them be affordable to the generation who is paying for it.

Five years ago, myself, Senator Breaux, Senator Bob Kerrey, Senator Chuck Robb, Senator Moynihan, and on our side of the aisle, Senator CRAIG THOMAS and a number of other Senators, came together to develop a plan for Social Security which was bipartisan, which would have solved the problem over the long term, which would have continued the benefit structure which was extremely robust—in fact, a more robust system than what seniors are facing today—yet put it in a position that was affordable.

Yes, there were revenues included in that package. Any solution is going to have to involve benefit adjustments and revenues. There is no way we can do it on one side. The fact is, we have to face up to this situation. As a society, we have to face up to this need.

I guess that is my point today. We are running out of time. I have been delivering this message for a while. The clock continues to run. We are running out of time. We have an opportunity, a window. It is a unique window. There are not a whole lot of advantages to the fact that I am no longer chairman of the committee I used to be chairman of, but one of the advantages is, from my perspective, we now have a divided Government. We have a Democratic Congress and a Republican Presidency.

I happen to believe that any solution to this issue has to be absolutely bipartisan. There can be no question from the American people that a solution on these issues is not done in a bipartisan way because if the American people think it isn't fair, they are not going to be attracted to it; they are going to think it is gamesmanship by one party or the other.

So anything that has to be done has to be done in a bipartisan way. We are in a climate where any solution that is going to occur is going to be bipartisan. That is the good news. But that window of opportunity isn't going to be open that long. We are going to be heading into a Presidential election pretty soon, and in both of the last Presidential elections, we have seen outrageous, despicable, in my opinion, demagoguery on the issue of Social Security. The well was poisoned before the day even started in both those campaigns.

The opportunity to aggressively and effectively address this issue, to develop a bipartisan solution has to occur sooner rather than later, and it has to be done in a way with which the American people are comfortable because it is fair.

I put forward a proposal on this issue. I put forward a proposal that deals a lot with this responsibility package called SOS that has about 30 sponsors. One part of that package was to structure a procedure to deliver results. I believe we should use procedure to drive policy because I believe that once you put policy on the table, everybody takes shots at it, all the different interests in this city sit around and pick it apart. It makes much more sense to use procedure, and the procedure I use is a fast-track, bipartisan commission, where you absolutely have to have bipartisan decisions, you have a supermajority approval, and you do it on a fast track and have people who are going to be players sitting around a room to try to work it out.

That is not the only way to approach this issue. There are a lot of different ways to approach this issue. I hope we, as a Congress, and our leadership in this body—and I know our leadership is interested in this issue. I talked with people on the other side of the aisle who are active on this issue and active in the leadership, and there is key interest in this issue, but the time to move is now.

We are running out of time, and we have to get on with this.

I wanted to make this point, again. I stand ready, a lot of Members on my side stand ready to pursue substantive action in this area. Hopefully, we can do it.

On a second note, this is a point I raised with the assistant leader, we are about to get a $100 billion-plus supplemental on the war. Nobody in this Senate in any way is going to vote in a manner that doesn't give our troops what they need when our troops are in the field—at any time, especially when they are in the field.

These supplementals are important to make sure we adequately fund people who are putting their lives on the line for us, but the process that has evolved is not right; it is just plain not right. This will be the fourth year—I think it is like the sixth supplemental, maybe it is the seventh or maybe it is the eighth—I have lost track—that a bill will have come up designated as an emergency from the Pentagon and basically bypasses the process of review through the authorizing committee and, for all intents and purposes, through the Appropriations Committee and comes directly to the floor and spends tens of billions of dollars.

It is a shadow budget, as I have described it. We have a budget process around here. Granted, it is not working that well. Hopefully, it will work better this year. But we do have a budget process, and the purpose of the budget process is to give adequate review and fiscal discipline so that we are responsible stewards of the taxpayers' money. But when we have this shadow budget that comes up, entirely outside the budget process and continues to come up and has become almost the regular order of approach as to how we fund the Pentagon now, you are essentially saying budgets don't matter, review of the substance doesn't matter, spending should simply be done as requested, without any oversight and without any discipline as to how much is going to be spent. I don't think that is the right way to approach this.

In the last budget, I set aside almost $90 billion for supplementals for the war. The Pentagon wouldn't give us a number. They sent up a euphemistic number. They wouldn't even support that number. So we arbitrarily set $90 billion because that was the average of what the supplemental requests had been over the prior 3 years. Then we subjected it to budgetary restraint, so that if it went over the $90 billion, they had to explain it, they had to justify it. We had to have a supermajority if we wanted to accomplish it, if somebody wanted to challenge it—but only if somebody wanted to challenge it.

What is happening now is we are looking at $170 billion, not $90 billion, of spending in this year. That is almost $130 billion over what the Pentagon claimed they euphemistically set up as a throwaway number, which they wouldn't even defend when we had a hearing on this subject.

Essentially, what we are seeing is that there has been a decision downtown to do an end run around the budget process and essentially an end run around the oversight process. We are also seeing, regrettably, that they are gaming the system, at least in the last supplemental—and it is reported that in this supplemental, although I haven't seen the numbers—there is a fair amount of spending which had nothing—well, it had something, but it

was truly tangential to the war effort. It went to the core issue of the Defense budget, which is still spending over $400 billion. That is on top of the supplementals. They were using this shadow budget, where they knew they had no restraints, to basically pick up spending which should have been in the core budget and had at least gone through the authorizing process.

There were a number of items in there that fell into that category, including the whole restructuring of the Army. And now we are hearing they may even have joint strike fighters in this next supplemental, two of them potentially. At least that is what has been reported. Maybe they will be out by the time it gets here because light has been shined on them.

The fact is, it shouldn't work that way. We know we are in a war. We know, approximately, what that war is going to cost. We should have a process which reviews it in an orderly fashion, and that is the way it was historically done here.

The Vietnam war was appropriated and authorized. Almost all the spending went through an authorizing and appropriating process. Almost all the appropriations of the Korean war went through the authorizing and appropriating process. It is a very predictable number right now, or within range of a very predictable number. They don't have to send $170 billion up as a supplemental and designate it an emergency to fight this war. We know it is going to cost us in that range, and it should go through the authorizing process and then through the appropriating process. It shouldn't come up as an emergency.

Sure, there may be some amount on top of that which may occur during the year, we may need to put in another X number of dollars, and that may be a legitimate emergency, but the core spending of this war should be accounted for in the regular order and reviewed so it doesn't end up being a gamesmanship exercise coming to us from downtown which is essentially to avoid, ignore, and mute the capacity of the Congress to have an impact on how the spending occurs, whether it is legitimately part of the war or legitimately part of the Defense Department.

I am concerned about this situation. I have heard mumbling from the administration, at least from OMB, that they are going to try to budget for this stuff that is appropriately not in the war—by ''this stuff,'' I mean things that are appropriately not in the war effort but are in the Defense Department's underlying budget—and that they are going to take those out and put them in the underlying Defense budget.

They need to do more than that. They need to structure the budget they send up here so that if they want to have a separate account for the war fighting, fine. I can understand that because we don't want to build it into the base. I am 100 percent for that. But it shouldn't be a separate budget, an emergency budget, and it should go through the authorizing and appropriations process.

We have time to do that. We have a strong authorizing committee. I sit on the appropriating committee, and we have an extremely strong appropriating committee. We can review the numbers quickly and analyze whether it is fair and appropriate, and I suspect 95, 98 percent of it will be approved. But the fact that we are going to approve it doesn't mean it shouldn't at least be reviewed. Basically, muting and undermining the legitimacy of the congressional role in funding is, undermining, in some degree, the commitment to the war effort itself. It is counterproductive to having popular support for the war effort.

I hope that when they send up this next supplemental that they not designate it as an emergency and that they ask that it go through the process, but tell us to do it in a quick way, don't spent a month doing this; do it in a week and a half, 2 weeks, and we can do that; otherwise, I believe we will continue on a path that is harmful not only to the relationship between the executive and the legislative branches, it is harmful to good governance and the good stewardship of tax dollars and it is, more importantly, more harmful to the war effort itself.

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

The ACTING PRESIDENT pro tempore. 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 ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

LEGISLATIVE TRANSPARENCY AND ACCOUNTABILITY ACT OF 2007

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 1, which the clerk will report by title.

The assistant 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 amendment No. 4 (to amendment No. 3), to strengthen the gift and travel bans.

Vitter amendment No. 5 (to amendment No. 3), to modify the application of the Federal Election Campaign Act of 1971 to Indian tribes.

Vitter amendment No. 6 (to amendment No. 3), to prohibit authorized committees and leadership PACs from employing the spouse or immediate family members of any candidate or Federal office holder connected to the committee.

Vitter amendment No. 7 (to amendment No. 3), to amend the Ethics in Government Act of 1978 to establish criminal penalties for knowingly and willfully falsifying or failing to file or report certain information required to be reported under that Act.

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

Mr. LIEBERMAN. Mr. President, I am privileged to be able to manage the bill for part of today. Senator FEINSTEIN and I—she is the chair of the Rules Committee, and I, in my capacity as chair of the Homeland Security and Governmental Affairs Committee, will be alternating on our side. I am honored to do that.

I would say that after a day, we are off to a good start in our consideration of S. 1, the bill before us. The majority and minority leaders, Senators REID and MCCONNELL, laid down yesterday a bipartisan substitute amendment that improves what was already a strong bill, S. 1, and I know a number of other Senators have come to the floor to file or offer amendments. It is good to proceed in that way.

We have a bill before us which fortunately has strong bipartisan support, and it is certainly my hope, and I know the hope of managers on both sides, and the leaders, that we can move along with the consideration of these amendments so that we will complete this bill in the timeframe laid out by the majority leader, which is the end of next week. This will be not just auspicious but a meaningful, bipartisan way to begin this 110th Congress.

I wish to speak in strong support of the comprehensive substitute that was laid down and offered by the majority and minority leaders yesterday. I am pleased to join as a sponsor of that amendment. The underlying text of S. 1 is already a sweeping reform of ethics rules and lobbying regulations, and the substitute takes us even further in strengthening those reforms. I would like to focus on a few of the additional improvements made by the substitute.

The substitute will clarify and strengthen the provisions in the underlying bill that require, for the first time, lobbyists to report on campaign contributions and travel they arrange for Members of Congress—for the first time. We also will require lobbyists to disclose contributions to Presidential libraries and inaugural committees. This is an extension of one of the basic building blocks of this reform, which is disclosure, transparency, shining the sunshine on what is happening here so the public, the media, and Congress itself will be better informed and can take appropriate action. These disclosures will provide a fuller picture of the relationships between those who lobby and those who are lobbied in the Congress and in the executive branch.

The substitute also creates a new criminal penalty for violations of the

Lobbying Disclosure Act. While the underlying bill, S. 1, already doubles the amount of civil penalties that may be imposed, a criminal penalty will strengthen the hand of the Department of Justice in pursuing and punishing the most egregious violations.

The substitute will also tighten the revolving door rules by prohibiting Senators from negotiating for jobs as lobbyists while they are still in office. We will also require senior Senate staff to report to the Ethics Committee when they are negotiating for employment so that the Ethics Committee can identify any conflicts of interest and require staff to recuse themselves while they are still employed by the Senate from working on issues that may present conflicts of interest with those with whom they are negotiating.

The substitute will also provide new rules on evaluation of tickets to sporting and entertainment events. Why, one may ask, would we need that provision if the underlying bill already bans gifts from lobbyists to Members? The reason is there has been a concern that there could be an end run around this ban, and this provision will prevent any lobbyist who might think of doing so from selling tickets to Members or staff at a steeply discounted price, which would effectively be a gift because the discount itself would be a benefit in and of itself.

The substitute also improves the provisions in S. 1 that provide transparency for the earmark process. The substitute will strengthen and clarify the definition of an earmark, to make sure that it includes targeted tax benefits and targeted tariff benefits. These are obviously matters of great importance and of value. A targeted tax benefit, which is to say a tax cut or a credit, or a tariff benefit often has as much value, and many times has more value, than a specific earmarked appropriation. So the substitute now strengthens and clarifies the definition of ''earmark'' to include those benefits.

The improved definition makes clear that earmarks, as in the bill, include earmarks to non-Federal entities when the money is first funneled through a Federal entity. That provision addresses what some perceive and have said is a weakness in the earmark provisions in the underlying bill.

All of this is an attempt by this body to take hold of the earmark process that was abused by some in the ethical scandals that have occurred here in Congress, and more generally is blamed by others for an escalation in the cost of Government without covering those costs.

I have always believed you have to be direct and forthright about this issue. It is not that all earmarks are evil. There are good earmarks and bad earmarks, and there are limits to the earmarks we want to provide simply because we can't afford to provide beyond that. The attempt of S. 1 and the substitute laid down by Senators REID and MCCONNELL is not to stop earmarks but to create transparency, disclosure, and a process by which the full body will be both aware of the earmarks and able to challenge them if an individual Senator or Senators desire.

The substitute also contains a sense of the Senate on fair and open procedures for conference committees, and this also relates to how earmarks are handled. The substitute also amends the Senate rules to make clear that no changes may be made to conference reports after the reports have been signed by the conferees. This is obviously the concern, unfortunately based in fact, that, after a conference report, including one signed by the conferees, either staff or Members in high positions have been able to insert items, earmarks, into those conference reports, which obviously suppresses not only the public's right to know but the Members' right to know. This substitute will now make clear that no changes of that kind can be made.

I am disappointed that the substitute does not include some additional gift and travel rules. I believe there is strong bipartisan support for some of the measures I have in mind. That is why I intend to support the majority leader when he offers an amendment to pass the gift and travel provisions to which I am referring in a separate amendment. The House already has passed strict gift and travel rules, and I personally hope the Senate will follow suit.

I am also very pleased that the majority leader has included in this amendment that I referred to an additional amendment, a strong provision on the use of corporate jets. This is a controversial, difficult matter. It is an issue that Senators MCCAIN, FEINGOLD, OBAMA, and I wanted to pursue last year when we took this up essentially in its predecessor form, but we were unable to do so once cloture was reached on the bill because the amendment was determined to be nongermane.

Under current law this is the reality. When a Member of Congress or a candidate for Federal office uses a private plane instead of flying on a commercial airline, the ethics rules, as well as the Federal Election Commission rules, require a payment to the owner of the plane equivalent to a first-class commercial ticket. The current rules undervalue flights on noncommercial jets and provide, in effect, a way for corporations and individuals to give benefits to Members beyond the limits provided for in our campaign finance laws. The Reid amendment would eliminate that loophole by requiring that the reimbursement be based on the comparable charter rate for a plane.

I know there are strong feelings on both sides of that. I appreciate that Senator REID will put that before the Senate. I look forward to supporting him in it.

We have some very strong reform proposals before the Senate. We are off to a good beginning. We have a lot more work to do, and I hope my colleagues will come to the floor and offer their amendments so we can get this all done by the end of next week.

I suggest the absence of a quorum.

Mr. DEMINT. Will the Senator withhold his request?

Mr. LIEBERMAN. I note the presence of the Senator from South Carolina on the floor of the Senate, and I will yield to him at this time. I withdraw my request for a quorum call.

The ACTING PRESIDENT pro tempore. The request is withdrawn. The Senator from South Carolina is recognized.

Mr. DEMINT. Mr. President, I ask unanimous consent to set the pending amendment aside and I be permitted to offer four amendments.

The ACTING PRESIDENT pro tempore. Is there objection to the request? Hearing no objection, it is so ordered.

AMENDMENTS NOS. 11, 12, 13, AND 14 TO AMENDMENT NO. 3 EN BLOC

Mr. DEMINT. Mr. President, I have four amendments at the desk.

The ACTING PRESIDENT pro tempore. The clerk will report the amendments by number.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. DEMINT] proposes amendments numbered 11, 12, 13, and 14 to amendment No. 3 en bloc.

Mr. DEMINT. I ask unanimous consent the reading of the amendments be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 11

(Purpose: To strengthen the earmark reform)

Strike section 103 and insert the following:

SEC. 103. CONGRESSIONAL EARMARK REFORM.

The Standing Rules of the Senate are amended by adding at the end the following:

RULE XLIV

EARMARKS

''1. It shall not be in order to consider—

''(a) a bill or joint resolution reported by a committee unless the report includes a list of congressional earmarks, limited tax benefits, and limited tariff benefits in the bill or in the report (and the name of any Member who submitted a request to the committee for each respective item included in such list) or a statement that the proposition contains no congressional earmarks, limited tax benefits, or limited tariff benefits;

''(b) a bill or joint resolution not reported by a committee unless the chairman of each committee of jurisdiction has caused a list of congressional earmarks, limited tax benefits, and limited tariff benefits in the bill (and the name of any Member who submitted a request to the committee for each respective item included in such list) or a statement that the proposition contains no congressional earmarks, limited tax benefits, or limited tariff benefits to be printed in the Congressional Record prior to its consideration; or

''(c) a conference report to accompany a bill or joint resolution unless the joint explanatory statement prepared by the managers on the part of the House and the managers on the part of the Senate includes a

list of congressional earmarks, limited tax benefits, and limited tariff benefits in the conference report or joint statement (and the name of any Member, Delegate, Resident Commissioner, or Senator who submitted a request to the House or Senate committees of jurisdiction for each respective item included in such list) or a statement that the proposition contains no congressional earmarks, limited tax benefits, or limited tariff benefits.

''2. For the purpose of this rule—

''(a) the term 'congressional earmark' means a provision or report language included primarily at the request of a Member, Delegate, Resident Commissioner, or Senator providing, authorizing or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State, locality or Congressional district, other than through a statutory or administrative formula-driven or competitive award process;

''(b) the term 'limited tax benefit' means—

''(1) any revenue-losing provision that—

''(A) provides a Federal tax deduction, credit, exclusion, or preference to 10 or fewer beneficiaries under the Internal Revenue Code of 1986; and

''(B) contains eligibility criteria that are not uniform in application with respect to potential beneficiaries of such provision; or

''(2) any Federal tax provision which provides one beneficiary temporary or permanent transition relief from a change to the Internal Revenue Code of 1986; and

''(c) the term 'limited tariff benefit' means a provision modifying the Harmonized Tariff Schedule of the United States in a manner that benefits 10 or fewer entities.

''3. A Member may not condition the inclusion of language to provide funding for a congressional earmark, a limited tax benefit, or a limited tariff benefit in any bill or joint resolution (or an accompanying report) or in any conference report on a bill or joint resolution (including an accompanying joint explanatory statement of managers) on any vote cast by another Member, Delegate, or Resident Commissioner.

''4. (a) A Member who requests a congressional earmark, a limited tax benefit, or a limited tariff benefit in any bill or joint resolution (or an accompanying report) or in any conference report on a bill or joint resolution (or an accompanying joint statement of managers) shall provide a written statement to the chairman and ranking member of the committee of jurisdiction, including—

''(1) the name of the Member;

''(2) in the case of a congressional earmark, the name and address of the intended recipient or, if there is no specifically intended recipient, the intended location of the activity;

''(3) in the case of a limited tax or tariff benefit, identification of the individual or entities reasonably anticipated to benefit, to the extent known to the Member;

''(4) the purpose of such congressional earmark or limited tax or tariff benefit; and

''(5) a certification that the Member or spouse has no financial interest in such congressional earmark or limited tax or tariff benefit.

''(b) Each committee shall maintain the written statements transmitted under subparagraph (a). The written statements transmitted under subparagraph (a) for any congressional earmarks, limited tax benefits, or limited tariff benefits included in any measure reported by the committee or conference report filed by the chairman of the committee or any subcommittee thereof shall be published in a searchable format on the committee's or subcommittee's website not later than 48 hours after receipt on such information.''.

AMENDMENT NO. 12

(Purpose: 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)

At the appropriate place, insert the following:

SEC. ___. EARMARKS OUT OF SCOPE.

Any earmark that was not committed to conference by either the House of Representatives or the Senate in their disagreeing votes on a measure shall be considered out of scope under rule XXVIII of the Standing Rules of the Senate and section 102 of this Act if contained in a conference report on that measure.

AMENDMENT NO. 13

(Purpose: To prevent Government shutdowns)

At the appropriate place, insert the following:

SEC. _____. AMENDMENT TO TITLE 31.

(a) IN GENERAL.—Chapter 13 of title 31, United States Code, is amended by inserting after section 1310 the following new section:

''§ 1311. Continuing appropriations

''(a)(1) If any regular appropriation bill for a fiscal year (or, if applicable, for each fiscal year in a biennium) does not become law before the beginning of such fiscal year or a joint resolution making continuing appropriations is not in effect, there are appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, such sums as may be necessary to continue any project or activity for which funds were provided in the preceding fiscal year—

''(A) in the corresponding regular appropriation Act for such preceding fiscal year; or

''(B) if the corresponding regular appropriation bill for such preceding fiscal year did not become law, then in a joint resolution making continuing appropriations for such preceding fiscal year.

''(2) Appropriations and funds made available, and authority granted, for a project or activity for any fiscal year pursuant to this section shall be at a rate of operations not in excess of the lower of—

''(A) the rate of operations provided for in the regular appropriation Act providing for such project or activity for the preceding fiscal year;

''(B) in the absence of such an Act, the rate of operations provided for such project or activity pursuant to a joint resolution making continuing appropriations for such preceding fiscal year;

''(C) the rate of operations provided for in the regular appropriation bill as passed by the House of Representatives or the Senate for the fiscal year in question, except that the lower of these two versions shall be ignored for any project or activity for which there is a budget request if no funding is provided for that project or activity in either version; or

''(D) the annualized rate of operations provided for in the most recently enacted joint resolution making continuing appropriations for part of that fiscal year or any funding levels established under the provisions of this Act.

''(3) Appropriations and funds made available, and authority granted, for any fiscal year pursuant to this section for a project or activity shall be available for the period beginning with the first day of a lapse in appropriations and ending with the earlier of—

''(A) the date on which the applicable regular appropriation bill for such fiscal year becomes law (whether or not such law provides for such project or activity) or a continuing resolution making appropriations becomes law, as the case may be; or

''(B) the last day of such fiscal year.

''(b) An appropriation or funds made available, or authority granted, for a project or activity for any fiscal year pursuant to this section shall be subject to the terms and conditions imposed with respect to the appropriation made or funds made available for the preceding fiscal year, or authority granted for such project or activity under current law.

''(c) Appropriations and funds made available, and authority granted, for any project or activity for any fiscal year pursuant to this section shall cover all obligations or expenditures incurred for such project or activity during the portion of such fiscal year for which this section applies to such project or activity.

''(d) Expenditures made for a project or activity for any fiscal year pursuant to this section shall be charged to the applicable appropriation, fund, or authorization whenever a regular appropriation bill or a joint resolution making continuing appropriations until the end of a fiscal year providing for such project or activity for such period becomes law.

''(e) This section shall not apply to a project or activity during a fiscal year if any other provision of law (other than an authorization of appropriations)—

''(1) makes an appropriation, makes funds available, or grants authority for such project or activity to continue for such period; or

''(2) specifically provides that no appropriation shall be made, no funds shall be made available, or no authority shall be granted for such project or activity to continue for such period.

''(f) For purposes of this section, the term 'regular appropriation bill' means any annual appropriation bill making appropriations, otherwise making funds available, or granting authority, for any of the following categories of projects and activities:

''(1) Agriculture, Rural Development, Food and Drug Administration, and Related Agencies.

''(2) Commerce, Justice, Science, and Related Agencies.

''(3) Defense.

''(4) Energy and Water Development.

''(5) Financial Services and General Government.

''(6) Homeland Security.

''(7) Interior, Environment, and Related Agencies.

''(8) Labor, Health and Human Services, Education, and Related Agencies.

''(9) Legislative Branch.

''(10) Military Construction, Veterans' Affairs, and Related Agencies.

''(11) State, Foreign Operations, and Related Programs.

''(12) Transportation, Housing and Urban Development, and Related Agencies.''.

(b) CLERICAL AMENDMENT.—The analysis of chapter 13 of title 31, United States Code, is amended by inserting after the item relating to section 1310 the following new item:

''1311. Continuing appropriations''.

AMENDMENT NO. 14

(Purpose: To protect individuals from having their money involuntarily collected and used for lobbying by a labor organization)

At the appropriate place, insert the following:

SEC. ___. PROTECTION OF WORKERS' POLITICAL RIGHTS.

Title III of the Labor Management Relations Act, 1947 (29 U.S.C. 185 et seq.) is amended by adding at the end the following:

"SEC. 304. PROTECTION OF WORKER'S POLITICAL RIGHTS.

''(a) PROHIBITION.—Except with the separate, prior, written, voluntary authorization of an individual, it shall be unlawful for any labor organization to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used to lobby members of Congress or Congressional staff for the purpose of influencing legislation.

''(b) AUTHORIZATION.—An authorization described in subsection (a) shall remain in effect until revoked and may be revoked at any time.''.

Mr. DEMINT. Mr. President, I thank the Senators from Connecticut and Utah for working with me to get the time to offer these amendments. When similar legislation was considered last year, I voted against it because I believed it did not do enough in the way of earmark reform. I believe the same is true for the substitute that is before us today, and I am offering these amendments to strengthen the bill and try to get it to the point where I can support it.

My first amendment would enhance the disclosure requirements for congressional earmarks, for limited tax benefits, and limited tariff benefits to match those proposed in the other body by Speaker of the House NANCY PELOSI. The earmark definition in the substitute is woefully inadequate. It exempts earmarks for Federal entities as well as earmarks in report language.

According to the Congressional Research Service, more than 95 percent of all earmarks in fiscal year 2006 were found in report language, not in the bill text. In effect, disclosure requirements in the substitute could conceivably apply to only 5 out of every 100 earmarks.

The definition of a targeted tax benefit in the substitute also falls short, as it never explicitly defines what constitutes a limited group of taxpayers. Speaker PELOSI's language, however, explicitly defines a limited tax benefit as one that is targeted to 10 or fewer beneficiaries.

I do not always agree with Speaker PELOSI, but on this issue we are in full agreement. The earmark definition agreed to in the House is by far the most comprehensive definition that is currently being debated, and I encourage my colleagues to support it.

My second amendment would clarify that earmarks that were not in either the House or Senate version of the bill are out of scope when they are added in a conference report. As my colleagues know, a lot of earmarks find their way into conference reports where they cannot be voted on. This circumvents the legislative process, and it fosters abuse of taxpayer dollars. I am pleased that the substitute partly addresses this problem by creating a new 60-vote point of order against matters that are out of scope. This was designed to allow Members to object to out-of-scope earmarks and have them removed from the conference report, but the Senate Parliamentarian does not believe this provision is enforceable against earmarks specifically.

My amendment would clarify that out-of-scope earmarks are subject to this new point of order in the Senate bill as well as rule XXVIII of the Standing Rules of the Senate, which prohibits adding out-of-scope matters in conference. I believe this is the true intent of the substitute, and I strongly encourage my colleagues to support it.

My third amendment would prevent the Government from shutting down when regular appropriations bills are not enacted. It would do so by automatically triggering a continuing resolution that funds agencies at current levels for up to a year. The amendment would begin automatic funding on the first day of a lapse in appropriations, and it would end on the day the regular appropriations bill becomes law or the last day of the fiscal year, whichever comes first. This would eliminate the must-pass nature associated with regular appropriations bills which often pressure lawmakers into accepting spending bills with objectionable earmarks.

I understand that the Democratic leader intends to get all of the appropriations bills done before the end of the fiscal year, but there are always unforeseeable events that must be dealt with, and there is always a chance that we will be faced with having to pass a bad bill or allowing parts of the Government to shut down. I certainly do not support Government shutdowns, and I know my colleagues do not either. My amendment would create a safety net that would avoid the crisis situations that often pressure lawmakers into supporting spending bills that they would not otherwise support. This is a commonsense proposal, and I encourage my colleagues to support it.

My fourth amendment would prevent labor unions from using a member's dues to lobby Congress without the prior separate and written consent of that member. Union dues, like taxes, are compulsory for union members. We all believe Congress must be transparent and accountable in the way it spends tax dollars, and we should all support making unions transparent and accountable in the way they spend members' dues. Federal tax dollars cannot be used for lobbying but compulsory union dues can be used for lobbying. This is a real problem because it forces union workers to pay for lobbying with which they may not agree. If someone is a member of a trade association and they disagree with the actions of that group, they can always stop paying their dues. This freedom is not afforded to union workers.

I tried on several occasions last year to pass legislation that would bar criminals convicted of serious felonies from gaining secure access to our ports. This proposal is essential to protecting our Nation from future terrorist attacks, and it is overwhelmingly supported by Americans. But the measure was killed by several unions that lobbied against it, and they killed it with dues that they forced union workers to pay without their consent.

My amendment simply requires consent from union members before his or her dues may be used to lobby Congress. My amendment has nothing to do with political contributions. That is a debate for another day. But as long as unions force workers to pay dues as a condition of employment, they should get consent from their members before they use those dues to lobby Congress. My amendment would ensure that voluntary contributions will be the only contributions that can go toward lobbying Congress.

I thank the managers again for working with me to get these amendments called up so our colleagues can begin reviewing them. I would be pleased to work with the managers in scheduling additional time to debate and vote on these amendments.

I yield and suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 9

Mr. VITTER. Mr. President, I ask unanimous consent to call up my amendment No. 9 which is at the desk.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. VITTER] for himself and Mr. INHOFE, proposes an amendment numbered 9 to amendment No. 3.

Mr. VITTER. I ask unanimous consent to waive the reading of the amendment.

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

The amendment is as follows:

(Purpose: To place certain restrictions on the ability of the spouses of Member of Congress to lobby Congress)

On page 51, between lines 12 and 13, insert the following:

SEC. 242. SPOUSE LOBBYING MEMBER.

(a) IN GENERAL.—Section 207(e) of title 18, United States Code, as amended by section 241, is further amended by adding at the end the following:

''(5) SPOUSES.—Any person who is the spouse of a Member of Congress and who was not serving as a registered lobbyist at least 1 year prior to the election of that Member of Congress to office and who, after the election of such Member, knowingly lobbies on behalf of a client for compensation any Member of Congress or is associated with any such lobbying activity by an employer of

that spouse shall be punished as provided in section 216 of this title.''.

(b) GRANDFATHER PROVISION.—The amendment made by subsection (a) shall not apply to any spouse of a Member of Congress serving as a registered lobbyist on the date of enactment of this Act.

Mr. VITTER. Mr. President, I thank the leaders, the floor managers, all those involved in this important debate for putting this front and center of our business in the new Congress. It is very appropriate we do so.

I hope we all recognize, after the last few years, we need a very focused, sincere, determined effort to strengthen the law, strengthen enforcement, and rebuild the confidence of the American people in our institutions.

These two amendments that I bring to the Senate I hope will do that. They are part of a package I have introduced, along with three amendments I introduced and talked about briefly yesterday.

Let me get to this first amendment today. It is a very simple, straightforward idea to address what, unfortunately, is a very real issue and a very real cause for concern by the American people. That is the practice, in some cases, of spouses of Members of the House and Senate being registered lobbyists, making large amounts of money in that profession, lobbying at the same time they are a spouse of a Member of the House or a Member of the Senate. My amendment is very straightforward and says we will not allow that.

The underlying bill addresses that in a very narrow way, to say that spouses in that situation can't directly lobby their own spouse or that Members' office. That is great, but clearly a person in that situation—a Senate spouse, a House spouse—has enormous entre to other Members, to other offices. My amendment is broader and says we are not going to allow that. Spouses of sitting Members of the House and Senate cannot lobby.

Unfortunately, I wish history was such that Members could argue this is a solution looking for a problem. That is not the case. This happens. It has happened. It has clearly been abused. There have been instances that have been reported that have caused great legitimate alarm and concern by the American people of this being abused. This has come to light in the last several years. Spouses making large amounts of money, bringing that income to the family bank account—obviously, the Member of Congress is part of it, participates in it—from lobbying.

There is a situation with two fundamental problems. One is a lobbyist spouse clearly having extraordinary access to other Members and their offices. That is one real problem. The second real problem is maybe even more significant. That is the opportunity for significant moneyed interests, special interests, whatever you want to call it, to be able to write a check, a big check, in the form of a salary that goes directly into a Member's family bank account through the spouse. That is a practice that has been used and abused in the recent past. Again, this is not a solution looking for a problem.

We, also, point out there is an exception in my amendment. I debated whether to include this exception. I can make an argument that we should not even allow this exception, but to bend over backwards, to be fair, to answer some concerns of other Members, I included the exception. It says, if this lobbyist spouse was a lobbyist more than a year before the Member was first elected to the Congress, they can continue with that activity. In other words, someone who legitimately built up a career well before that marriage was ever seriously contemplated, can continue. Again, I can make an argument of no exceptions, but in the interest of bending over backward to meet some legitimate questions, I included that exception.

I hope all Members of the Senate, Republican and Democrat, will carefully look at this amendment and support it. This has been and is a practice. It has been used and abused in the past. It has clearly caused serious concerns among the American people. It has been in press reports and other disclosures in the last couple of years.

To say we are doing wholesale lobbying and ethics reform, and, oh, by the way, we are not going to touch this, we are going to forget about this, would make a folly of the whole exercise. I encourage all Members of the Senate to support this concept.

Let's make a clear-cut rule. Let's get rid of this clear conflict of interest to potential abuses, unusual access to Members, as well as the possibility of special interests basically being able to write a big check directly into a Member's family bank account.

AMENDMENT NO. 10 TO AMENDMENT NO. 3

With that, Mr. President, I ask unanimous consent to temporarily set aside that amendment and call up my second amendment of the day, amendment No. 10.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. VITTER] proposes an amendment numbered 10 to amendment No. 3.

Mr. VITTER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To increase the penalty for failure to comply with lobbying disclosure requirements)

On page 34, line 5, strike ''$100,000'' and insert ''$200,000''.

Mr. VITTER. Mr. President, I think this amendment also addresses an important issue in this ethics and lobbying reform debate; that is, the significance of the penalties involved for serious violations.

This amendment is very straightforward. It says that registered lobbyists who fail to comply with the Lobbying Disclosure Act—and after that is called to their attention, and then they fail to remedy the situation, fail to fix it, fail to follow other aspects of the law—the maximum penalty can be $200,000. Current law, right now, is $50,000. I simply think that is too low for the most serious violations of the Lobbying Disclosure Act, considering that in virtually all of these cases the lobbyist is given notice and allowed to correct the situation before we ever get to this sort of very serious penalty.

The underlying bill on the floor, as I understand it, will propose to increase the current law penalty from $50,000 to $100,000. I think that is obviously movement in the right direction but not far enough. My amendment would propose changing current law from a maximum penalty of $50,000 to $200,000.

Again, let me emphasize a couple things. I think there is the wide and correct perception by the American people that in a lot of these cases you have a law, you have a violation, and it just ends up being a slap on the wrist—the cost of doing business to a lobbyist who is making millions. I think that is true in many cases. That is a real defect in the law. We need to correct that.

Secondly, we are talking about a maximum penalty—up to $200,000. It does not mean it has to be $200,000. And we are talking about a situation where a violation is called to a person's attention and that person fails to comply with the law within 60 days, fails to right the wrong by complying with other provisions of the Lobbying Disclosure Act.

So given all of that, given all of those circumstances, I think a maximum penalty—maximum—of up to $200,000 is very legitimate and is a change that is really overdue.

Again, I implore all the Members of the Senate, Democrat and Republican, to take a good, hard look at this amendment. I think when they do, the vast majority will support it. I certainly look forward to that.

With that, Mr. President, I look forward to further debate on these amendments and certainly votes on these amendments, and I have received commitments for that.

With that, I yield back my time.

The PRESIDING OFFICER. The Senator yields back his time.

The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that at 11:45 a.m. this morning, the Senate resume consideration of the Vitter amendment No. 7 and that there be 15 minutes of debate, controlled 5 minutes each for the majority and minority managers and 5 minutes for Senator VITTER; that at 12 noon, without further intervening action or debate, the Senate proceed to vote in relation to Vitter amendment No. 7.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LIEBERMAN. I thank the Chair.

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. VITTER. Mr. 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. 7 TO AMENDMENT NO. 3

Mr. VITTER. Mr. President, I ask unanimous consent to call up amendment No. 7.

The PRESIDING OFFICER. The amendment is pending.

Mr. VITTER. I thank the Chair. Under the previous order, I will talk about this amendment for 5 minutes and then the floor managers will do the same.

Mr. President, I explained this yesterday. It is a very straightforward amendment. It simply increases penalties—I think appropriately—for willful and knowing misrepresentations on financial disclosure reports.

As you know, many people in Government, including U.S. Senators, have to file financial disclosure statements. That is section 101 of the Ethics in Government Act of 1975. It is very basic information about not every detail of our finances, but the broad brush of an individual's finances. This applies to others, certainly, in the administration, executive branch, as well as some in the judicial branch.

Section 104 of that act is about the penalties. That says the Attorney General can file a civil suit against any individual who knowingly and willfully falsifies that sort of document or knowingly and willfully fails to report that information. But the maximum fine under that civil suit is $10,000. Mr. President, this can literally be a slap on the wrist in certain situations. This can literally encourage people to falsify documents or not report certain information completely or properly because, No. 1, that figure will never be noticed or caught; No. 2, worst case, if it is, it is only $10,000. It may be worth paying that and trying to get away with it versus disclosing certain information.

That is unacceptable. This amendment fixes that. It raises the maximum civil penalty from $10,000 to $50,000, and it allows—doesn't mandate—the Attorney General to bring criminal charges in certain situations, with a maximum penalty of up to 1 year imprisonment. Again, in certain situations, that would be appropriate and the current law in certain situations, I believe, will actually encourage folks to try to get away with noncompliance, nondisclosure.

Finally, I ask this simple question in support of the amendment: If that is the right approach for the average American citizen, why should it not be the right approach for U.S. Senators, House Members, and members of the executive branch? Why do I say that? Well, if an average American citizen knowingly and willfully falsifies tax documents, guess what. They are in a heap of trouble and they face much greater potential consequences than a civil fine of up to $10,000. They absolutely face potential criminal charges. So if it is right and appropriate for the average American citizen, certainly the same rule should bear on Members of the Senate, Members of the House, and members of the executive branch, no more or less. What is fair is fair. We need to be treated like the average American citizen.

With that, I yield back my time and look forward to wrapping up this debate.

The PRESIDING OFFICER. Who yields time?

The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, we have no problem with this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mrs. FEINSTEIN. Mr. President, 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. LIEBERMAN. 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. LIEBERMAN. Mr. President, in about 5 minutes the Senate will vote on the amendment offered by the Senator from Louisiana, Mr. VITTER. First, I thank him for offering this amendment, which concerns the Ethics in Government Act, a law that falls within the jurisdiction of the Homeland Security and Governmental Affairs Committee, which I am privileged to chair in this session. The penalty provisions for disclosure violations under that act, the Ethics in Government Act, have not been addressed in some time. Senator VITTER's amendment begins to do that. I think it does it in an appropriate way. I intend to support the Senator's amendment.

As has been said, and I will repeat it, the amendment will increase the civil penalties that already exist under the act and will create a new penalty for knowing and willful falsification or failure to report, and that is a criminal penalty.

I note for my colleagues' benefit that the Homeland Security and Governmental Affairs Committee intends to take up reauthorization of the Office of Government Ethics this year.

I know that some of my colleagues are interested in offering amendments to this bill, S. 1, related to executive branch ethics. Obviously, I am happy to work with them on these amendments to see if any of those might appropriately be attached to this bill, such as the one we are voting on now.

But I also want to say on behalf of the committee that there may be some other proposed amendments that the committee believes need further deliberate consideration by the committee. I will be happy to work with my colleagues on those, urging them not to go forward on this bill, but with the promise that as we address the Office of Government Ethics reauthorization and other matters, that we will be glad to consider those proposals. As the hour approaches, I urge my colleagues to support this progressive amendment by the Senator from Louisiana.

I thank the Chair and yield the floor.

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

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

Mr. LIEBERMAN. Mr. President, I now yield back all of the remaining time and suggest that we go forward with the vote.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to amendment No. 7 offered by the Senator from Louisiana.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

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

Mr. LOTT. The following Senators were necessarily absent: the Senator from Kansas (Mr. BROWNBACK) and the Senator from Idaho (Mr. CRAPO).

Further, if present and voting, the Senator from Idaho (Mr. CRAPO) would have voted ''aye.''

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

The result was announced—yeas 93, nays 2, as follows:

[Rollcall Vote No. 2 Leg.]

YEAS—93

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

NAYS—2

Lott Lugar

NOT VOTING—5

Brownback Crapo Johnson
Byrd Inouye

The amendment (No. 7) was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I want to engage the managers here. It is my understanding I will have time shortly to give a statement on Iraq. I don't want to interfere with the legislation on the floor, and I am asking whether this would be a good time for that statement to take about maybe 15, 20 minutes.

I see no objection.

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

IRAQ

Mr. BAUCUS. Mr. President, I am concerned about the deteriorating situation in Iraq. We need to change course. Let me urge my colleagues to consider a few principles for where I believe we should go from here.

Like my colleagues, I have received an outpouring of letters, e-mails, telephone calls. Montanans are split in how Americans should proceed, but one thing is clear: They all want to see an end to it. They want to see our men and women come home.

On October 20, a man from Cutbank, MT wrote me to say:

Yesterday was a very emotional day for me. I currently have a son serving in Iraq who does house-to-house raids and goes out on extended missions. My other son, who just joined the Army, informed me that he too will now be leaving for Iraq. As native Americans, my sons will be honored when they return home. We are proud of them. We are very proud of our native Americans who serve as warriors, but I am deeply concerned with what they face every day over there.

Amber, a military wife from Great Falls, MT writes:

I realize that my voice is a voice of millions that call for your assistance. However, I couldn't sleep at night knowing I didn't at least try to do what I think is right. My husband along with many others here in Montana is in Iraq right now, and just recently we lost a soldier from Billings. Help us bring the troops home where they belong with their families who miss them.

In September, Tom Gignoux, from Missoula, MT, a Marine Corps veteran with a Purple Heart wrote me to say this:

I no longer support the war in Iraq. I believe that mismanagement of the occupation and reconstruction has made the war unwinnable and is distracting us from the war on terrorism.

Mr. President, I believe it is time for our combat troops to come home from Iraq. America entered into this war with motivations that were clearly honorable, but they were mistaken. As the 9/11 Commission found, there was no connection between Iraq and the attacks on 9/11. There were no weapons of mass destruction. And the theory that America could, through invading Iraq, establish democracy that would spread throughout the region has proven a cruel joke.

If we knew then what we know now, I would not have voted for the war. If we knew then what we know now, I believe the results of that vote would have been different. Indeed, I doubt that we would even be asked to take that vote.

The administration was not up front with us. They presented faulty intelligence and faulty information, especially about weapons of mass destruction. Unfortunately, the quality of congressional decisionmaking was no better than the quality of the information upon which we relied.

Going into Iraq was a mistake. The premise was wrong. After September 11, 2001, we had international support to go after al-Qaida and to find Osama bin Laden. That is the mission we should be strongly pursuing—more strongly. Our resources are incorrectly being exhausted in Iraq. I cannot go back and change that vote, but I can work in a new direction.

I first commend our troops. They are wonderful. They have shown such courage, such exemplary strength. They are terrific. They removed the tyrant Saddam Hussein. They addressed the potential threat of weapons of mass destruction. They have done their job well. We are all proud of them. Their service has been outstanding. No one can argue against their contribution to our national security, and their dedication to their missions goes unmatched.

I believe in giving our soldiers, sailors, and airmen the proper equipment and tools they need to stay safe and to succeed. A year ago, I spoke about our responsibility to get as much funding as possible for the troops. I have criticized spending on high-tech weapons systems at the expense of boots on the ground. I voted in favor of every Defense bill and war supplemental since the war began.

I heard of families hosting bake sales to buy body armor. I have tried to do everything I could to protect our troops. But it is no longer enough.

Now our brave troops stand in the crossfire of a civil war. We have lost more than 3,000 troops in the escalating conflict. Just this week, the Iraqi Health Ministry reported that more than 17,000 Iraqis died in the second half of 2006. That is more than three times as many who died in the first half of 2006. And now, America has spent more time fighting this war than we spent in World War II.

I understand and sympathize with the Americans who continue to support this war because they do not want their family and friends to have died in vain. I know what they feel. I struggled with that last summer when my nephew Phillip died in Iraq. On July 29, Marine Cpl Phillip Baucus, my brother John's son, was killed during combat operations in the Al Anbar province. He was just 28 years old. Phillip was a bright and dedicated young man. He was like a son to me. He had a loving wife and a bright future. His death was devastating.

I know what it is like to wait on the flight line at Dover Air Force Base. I know what it is like to weep over the body of a fallen soldier and family member. I know what it is like to escort Phillip back from Dover to Montana. I know what it is like to pray for a reason, and to become determined not to lose.

I am not the only Montanan who has grieved. We are not a large State, but 14 Montanans have so far lost their lives in Iraq, and we grieve for them all. In fact, we in Montana send more troops to Iraq on a per capita basis than any other State in the Nation. Those men and women who have lost their lives have served a noble purpose. They have taught us lessons in courage, and we honor that courage by speaking out. We honor that courage by admitting that what we are doing is not working, and we honor that courage by finding a new direction.

A change in strategy is not defeat. A change in strategy is a recognition that things are not working. Moving forward, I urge the President and the Congress to consider four principles. First, we must not escalate the conflict. Second, we must train Iraqis to stand up for themselves. Third, we must start bringing our troops home by the middle of this year. Fourth, we must engage Iraq's neighbors and the world community to find a more political solution.

Let me explain in greater detail. First, I do not support the escalation in the number of American troops. Throwing more troops at the problem—especially a modest number, up to 20,000—is not a solution. Escalating the war is not a solution. We must not launch a strategy which has no benchmarks for its success. How long and at what cost do we add troops to the conflict? It is a mistake.

The Iraq Study Group is a prestigious and well-respected group. Secretary of Defense Robert Gates was a member. The study group said the current strategy in Iraq is not working. That is what this study says. But to this date, the President has not implemented any of the group's recommendations.

President Bush has stated numerous times that he listens to the commanders on the ground. American commanders on the ground have reported that al-Qaida has increasingly gained political influence among the Sunnis. General Abizaid told the Senate Armed Services Committee:

I believe that more American forces prevent Iraqis from doing more, from taking responsibility for their own future.

I urge the President to listen to what General Abizaid said and not just replace commanders who say things he does not want to hear.

Second, we should not have an open-ended commitment in Iraq. America must make that clear to the Iraqi Government. The war is now costing us $2 billion a week. That is $2 billion a week that is not being devoted to health care, veterans' benefits, or education.

There must be a more specific plan. The plan needs to outline how long our training efforts will continue, and the plan needs to show at what point the Iraqis will take over security of their own country.

Last weekend, Iraq's Prime Minister, Nuri al-Maliki, reiterated the need and his commitment to getting the Iraqi security forces to stand up on their own two feet. America should support these efforts. In short, our forces should stand down so the Iraqi forces can stand up.

Third, with a new focus on political solutions, the United States should start phased redeployment of combat troops in roughly 6 months, with the goal of having combat forces out of Iraq as soon as possible. Our troops are stretched too thin to address emerging threats around the world. There is something called opportunity cost. It is a technical term. But we are so focused on Iraq that we are not paying attention to other trouble spots in the world as much as we should. We must not focus solely on Iraq in blindness to the rest of the world.

Our troops are serving their third and fourth tours in Iraq. Some deployments have been extended for 12 to 18 months. Some troops no longer have a year to spend at home between deployments. I have seen firsthand in Montana how the Guard and Reserves are deployed in record numbers. They have served honorably and with my great admiration. But we need them on U.S. soil for homeland defense missions. The Active-Duty troops must not be overextended. They need to be ready to deploy around the world.

Finally, America must engage Iraq's neighbors more than we have. The Iraq Study Group named a peaceful solution to the Arab-Israeli conflict as a major potential contributor to the stability in Iraq. I strongly agree with that. That will take so much of the terrorists' energy out of their sails, frankly, if we could find a meaningful solution to the Israeli-Palestinian conflict. The Iraq Study Group said:

> The United States cannot achieve its goals in the Middle East unless it deals directly with the Arab-Israeli conflict and regional stability.

They continue:

> There must be renewed and sustained commitment by the United States to a comprehensive Arab-Israeli peace on all fronts.

We have taken too many steps backward in that conflict. Our invasion of Iraq has simply stirred up things way too much. It has caused problems. America's presence has opened the doors to terrorism and sectarian violence.

We must reengage and work toward peace and diplomatic solutions. We must seek increased participation of other nations both in a political way forward and also in reconstruction work. We should redouble our efforts to reach out to that nation and to our allies who also have an intense interest in peace in that region and work together toward a responsible exit.

In March of 1919, the Emir of Iraq, Feisal ibn Hussein, wrote to Supreme Court Justice Felix Frankfurter. This is what he said:

> We feel that Arabs and Jews are cousins in race, having suffered similar oppressions at the hands of powers stronger than themselves, and by happy coincidence they have been able to take the first step toward the mutual attainment of their national ideals together. . . .Indeed, I think neither can be a real success without the other. . . .I look forward . . . to a future in which we will help you and you will help us, so that the countries in which we are mutually interested may once again take their places in the community of civilized peoples in the world.

That is what the Emir of Iraq wrote in 1919.

America must renew its commitment to peace in the Middle East. We must work to regain the fleeting sense of optimism that can lead to political resolution. We must be positive. We must be the leaders that we Americans are. We must work to stop the spilling of blood in the land of Abraham.

I urge President Bush to listen to the Iraq Study Group. I urge him to listen to commanders such as General Abizaid. I urge him to listen to the American people. It is time for America to change its course. It is time for a new political effort. It is time to bring the troops home.

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

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

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak as in morning business.

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

PRESCRIPTION DRUGS

Mr. GRASSLEY. Mr. President, I am back here today, as I have been other days this week, to talk about the Medicare drug benefit and the debate about whether the Government would do a better job of negotiating with drug companies than the prescription drug plans that are doing so this very day under law of the last 2½ years. Over the past 2 days, I have talked about the fundamental structure of the drug benefit. I talked about the heart of it, of the drug benefit plan, as competition. Plans, with vast experience in negotiating with drug manufacturers, compete to get the best drug prices for Medicare. That is what is happening today to benefit our senior citizens. Plans that have been doing this for 50 years are negotiating with drug companies in a competitive way to get the best prices for Medicare senior citizens. To date, the proof is in the pudding. We have lower bids, we have lower beneficiary premiums, lower costs to the Government, and lower costs to our States. Most importantly, we have lower prices on drugs, meaning senior citizens get affordable drugs and low-income people do not have to choose between drugs and food. Remember, that was a goal we had in 2003 we passed this legislation.

I will give some examples of how this competition has worked. A draft PricewaterhouseCoopers study found in 2006 prescription drug plans achieved higher savings, 29 percent compared to unmanaged drug benefit expenditures. That is almost 100 percent greater than the 15-percent savings projected by Centers for Medicare and Medicaid Services and almost 50 percent greater than the savings estimated by the Congressional Budget Office way back when, in 2003, when we all thought if this program worked at all there would be some savings on prescription drugs for seniors. However, it has turned out to be much greater savings than we anticipated when we wrote the bill.

It isn't often that legislation we write comes back with a better benefit to the taxpayers, better benefit to our seniors or any group or population. Most often there are what we call cost overruns.

I believe it is fair to say that competition is working.

Yesterday, I talked about how this whole debate is based on nothing more than a distortion of language in what is called the noninterference clause in the existing legislation. This noninterference language was first included in legislation introduced by many of the same people now opposing it, and these people tend to be led by Members of the Democratic Party.

To be clear, that language, the noninterference language that people now are questioning, that period of time between 1999 and 2003, bills introduced by Members in the other party included this language and now, somehow, they do not like it.

I want to be clear that the impressions left by opponents of this part of the legislation that we do not have competition, we do not have negotiations, this language in the legislation does not prohibit negotiations to get drug prices down. Negotiations occur between private plans and the drug manufacturers regularly. You could not get those percentage decreases in prices I just mentioned—those percentages that are even greater than percentages we thought when we wrote the legislation—you would not get those without negotiation, you would not get those without competition.

I, also, pointed out in earlier speeches, so far, proposals to have the Secretary of HHS negotiate drug prices have not been shown to actually save

any money. Our beloved Congressional Budget Office tells us that they cannot project savings by having a Government bureaucrat negotiate instead of plans negotiating. Nevertheless, here we are, in the new Congress, discussing this matter once again.

What I want to do today is put forward a picture of what Government negotiations might look like. Admittedly, doing this will require some speculation. Why is that necessary? It is necessary because Democrats have not provided many details on how they actually envision their requirement that the Secretary negotiate how that will work. This is despite the fact that some opponents of the noninterference clause have demagoged this issue for nearly 3 years. After 3 years, they are still out there saying the noninterference clause ought to go, but there are no details on how their plan will work. They have given us a few clues as to their thinking on how they want it to work.

For the longest time, I heard it said that the Secretary of Health and Human Services should have the power to negotiate drug prices, as the Veterans' Administration does. With the Veterans' Administration as our guide, let's talk about the VA's approach to purchasing drugs and then ask you to consider, after you hear this, do you want to do it that way? This discussion will be somewhat technical, but I urge listeners to bear with me because we need to get beyond the Veteran's Administration sound bite. Everyone needs to have a good understanding of what this would mean for Medicare.

It is a fact that the Veterans' Administration uses different purchasing arrangements to get discounts on prescription drugs. But there is a big distinction between these purchasing arrangements. The Veterans' Administration has access to what we call the Federal supply schedule prices. Under the Federal supply schedule prices, the Government guarantees by law that it must get the best price in the marketplace. This means that the Federal supply schedule prices cannot exceed the lowest price that a manufacturer gives in comparable terms and conditions to a non-Federal customer such as the pharmacy benefit manager. Since that is technical, I will go over that once more. Under the Federal supply schedule, the Government guarantees by law that it must get the best price in the marketplace. But what this means is that the Federal supply schedule prices cannot exceed the lowest price that a manufacturer gives under comparable terms and conditions to a non-Federal customer, and that could include health plans, pharmacy benefit managers, and many others. Under Federal law, manufacturers must list their drug on the supply schedule to qualify for reimbursement under Medicaid.

Next, the VA can purchase drugs at the Federal ceiling price. Again, the Government passed a law to guarantee itself an automatic discount no one else can get. By law, that price is automatically 24 percent less than the average price paid by basically all non-Federal purchasers.

Isn't that a nice negotiating tactic? Pass a law and guarantee yourself a discount. The logical questions are, why not have Medicare access the Federal supply schedule—because people who want to do it such as the VA, that is where it takes you. Why not give Medicare the Federal ceiling price?

I will refer to a chart because experts have looked at this question, and we have assigned the Government Accountability Office to look into this. They had a year 2000 report on this. They say:

> Mandating that federal prices for outpatient prescription drugs be extended to a large group of purchasers, such as Medicare beneficiaries, could lower the prices they pay but raise prices for others.

In other words, raising prices for everybody else in America that is purchasing drugs. You heard that right: Raise prices on everybody else.

Who would face the higher prices under ''everybody else''? Small businesses, their employees, their families, to name a few. Those higher prices would likely force employers to reduce their prescription drug benefit or stop providing health insurance coverage altogether. Of course, that is an outcome I surely hope people want to avoid, but it may be an outcome that the proponents of doing away with the noninterference clause are not aware of. Or the people that are saying we ought to follow the VA practice may not be aware, that to save the taxpayers some money you are going to raise the price of drugs on everybody else in America, according to the Government Accountability Office.

The Government Accountability Office reached its conclusion by examining what happened to drug prices after Congress required drug manufacturers to pay rebates to State Medicaid Programs such as the Federal supply schedule, the Medicaid rebate program guarantees that the Government gets the best price in the marketplace.

What happened after the law was enacted? The best prices went up for everyone else. The practical effect was twofold: First, the size of rebates for State Medicare Programs got smaller. What the Federal Government wanted to accomplish to benefit the States did not happen. Second, other purchasers paid higher prices. One might ask why that might happen. Here is why: Drugmakers had to eliminate their best prices to private purchasers or face bigger rebates. That happens because if they gave 1 purchaser a best price, they then had to give the best price to 50 State Medicaid purchasers. One discount to a private purchaser could mean millions that a manufacturer would be forced to pay in rebates to the Government.

What do you think the drug companies did to counteract a well-intentioned act of Congress which ended with unintended consequences? The drug companies eliminated all the deep discounts so that they did not have to pay as much in mandatory rebates to Medicaid.

A 1996 study by the nonpartisan Congressional Budget Office examined the extent to which the Medicaid laws result in higher drug prices to everyone else. Listen to what our Congressional Budget Office concluded:

> Best price discounts have fallen from an average of over 36 percent in 1991 to 19 percent in 1994. Hence, although the Medicaid rebate appears on the surface to be attractive, it may have had unintended consequences for private purchasers.

The Federal Government passes a law to do good, and we find out we end up not doing so good. Almost a 50-percent reduction in best-price discounts; is that good? A nearly 50-percent reduction in the discounts received by purchasers such as health plans that serve employers and their employees; is that good? Of course, it is not. What this means is when those deep discounts went away, the price that everyone else pays for drugs went up. So those mandates, rebates to Medicaid made drug prices for everyone else higher.

Talk about unintended consequences. And we in the Senate who set these things up had the right intentions for doing it, but it has not worked out—unless you want to look at the good it did to the Federal Treasury and not count or not discount the harm it did to everyone else who paid higher prices.

To state it more simply, when discounts to a large purchasing group are based on discounts to another, no one gets a good discount. That is what the Government Accountability Office said in its 2000 report:

> Extending the Federal Supply Schedule . . . could also raise the prices paid by private and federal purchasers, as increases in prices, manufacturers charged their best customers would, in turn, increase Federal Supply Schedule prices.

Would opponents of the noninterference clause believe the congressional agencies, such as the CBO and the Government Accountability Office, that striking the noninterference clause would not be good? Ironic, isn't it, when the Government used price controls to mandate discounts to itself, it actually makes prices go up. I will go through that again. When the Government uses price controls to mandate discounts to itself, it actually makes prices go up. No person in their right mind concerned about the Federal Treasury or concerned about the cost of drugs to people in this country would say that meets the commonsensical test. But that is what happens.

During a 2001 hearing before the Senate Committee on Veterans' Affairs, my colleague, the senior Senator from Pennsylvania, Mr. ARLEN SPECTER, posed a question on this very matter. He asked whether adding Medicare to the VA and Department of Defense purchasing mix would produce greater

bulk discounts. The Veterans' Administration chief consultant for its Pharmacy Benefits Management Strategic Health Group answered that adding Medicare to the Federal Supply Schedule umbrella would result in increased drug prices for both the Veterans' Administration and the Department of Defense.

So, now, in addition to the Government Accountability Office and the Congressional Budget Office, the Veterans' Administration weighs in for itself, and the Department of Defense, that doing what repealers of the noninterference clause want to do will actually increase drug prices to the Veterans' Administration and the DOD. And people want to use the Veterans' Administration as a pattern to affect Medicare. So that is saying it for the third time.

If I could say it for another time, straight from the Veterans' Administration's mouth, itself: Extending VA prices to Medicare would make the VA's own drug prices increase.

And for one last time, the basic point they are making is, if you try to mandate discounts to everyone, then—what I have said a few minutes ago—no one gets a discount. Now, I am no economist, but that is basic economics. And not only that but it is common sense.

I think I have pretty much laid out why including Medicare in the Federal Supply Schedule is not as good an idea as its proponents may have made it out to be.

So now I want to go back to how the Veterans' Administration uses competitive bidding to get the discounts they say they want to use as a pattern for the Medicare Program.

Let me start by giving you an important piece of information. The Veterans' Administration has its own pharmacy benefits manager. More than a decade ago, as part of a major initiative to improve the care delivered, the Veterans' Administration formed a pharmacy benefits manager, better known around here as a PBM.

So you will probably wonder why they did that. Because, as stated in the VA news release, they wanted to maximize a strategy used by the private sector. You have people who want to have Medicare do it like the VA does it, but the VA set up a very special program because they wanted to learn something from the private sector.

A primary responsibility of the PBM for the Veterans' Administration was to develop a national formulary. The Government learned that from the private sector, the very same people they are finding complaints about now. They wanted to set up a national formulary.

A formulary is the list of drugs that a plan will cover. Basically, if your drug is not on the list, it is not covered.

A 2005 article in the American Journal of Managed Care, coauthored by the Veterans' Administration's staff and university-based researchers, stated that the Veterans' Administration created the national formulary to achieve two main goals.

First, the Veterans' Administration wanted to reduce the variation in access to drugs across its many facilities throughout the United States. In other words, they wanted to put a VA bureaucrat between the doctor and the patient. Doctors could not subscribe to everything that they thought that patient might need because if it was not on the formulary, they could not prescribe it.

Second, the VA wanted to use the formulary as leverage to get lower prices for drugs. Let me repeat that because it is important. The Veterans' Administration created a national formulary to create the leverage it needed to get lower prices for drugs.

That goes back to the point I made a couple days ago. The ability to get good discounts does not result from the sheer number of people a purchaser buys for. The ability to get good discounts comes from how the purchaser leverages those numbers. That leverage comes from a purchaser threatening to exclude a drug from the formulary. So it eventually comes down to threats.

The Veterans' Administration uses its formulary to say: Give me a better price or else—or else we are not going to buy your drugs at all.

As I said earlier, the Veterans' Administration was intentionally adopting a private sector strategy when it started using a formulary to get lower drug prices. The Medicare prescription drug plans also use formularies to negotiate lower drug prices. The most important thing about the VA formulary is that it is one big national formulary.

The biggest difference between the VA and Medicare is that beneficiaries have choices.

Let me make that clear. The biggest difference between how the VA does it and how the plans do it—the plans that are approved by the Secretary of Health and Human Services for the senior citizens of America and Medicare—the biggest difference is the beneficiaries have choices. They can choose their plans with different formularies. So Medicare bureaucrats are not coming between the patient and the doctor like VA bureaucrats are coming between the patient and the doctor. You can run into this in your town meetings because I had people come up to me and complain about the VA: My doctor says I ought to have this drug because the drug that the VA wants me to take has side effects.

And they come to me and say: How come the VA won't pay for this drug because it is better for me, according to my doctor?

And their answer is: Because the VA wants to save money. So you have a Government bureaucrat deciding what is best for your health instead of your doctor.

But the principle behind the prescription drug bill that Senator BAUCUS and I wrote was that we were not going to have the bureaucrat getting in the medicine cabinet of a person, of senior citizens. We wanted every therapy available. That is the way it is written, and that is the way it is being carried out. So I wonder if people who say you ought to change this and do it the way the VA does it know how you are negatively affecting the senior citizens of America.

The way senior citizens can do it is they have choice. They can enroll in a plan that covers their drugs. They can enroll in a plan that allows them to use their neighborhood pharmacy. The VA does not do business with every pharmacist in America. So you are hurting your local pharmacist when you do business that way.

Under the Veterans' Administration programs, veterans do not have a choice. They cannot choose a different plan, and they have to use the VA's own pharmacy, not the pharmacy down the street. Using a limited number of VA-controlled pharmacies and mail-order pharmacies also helps keep VA costs down.

But one of the things we wanted to accomplish in the prescription drug bill, Part D, was to make sure the Government did not use its leverage to hurt local pharmacists. And we put several things in—a requirement you had to have a brick-and-motor pharmacist in every plan. So we have some requirements to help pharmacies that the VA does not even worry about. And I have to confess to the community pharmacists of America, we still have a lot of work to do to help them so they benefit from this program like we intended. There are some unintended consequences to what we did, even considering the fact we took the community pharmacists into consideration.

Under the VA program, then, you do not have a local pharmacist to go to. When they do not use the local pharmacist the way we do, when they use all these mail-order pharmacies, they hurt the local pharmacist, but they are saving some money.

Also, there is limited access to drugs, limited access to retail pharmacies. That is how the VA works. So do you want to force that upon the senior citizens of America?

I would like to go to another chart now. The Los Angeles Times put it best in an article on November 27 of last year. According to the Los Angeles Times:

> VA officials can negotiate major price discounts because they restrict the number of drugs on their coverage list. . . .In other words, the VA offers lower drug prices but fewer choices.

So do you want to offer fewer choices to our seniors? That is not what we wanted when we wrote the Medicare bill. We wanted to keep CMS bureaucrats out of the Medicare medicine cabinet of every senior citizen.

So what would it mean if the Government negotiated lower drug prices for Medicare in a national system like the Veterans' Administration? It would

mean having a more limited formulary. And it would mean having the Veterans' Administration bureaucrat between you and your doctor.

So I would go to a chart that would make this more picturesque and more clear to you. This chart shows what this would mean. It would mean that instead of having 4,300 drugs available to them, beneficiaries would have about 1,200 drugs available. If Medicare used a national formulary like the VA, it would mean that 70 percent of the prescription drugs could not be covered by Medicare. Only 30 percent of the drugs covered today would be covered.

Then let's get into some specific drugs, about major problems we are trying to treat today, such as diabetes or cholesterol. There, too, if the Government negotiated for Medicare like it does for VA, it would mean fewer drugs covered by Medicare.

In the case of treatment for depression: 65 percent covered; 35 percent not covered. In the case of treatment for high cholesterol: 54 percent covered, 46 percent not covered. It seems that by looking at these drugs, if the Government used the VA model, our senior citizens would not be as well served.

Now, maybe you can make an argument we are not treating our veterans right. We appropriate more money every year for veterans health programs. And we have to because the needs are there and we made a promise. We have to keep the promise to the veterans. But I think veterans watching this could say: Well, why not cover these? Why not cover these? Well, I have given the reason. We want to save taxpayers money. But it is completely opposite what we wanted to accomplish under the Medicare bill to serve our senior citizens: everything being available, and to save the taxpayers money through competitive bidding.

This could also mean that beneficiaries could not get their prescriptions filled at the most convenient pharmacy for them. That is not what we wanted when writing the bill. We put seniors first. Those who want to repeal it, it seems to me, they are putting bureaucrats first, or at least they are putting bureaucrats between the doctor and the senior citizen. In many cases, those realities have led Medicare-eligible veterans to enroll in Medicare drug programs so they will have coverage for drugs not covered by the VA.

When I held my town meetings as we were rolling out this new drug program, I had veterans say: Well, does this mean I have to get out of the veterans program?

I said: If you are satisfied with the veterans program, you can stay in it. You do not have to do anything. If you decide later on you want to get into one of these programs, you can do it without penalty.

So they had the best of both worlds. If they were satisfied with the VA, keep it. But we have evidence that some of them are leaving the VA program to join the program of Part D Medicare. Even though many veterans have very good drug coverage, almost 40 percent of the veterans with VA benefits and Medicare coverage are enrolled in Part D. So when you get beyond the easy sound bites, when you get to the facts, applying the VA system to Medicare is neither as easy as it sounds nor will it likely have the effect that the proponents suggest.

It now appears that even they have begun to figure this out because now, when the rubber hits the road, when they have to produce something, they introduce a bill—and I am referring now to a bill of the other body—that explicitly prohibits the Secretary from creating a formulary.

In fact, the Los Angeles Times reported last week that a House Democratic leadership aide said, ''We felt we couldn't go as far as the Veterans Affairs [Department] does.''

Under the House Democrats bill, Medicare can't have a formulary. As I tried to make clear here today, the drug formulary is the key to negotiating lower drug prices. The House Democrats bill prohibits the Government from having a national formulary. No formulary means no negotiations, no leverage over drug companies. In reality, the Democratic proposal on negotiation actually prohibits the Government from negotiating. Under their plan for Government negotiation, the Government won't be able to say no to a drug company. With no formulary to bargain with, the drug companies could say something like this: No, why should I give you that price if you can't exclude me or charge higher cost sharing?

At the same time, the House Democrats bill repeals the prohibition on the Government setting a pricing structure. So if the Government cannot negotiate because it can't have a formulary, if there is no prohibition on Government price structure, where does that leave us? Sounds like price controls to me. Experience shows that when the Government sets prices for itself, when it gives itself mandatory discount, prices go up for everyone, higher prices for everyone else. Why would anyone want that sort of a situation?

Everyone always asks, why not have Medicare work like the VA program to get lower drug prices. I think I have laid out why that idea might not be as good as the proponents have made it sound. Having Medicare work like the VA could mean fewer drugs covered, restricted access to community pharmacies, more use of mail-order pharmacies and higher drug prices for everyone else. I can't imagine that is what people want.

So where does that leave us? The Medicare plans are working today. I say that based upon several polls that show 80 or so percent of the seniors are satisfied. The plans are also delivering the benefits to Medicare beneficiaries. These private sector plans have the experience of negotiating better prices. These Medicare negotiators have proven their ability to get lower prices. The Medicare plans are negotiating with drug companies using drug formularies within the rules set by law, and the formularies are basic for that negotiation.

Last week on the Senate floor, the Senator from Illinois said that the law ''took competition out of the program so that [the drug companies] could charge whatever they want.'' That is not true. We have the 50-year experience of the Federal Employees Health Benefit Program negotiating for every Federal employee to keep costs down to the citizen as well as to the taxpayers. We patterned it something like that. And quite frankly, when we patterned it for the senior citizens under Medicare, I wasn't entirely sure we would get all the plans interested, that we would have the competition we ended up having. It has worked beyond our expectation. And thank God it did, because I am not sure we had that kind of expectation out of it. But it sure worked. Thank God something worked a little bit better than we anticipated it would work.

So we had a Senator saying that we took competition out of the program. Competition is what this program is all about, and that competition is working. Costs are lower. Premiums are lower. Let me quantify how premiums are lower, because when we were writing the bill in 2003, we were figuring at what price, somewhere between $35 and $40 a month, could we get seniors to join. Over that, we would have problems. Competition has brought it in at $23 last year and $22 this year on average. So these organizations remain in the best position to get lower prices for Medicare beneficiaries and taxpayers.

I yield the floor.

Mr. LIEBERMAN. Mr. President, I thank the Senator from Iowa.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Ms. COLLINS. Mr. President, I ask unanimous consent that I be permitted to proceed as in morning business for not to exceed 5 minutes in order to submit a resolution.

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

The Senator from Maine is recognized.

Ms. COLLINS. I thank the Chair.

(The remarks of Ms. COLLINS pertaining to the submission of S. Res. 22 are located in today's RECORD under ''Submission of Concurrent and Senate Resolutions.'')

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

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

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

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

IRAQ

Mr. COLEMAN. Mr. President, having recently returned from another visit to Iraq serving as a member of the Foreign Relations Committee, I come to the floor this afternoon to express my views on the most pressing issue facing our country today: our path to success in Iraq. The Iraq Study Group recently stated the situation in Iraq is grave and deteriorating. When the current path isn't working, you have to be flexible. You have to shift. You have to make a change. And, clearly, in Iraq today we have to make a change. The President of the United States, on Friday, said the same thing.

In December I met with Iraqi political leaders, U.S. troops and their leaders, as well as our diplomats on the ground. Our conversations with this broad range of individuals helped me draw various conclusions that are key to evaluating the proposals currently being debated. In light of the President's upcoming announcement of his strategy for Iraq, I think it is important to share these conclusions.

It is easy to lose sight of the fact that we are in Iraq as part of a Global War on Terror. There is no question that Iraq has become the key battleground of this war. Failure cannot be an option in either the overall war on terror or in Iraq. As the President has correctly stated, this is the battle of this generation. With menacing regimes in Iran and Syria, we cannot dismiss the fact that a failed state in Iraq would lead to much more than chaos and collapse in that nation. It would destabilize a critical region of the world and, most alarmingly, would create a breeding ground for terrorists whose ambitions do not stop at Iraq's borders. Americans—all Americans—have a direct stake in winning this war.

We know the United States will be involved in the war on terror for the foreseeable future. The question is, How do we move forward in Iraq? How do we fight this war? And, where do we put our troops?

From my experience in Iraq, I know now, or at least I believe, that we are fighting it essentially on two fronts. The first is the war we intended to fight: a war against terrorists, primarily Sunni extremists and foreign jihadists linked to al-Qaida—foreign terrorists. The other war is a war between the Iraqis themselves: Shiite against Sunni, in a seemingly endless cycle of grisly violence. Our military must continue the battle against extremists and terrorists, but we have no business being caught in the crossfires of an Iraqi sectarian conflict.

The good news is we have had great success in fighting the war on terror, imposing crippling losses on the international jihadist network which today operates in Iraq. Indeed, during my visit in December with marines from Minnesota stationed in Anbar, they reported they were making great headway against the insurgency there. I am proud of their accomplishments, and I firmly believe these military victories directly enhance our security at home. But to secure the ground that these marines have cleared of insurgents in places such as Fallujah, they need Sunni police officers. They need Sunni members of the Iraqi Army. They need reconciliation between Sunni and Shia. So as we continue to fight the first war, the war against terrorists, we need also to address the second war, that of Iraqi against Iraqi.

The overall consensus I found in Iraq is that we will be unable to hold on to the ground we have gained on the first front without addressing the second front: Iraqi sectarian violence. This violence is spiraling rapidly and is undermining the success we have made against the terrorists. If the Iraqi security forces, both Army and police, are to someday soon take over the fighting of the insurgency from U.S. troops, it is clear that intergroup violence must be brought under control. The Iraqi security forces must include all Iraqis: Sunni, Shiite, Kurd, and others. To be certain, our efforts cannot succeed if sectarian hatred is not addressed at the highest level of the Iraqi Government immediately.

The only long-term solution for bringing stability to Iraq must be centered on national reconciliation. It is true that after decades of Sunni violence led by Saddam Hussein and his regime, the Shiites still have unaddressed grievances. But this does not call for, nor permit, neighborhood-by-neighborhood ethnic cleansing, nor a refusal to work together for the future of all Iraqis. Shiites may be able to win short-term victories through the use of violence, but in the long term they will not have a unified country if they continue to do so. Iraqi leaders should focus on reining in all sectarian groups under the umbrella of a national and inclusive political process. This is a solution that can only be led by the Iraqis themselves.

With no doubt, this sectarian violence was left to grow unchecked for far too long. Even so, it is not too late to get Iraq back to stable footing. But it will come from dialogue and political compromise enforced by a central government prepared to take on militias under the control of religious sects, clans, and even common criminals. We must get to the point where Iraqi citizens express their views through political channels instead of through violence. The Iraqis are the masters of their own destiny, and it is important that our strategy regard them as such.

Since my trip to Iraq in December, I have been calling for the Iraqi Government to establish a series of benchmarks that will diffuse the sectarian violence and stabilize the country politically and economically. These benchmarks would include an oil revenue-sharing agreement and economic assistance to areas that have been neglected in the past. The reality is not putting resources in Anbar Province because it is Sunni, and so as a result, what you get is a feeding of insurgency by the actions of a government that has not been prepared to address the issue of sectarian violence. We will be a better supporter of the Iraqi Government if we pressure them to create and adhere to these benchmarks rather than assuming that this fractured Government will take this on by themselves. I fear that up to this point the Iraqi leadership has not stepped up to the plate to make the difficult decisions that are necessary to pave the road for a political solution.

When I was in Iraq with Senator BILL NELSON from Florida, we met with the Iraqi National Security Adviser to Maliki, Dr. Rubaie, who contended that sectarian violence wasn't the main problem, but the problem was the foreign terrorists and was the Sunni insurgency. That is not the case. As a Senator responsible for looking after the best interests of my constituents and all Americans, I take seriously the responsibility of Iraqi political leaders to honor the sacrifices that are being made by American soldiers. I refuse to put more American lives on the line in Baghdad without being assured that the Iraqis themselves are willing to do what they need to do to end the violence of Iraqi against Iraqi. If Iraq is to fulfill its role as a sovereign and democratic state, it must start acting like one. It is for this reason that I oppose the proposal for a troop surge. I oppose the proposal for a troop surge in Baghdad where violence can only be defined as sectarian. A troop surge proposal basically ignores the conditions on the ground, both as I saw on my most recent trip and reports that I have been receiving regularly since my return. My consultations with both military and Iraqi political leaders confirms that an increase in troops in areas plagued by sectarian violence will not solve the problem of sectarian hatred. A troop surge in Baghdad would put more American troops at risk to address a problem that is not a military problem. It will put more American soldiers in the crosshairs of sectarian violence. It will create more targets. I just don't believe that makes sense.

Again, I oppose a troop surge in Baghdad because I don't believe it is the path to victory or a strategy for victory in Iraq. I recognize there are those who think otherwise. The Iraqi

Study Group, in their report, said that they could, however, support a short-term deployment, a surge of American combat forces to stabilize Baghdad or to speed up the training and equipping mission if the U.S. commander in Iraq determines that such standards would be effective.

I sat with the President with Democratic colleagues and Republican colleagues. I know that he has weighed this heavily, and I know he has looked at this issue for a long time. Apparently, he has come to the conclusion that, in fact, a troop surge would be helpful. I believe his comments will contain—hopefully contain—discussions about benchmarks and contain a commitment to do those things to rebuild the economy and create jobs so that we get rid of some of the underlying causes and frustrations that feed the insurgency. But the bottom line is, again, at this point in time, it is sectarian violence that I believe is the major issue that we face and more troops in Baghdad is not going to solve that problem.

As one of the final conclusions to share of my experience in Iraq, I would also like to emphasize the significant role of Iran in fomenting instabilities. Across the board, my meetings with Iraqi officials revealed that the Iranians are driving instability in Iraq by all means at their disposal. We had a hearing today in the Foreign Relations Committee and one of the speakers, one of the experts said that it may be, and it is probably clear that, the Iranians have a stake in American failure in Iraq and its stability in the region, and they feed on that. Indeed, there are credible reports that Iran is currently supplying money and weapons to both its traditional Shiite allies and its historic Sunni rivals, all for the purposes of ensuring a daily death toll of Iraqi citizens. It is clear the Iranians have concluded that chaos in Iraq is in their direct interest. Iran's role thus far, not to mention their pursuit of nuclear weapons, makes it hard to believe that they might suddenly become a constructive partner in the stabilization of Iraq.

I want to point out that my commitment to success in Iraq has not changed, nor my willingness to consider options that would realistically contribute toward our goals there. In my trips to Iraq, I have gone with an open mind as to what next steps could be taken as we work with the Iraqis to stabilize their country. I have said all along that the stakes of our mission in Iraq are such that failure is simply not an option, and I will only support proposals that will steer the United States toward victory. Abandoning Iraq today would precipitate an even greater surge of ethnic cleansing. It would, as I indicated before, precipitate an episode of instability and chaos in the region that would be in no one's interest. But my most recent trip to Iraq also reaffirmed to me that it is the Iraqis who must play the biggest role in any strategy for success. Our investment must be tied to their willingness to make the tough choices needed to pave the way to stability and for them to act on them.

I represent Minnesota, but if I represented Missouri, I think I would simply say to Maliki: Show me. Show me your resolve. Show me your commitment. Show me that you can, in fact, do the things that have to be done to deal with the sectarian violence, and then we can talk about enhancing and increasing the American effort. I haven't seen it. I don't see it today, and as such, I am certainly not willing to put more U.S. troops at risk.

Mr. 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.

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

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

The Senator from Colorado.

Mr. SALAZAR. Mr. President, what is the pending business?

The PRESIDING OFFICER. The Vitter amendment, No. 10, is the pending amendment.

AMENDMENT NO. 15 TO AMENDMENT NO. 3

Mr. SALAZAR. I ask unanimous consent that the pending amendment be set aside so that I can offer amendment No. 15.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. SALAZAR), for himself and Mr. OBAMA, proposes an amendment numbered 15 to amendment No. 3.

Mr. SALAZAR. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To require Senate committees and subcommittees to make available by the Internet a video recording, audio recording, or transcript of any meeting not later than 14 days after the meeting occurs)

At the appropriate place, insert the following:

SEC. ___. PUBLIC AVAILABILITY OF SENATE COMMITTEE AND SUBCOMMITTEE MEETINGS.

(a) IN GENERAL.—Paragraph 5(e) of rule XXVI of the Standing Rules of the Senate is amended by—

(1) by inserting after ''(e)'' the following: ''(1)''; and

(2) by adding at the end the following:

''(2) Except as provided in clause (1), each committee and subcommittee shall make publicly available through the Internet a video recording, audio recording, or transcript of any meeting not later than 14 days after the meeting occurs.''.

(b) EFFECTIVE DATE.—This section shall take effect October 1, 2007.

Mr. SALAZAR. Mr. President, I rise today to discuss amendment No. 15, which is being offered by myself and the Senator from Illinois, BARACK OBAMA. The amendment is a very simple amendment but a very important one as we undertake our effort to revise the ethics rules of the Congress. The amendment simply requires that each Senate committee and subcommittee make available on the Internet either a video recording, an audio recording or a transcript of every meeting that is open and that those documents be made public within 14 days of the meeting's adjournment, unless a majority of the committee members decide otherwise.

I was surprised, frankly, to realize how difficult it is for all of our constituents to learn about the work we do in this Senate and Congress because most of that work occurs in the committees of our legislative Chamber. Most of those committee meetings are not broadcast. There are a few occasionally that get broadcast on C–SPAN or that are picked up by one of the networks, but that is a rare occurrence. It is an exception to receive that kind of broadcast. So, as far as the public of the United States is concerned, most of the work we do in committees—which is where most of the work actually occurs for our legislative activity—is work that actually occurs in the dark.

While Senate rules require that committee meetings be open to the public and that each committee prepare and keep a complete transcript or electronic recording of all of its meetings, it still remains very difficult for citizens to figure out what actually goes on in our committee rooms. According to one estimate, a transcript or electronic recording is available online for only about one-half of all Senate committee and subcommittee hearings. Only for one-half of those hearings is there made available a transcript that the public can actually access. That number is far too low. There is no reason why, in this day of modern technology and communications, we should not be able to achieve a goal of 100 percent.

I know we often refer to Justice Brandeis because he was one of those great jurists who really illuminated our times with some of his wisdom, his jewels that have become almost cliches that captured the moment. I remember Justice Brandeis's famous line where he said, ''Sunshine is said to be the best of disinfectants.''

Those words are as true now as ever. We have seen an unprecedented level of secrecy in the legislative process. We have seen one-party conference committees where, just because you happen to be of the other party, you were not allowed to participate in the conference committee or you were not even notified that a conference committee was, in fact, meeting. We have seen provisions that are slipped into conference committee reports that were not passed by either Chamber. Those kinds of procedures and tactics are often used. That kind of secrecy is

part of what has caused a lack of confidence of the American people in our institutions in Washington, DC.

The time for secret government is over. This legislation we have been considering over the last several days, and hopefully will bring to conclusion this week or next week, will be a great first step in making sure we are returning government back to the people and integrity back to the processes which we oversee in the Congress.

I hope my colleagues can join us as we move forward with this amendment. I will quickly add that the amendment will create no serious burden for the committees of our Senate. First, our committees will have until October 1 of 2007 to adjust their practices. Second, they have three options: They can do audio, they can do video, they can do transcript—whichever option they choose—in order to comply with the provisions of my amendment. Third, many of the committees are already posting this information online.

One central purpose of this bill is to improve transparency in the legislative process. My amendment is an important step in that direction. I urge my colleagues to support this amendment. I thank Senator OBAMA for his support of this amendment and I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

AMENDMENT NO. 2 TO AMENDMENT NO. 3

Mr. LEAHY. Mr. President, I understand that amendment No. 2 is at the desk.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside and the clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself and Mr. PRYOR, proposes an amendment numbered 2 to amendment No. 3.

Mr. LEAHY. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To give investigators and prosecutors the tools they need to combat public corruption)

At the appropriate place, insert the following:

SEC. _____. EFFECTIVE CORRUPTION PROSECUTIONS ACT OF 2007.

(a) SHORT TITLE.—This section may be cited as the ''Effective Corruption Prosecutions Act of 2007''.

(b) EXTENSION OF STATUTE OF LIMITATIONS FOR SERIOUS PUBLIC CORRUPTION OFFENSES.—

(1) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

''§ 3299. Corruption offenses

''Unless an indictment is returned or the information is filed against a person within 8 years after the commission of the offense, a person may not be prosecuted, tried, or punished for a violation of, or a conspiracy or an attempt to violate the offense in—

''(1) section 201 or 666;

''(2) section 1341, 1343, or 1346, if the offense involves a scheme or artifice to deprive another of the intangible right of honest services of a public official;

''(3) section 1951, if the offense involves extortion under color of official right;

''(4) section 1952, to the extent that the unlawful activity involves bribery; or

''(5) section 1963, to the extent that the racketeering activity involves bribery chargeable under State law, or involves a violation of section 201 or 666.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 213 of title 18, United States Code, is amended by adding at the end the following:

''3299. Corruption offenses.''.

(3) APPLICATION OF AMENDMENT.—The amendments made by this subsection shall not apply to any offense committed more than 5 years before the date of enactment of this Act.

(c) INCLUSION OF FEDERAL PROGRAM BRIBERY AS A PREDICATE FOR INTERCEPTION OF WIRE, ORAL OR ELECTRONIC COMMUNICATIONS AND AS A PREDICATE FOR A RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS OFFENSE.—

(1) IN GENERAL.—Section 2516(c) of title 18, United States Code, is amended by adding after ''section 224 (bribery in sporting contests),'' the following: ''section 666 (theft or bribery concerning programs receiving Federal funds),''.

(2) IN GENERAL.—Section 1961 of title 18, United States Code, is amended by adding after ''section 664 (relating to embezzlement from pension and welfare funds),'' the following: ''section 666 (relating to theft or bribery concerning programs receiving Federal funds),''.

(d) AUTHORIZATION FOR ADDITIONAL PERSONNEL TO INVESTIGATE AND PROSECUTE PUBLIC CORRUPTION OFFENSES.—There are authorized to be appropriated to the Department of Justice, including the United States Attorneys' Offices, the Federal Bureau of Investigation, and the Public Integrity Section of the Criminal Division, $25,000,000 for each of the fiscal years 2008, 2009, 2010, and 2011, to increase the number of personnel to investigate and prosecute public corruption offenses including sections 201, 203 through 209, 641, 654, 666, 1001, 1341, 1343, 1346, and 1951 of title 18, United States Code.

Mr. LEAHY. Mr. President, I am pleased to join with Senator MARK PRYOR to offer an amendment to the ethics bill, the Effective Prosecutions Act of 2007. Our amendment would strengthen the tools available to Federal prosecutors in combating public corruption. It gives investigators and prosecutors the statutory rules and resources they need to assure that corruption is detected and prosecuted.

In November, voters sent a strong message that they were tired of the culture of corruption. From war profiteers and corrupt officials in Iraq to convicted administration officials, to influence-peddling lobbyists and, regrettably, even Members of Congress, too many supposed public servants are serving their own interests rather than the public interests.

Actually, the American people staged an intervention and made it clear they would not stand for it any longer, and they expect Congress to take action. We need to restore the people's trust by acting to clean up the people's government.

The Legislative Transparency and Accountability Act will help to restore the people's trust. Similar legislation passed the Senate last year, but stalled in the House. This is a vital first step.

But the most serious corruption cannot be prevented only by changing our own rules. Bribery and extortion are committed by people who are assuming they will not get caught. These offenses are very difficult to detect and even harder to prove. But because they attack our democracy itself, they have to be found out and punished. We can send a signal we don't believe in corruption, that we want it punished.

I was pleased to join Senator PRYOR last week to introduce the Effective Corruption Prosecutions Act of 2007, and I hope that all Senators will support us and incorporate this important bill into the Legislative Transparency and Accountability Act. Our legislation gives investigators and prosecutors the tools and resources they need to go after public corruption.

Senator PRYOR is a former attorney general. He understands, as I do, as I am a former prosecutor, the need for such legislation.

First, it would extend the statute of limitations for the most serious public corruption offenses, extending it from 5 years to 8 years for bribery, deprivation of honest services, and extortion by public officials.

The reason this is important is these public corruption cases are among the most difficult and time consuming to investigate, before you even bring a charge. They often require use of informants and electronic monitoring, as well as review of extensive financial and electronic records, techniques which take time to develop and implement. Once you bring a charge, the statute of limitations tolls. You do not want it to run out before you can bring the charge.

Bank fraud, arson, and passport fraud, among other offenses, all have 10-year statutes of limitations. Since public corruption offenses are so important to our democracy and these cases are so difficult to investigate and prove, a more modest extended statute of limitations for these offenses is a reasonable step to help our corruption investigators and prosecutors do their jobs. Corrupt officials should not be able to get away with ill-gotten gains simply because they outwait the investigators.

This legislation also facilitates the investigation and prosecution of an important offense known as Federal program bribery, Title 18, United States Code, section 666. Federal program bribery is the key Federal statute for prosecuting bribery involving State and local officials, as well as officials of the many organizations that receive substantial Federal money. This legislation would allow agents and prosecutors investigating this important offense to request authority to conduct wiretaps and to use Federal program bribery as a basis for a racketeering charge.

Wiretaps, when appropriately requested and authorized, are an important method for agents and prosecutors to gain evidence of corrupt activities, which can otherwise be next to impossible to prove without an informant. The Racketeer Influenced and Corrupt Organizations, RICO, statute is also an important tool which helps prosecutors target organized crime and corruption.

Agents and prosecutors may currently request authority to conduct wiretaps to investigate many serious offenses, including bribery of Federal officials and even sports bribery, and may predicate RICO charges on these offenses, as well. It is only reasonable that these important tools also be available for investigating the similar and equally important offense of Federal program bribery.

Lastly, the Effective Corruption Prosecutions Act authorizes $25 million in additional Federal funds over each of the next four years to give Federal investigators and prosecutors needed resources to go after public corruption. Last month, FBI Director Mueller in written testimony to the Judiciary Committee called public corruption the FBI's top criminal investigative priority. However, a September 2005 Report by Department of Justice Inspector General Fine found that, from 2000 to 2004, there was an overall reduction in public corruption matters handled by the FBI. The report also found declines in resources dedicated to investigating public corruption, in corruption cases initiated, and in cases forwarded to U.S. attorneys' offices.

I am heartened by Director Mueller's assertion that there has recently been an increase in the number of agents investigating public corruption cases and the number of cases investigated, but I remain concerned by the inspector general's findings. I am concerned because the FBI in recent years has diverted resources away from criminal law priorities, including corruption, into counterterrorism. The FBI may need to divert further resources to cover the growing costs of Sentinel, their data management system. The Department of Justice has similarly diverted resources, particularly from United States Attorney's Offices.

Additional funding is important to compensate for this diversion of resources and to ensure that corruption offenses are aggressively pursued. This legislation will give the FBI, the U.S. attorneys' offices, and the Public Integrity Section of the Department of Justice new resources to hire additional public corruption investigators and prosecutors. They can finally have the manpower they need to track down and make these difficult cases, and to root out corruption.

These may sound like dry nuts-and-bolts measures, but what we are trying to figure out is what will actually allow us to investigate and prosecute the kinds of crimes that undermine our democracy.

If we are serious about addressing the egregious misconduct that we have recently witnessed, Congress must enact meaningful legislation to give investigators and prosecutors the resources they need to enforce our public corruption laws. I strongly urge Congress to pass this important amendment as a major step to restoring the public's trust in their government.

The PRESIDING OFFICER (Mr. BROWN). The Senator from Utah.

Mr. BENNETT. Would the Senator from Vermont yield for some questions?

Mr. LEAHY. Certainly.

Mr. BENNETT. Mr. President, my first question is whether the Department of Justice has asked for this and whether they need these additional resources to deal with the challenges.

Mr. LEAHY. Mr. President, if I might answer that, last month the FBI directed written testimony to the Judiciary Committee. When GAO looked at it, the Department of Justice Inspector General found the numbers had gone way down partly because some of the resources had been converted to other matters. Regarding financial resources, as the distinguished Senator certainly knows, as he is on the Committee on Appropriations, enormous amounts of money were diverted to the very difficult setup of the computer system, the central system, and the FBI. Hundreds and hundreds and hundreds of millions of dollars literally went down the drain, and they have had to start all over.

I understand from Director Mueller's assertion that there has been an increased number of agents investigating public corruption cases, but it also appears that the resources have not been there.

If they don't want it, send it back to the Treasury. What I am concerned about, I say to my friend from Utah, and he is my friend, I recall in prosecutor days when legislative bodies would say, Boy, we are going to cut down on crime, we are going to give more crimes increased penalties; that will stop crime. And I said, Well, are you going to give us the resources to catch the people? No, we don't have money for that, but we will double the penalty.

The fact is, if somebody commits a crime, they figure they won't get caught. On some of these sophisticated bribery cases, and I include influence-peddling cases, they think if they can wait out the short statute of limitations, the 5-year statute of limitations, they can get away with it. We will at least increase that to 8 years. It should be out there somewhere near sports bribery, which I believe is 10 years.

Mr. BENNETT. Mr. President, I thank the Senator for his answer.

It seems to me this is more of an appropriations issue rather than something that is relevant to this bill. I remember in history that Members of Congress who were involved in ABSCAM were picked up without the additional authority that is in this amendment. I remember Mayor Marion Barry, the Mayor of Washington, was videotaped with existing powers and existing resources at that time without the additional information of this amendment. As we have said, both Jack Abramoff and Duke Cunningham are in jail under existing procedures and existing resources.

While I certainly do not want to be here characterized as being reluctant to pursue wrongdoing, I am not sure I understand why this particular activity is essential now, whether we have any indication that there is a great deal of Government corruption in both Houses that needs this kind of additional attention. If they need more money because of additional workload elsewhere, I am more than happy to vote for the more money. I would appreciate it if the Senator from Vermont would give Members the background of why he thinks this additional activity is necessary.

Mr. LEAHY. The money will still be appropriated. Simply authorizing does not appropriate money. I don't want to be in a position where the Committee on Appropriations or somebody says we are not authorized. The distinguished Senator could easily say ''zero.'' I don't want them to say it is a great idea but they cannot authorize it.

We just agreed to an amendment that makes it a crime that already exists and makes it a misdemeanor. The Senator from Utah supports that. This is for prevention of crimes and to make sure they can be prosecuted. They are not being prosecuted.

The Senator mentions the Jack Abramoff case. We know that is ongoing, and there were lots of people who hoped they could wait out the statute of limitations on that bad boy. Under this, they will not.

I suggest we make these retroactive. I am suggesting we need enough time to investigate. And the FBI has had to divert so much money—first the hundreds of millions lost because they screwed up on the computer system, and they have had to divert a lot more from it. If they want to come up here and tell us they don't need this, fine. I haven't heard that from the Department of Justice at all. I have heard from the Inspector General that these investigations have suddenly gone way down in the last 4 years. Maybe there has been a great new wave of morality in this country and we have only seen the most egregious cases. I believe in the redemption of everyone, but I am not sure it happens all at once.

Mr. BENNETT. Mr. President, I will look at this amendment with great interest. I appreciate the sincerity with which my friend from Vermont offers it.

My first reaction to the increase in the statute of limitations is that is fairly reasonable. My only immediate reaction is it gives the impression that there is widespread corruption that is not being examined in the Congress.

Mr. LEAHY. This is not just the Congress; we are talking about the ability

to go after State officials, for example, who are diverting public money. We are talking about a group that receives Federal funds and uses bribery to get it, going after or diverting it when they do. This is not just naming 535 Members of Congress but goes further than that.

Mr. BENNETT. I appreciate that clarification. I will examine the amendment with great care.

Mr. LEAHY. 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. STEVENS. 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 Alaska.

Mr. STEVENS. What is the pending business, Mr. President?

The PRESIDING OFFICER. The Leahy amendment is the pending amendment.

AMENDMENT NO. 16 TO AMENDMENT NO. 4

Mr. STEVENS. Mr. President, I ask unanimous consent that amendment be set aside so I can offer an amendment to the Reid amendment No. 4.

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

Mr. STEVENS. I have the amendment at the desk, Mr. President.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [MR. STEVENS] proposes an amendment numbered 16 to amendment No. 4.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To permit certain travel within State)

At the appropriate place in the amendment insert the following:

''(1) Notwithstanding any other provision of this paragraph or any other rule, if there is not more than one flight daily from a point in a Member's State to a point within that Member's State, the Member may accept transportation in a privately owned aircraft to that point provided (1) there is no appearance of or actual conflict of interest, and (2) the Member has the trip approved by the Select Committee on Ethics. When accepting such transportation, the Member shall reimburse the provider at either the rate of a first class ticket, if available, or the rate of a full fare coach ticket if first class rates are unavailable between those points.''.

Mr. STEVENS. Mr. President, the current Senate rule requires Members to pay the cost of a first-class plane ticket for travel on a private plane. The amendment does not substantially reform our lobbying laws, and this amendment will place an undue burden on Members from rural States, at great expense to the taxpayers.

Most Members who take private flights do so to complete official business. These flights enable Members from States such as Wyoming, Montana, and my State of Alaska access to rural areas. Our State does not have the infrastructure found in more densely populated States throughout the country. Many of our constituents live in communities that cannot be accessed by road. We need to fly to these remote communities.

Despite this rule, or any other rule, these flights are essential and will continue and must continue to take place. This amendment will not provide meaningful reform. It will increase the amount of money Members need from the Treasury to pay for these flights. The taxpayer will foot the bill for the amendment, and the only real change will be more money in the pockets of those who own and operate the private planes.

Those representing States with less-developed infrastructure and many geographically remote communities—my friends from other rural States and even some large States such as California—have this problem. It is a unique problem. It is essential to take flights into these rural areas because there are no roads to get there.

In Alaska, almost 80 percent of our towns and villages cannot be accessed by road year-round. Even our State capital, Juneau, can only be reached by boat or by plane. There are few scheduled commercial flights a week to many villages in our State. Our State uses planes the way people in the lower 48 use cars, buses, and taxis.

It is literally true. If I took a Senator to Bethel, for instance, and wanted to go upriver to visit some of the mines or the small villages, there is only one way to get there, and that is by plane, and in many instances a floatplane. But these are still private aircraft and would be banned by this amendment—or the actual cost of the operation of the plane would be required to be paid, but I would be paying that from taxpayers' funds, not from my funds but from the taxpayers' funds if this amendment passed.

Flights on private planes are necessary in our State, particularly when traveling to areas which are only accessible by private planes or by long boat rides in the summertime. Along the great rivers such as the Yukon or the Kuskokwim, you could take a boat. It would take you several days to wind up those rivers to go to a village you might be able to fly to in 30 minutes.

I use private planes to visit constituents who cannot afford to come to Washington to visit with our congressional delegation. On many occasions, I am asked to come to these villages to talk to them about their problems, and I can only go there by private plane. I use private planes to view the conditions in rural communities and villages. For instance, this last October, I visited the village of Kivalina in my State to view the catastrophic damage caused by winter storms there.

Now, at times we do have available the Air National Guard planes. But in times of war such as this right now, to use these National Guard planes puts a substantial burden on the Guard because so many of their people are deployed.

Now, I can recall several occasions when I have traveled with other Members on private planes to show them areas of our State which were subject to important legislation. These trips have been invaluable to our deliberations on the floor.

I recall taking a group of Senators on a CODEL—''congressional delegation;'' that is ''CODEL''—to Prudhoe Bay to help them understand Alaska's oil industry. There is no public access to Prudhoe Bay and no commercial flights. We must fly in on an industry plane.

We continued the CODEL. After we got there—we went up by their jet—we took a helicopter flight over the Coastal Plain of ANWR. Now, that, again, was about an hour and a half flight, out and back, on a helicopter. That flight was on a private helicopter, owned by some entity within the oil industry there at Prudhoe Bay. Had this proposed amendment been in effect, that trip would not have been possible, as the cost of the trip would have been prohibitive.

Now, other people were going up there anyway and we flew up on their plane to Prudhoe Bay.

On the helicopter, they wanted us to go out and see these conditions where drilling would take place. But it would not have been possible for the Senators who were our visitors to see this area firsthand. The area we went to and had them look at is an area that currently is producing 16 percent of our Nation's energy. If you want to go visit that industry in Oklahoma or somewhere like that, you would go to a town by commercial aircraft and you would get probably in a private car and they would drive you out. I doubt that you would have to have a helicopter. But what I am saying is, our conditions require air where other people use buses, taxis, or private automobiles.

There are countless examples of how we use these airplanes. For instance, about 3 years ago, I went along on a flight that was going to Bethel, AK. This is an area out in the Kuskokwim Delta area of our State. The person who asked me to go with him wanted me to personally experience the use of a capstone variant. A capstone is a system that has revolutionized the airline safety industry in our State. In the 1990s, for instance, an airplane crashed on average every other day in my State. We had an aircraft-related fatality every 9 days. Capstone and these related technologies, which make cockpit technology available to the pilot to know what is going on and what the threats are, have reduced these airplane crashes by 40 percent.

The reason I went along was they wanted me to see that system and to experience it so I would understand it and support the money the FAA was

going to ask for in terms of development of these new technologies.

I went out to Valdez several times on an industry airplane to review the 1989 oil spill in my State, once in a Coast Guard jet. That was my first flight to see that fantastically horrible and great disaster. But we went out several times to try to figure out what to do with our oversight of the oil spill itself. We went out in a private airplane. I also recently took a flight from Point Barrow, which is at the top of our State, the farthest north portion of our State, over to Nome, which is out on the peninsula, and it is a flight—there is no scheduled service between those two places. It is about 300 miles. If I had not taken that flight on a private plane, I would have gone down to Fairbanks from Barrow, gone to Anchorage, and then flown back up to Kotzebue and come down to Nome. It actually saved the taxpayers money. This was an official business trip that saved the taxpayers money by going the same way on a private plane, and we compensated the owner of that plane under the current rule with the equivalent of a first-class fare between those two places, had there been such a scheduled flight in the first place.

For instance, the flight from Anchorage alone to Nome is 540 miles. It is farther than from here to Chicago. I think that is about 500 miles. Anyway, if this amendment passes, I have to ask the Senate, what should we do, those of us who represent rural areas such as this? I don't think the Senate expects us not to respond to a constituent's request, particularly an organized area such as a village or a city, to come view the conditions in their area when they believe they need Federal assistance. We have to take planes to get to such areas.

Last October, I visited several communities along the west coast of Alaska that had been damaged by severe storms, and we used a combination of commercial, charter, and private aircraft. We worked out what was the best advantage to the Government and used different types of aircraft as we went on that trip. I saw firsthand the problems of erosion that are going on there and learned about the needs of those places, particularly the problems these villages will face in the future if continued erosion takes place and they have to move back from these barrier islands on which they live. My charter cost alone, one way from Kotzebue to Bethel, was $1,500. That was the charter cost which we paid on the equivalent because there was no scheduled flight there, a 3-hour flight, more than triple the total cost for commercial and private flight combined. Had this amendment been in effect, there would have been no way that I could have justified spending taxpayers' money for this type of transportation cost.

If a Member from another State is going from one town to another and someone is going to drive there, there is no provision that anybody would have to pay for the cost of going in an automobile to another town. The effect of this amendment now would be that whenever I use an aircraft that is a private aircraft, I would have to repay from the Treasury, by asking for the funds, to an organization with a plane that was going to fly there anyway.

I think our current rule is very fair. It says we pay the operator of those airplanes the equivalent first-class fare to travel from point to point in our State. It would be unreasonably expensive to apply the provisions of the pending amendment to our State.

It is particularly burdensome because of our Senate rules. I don't think many Members think about this. Our office allowances are based on population, not the distance we travel within our State. We would have to pay from our allowances. And each Senator gets a maximum allowance per year from the Senate. This amendment, if enacted, will mean that my budget will run out in the first month or two of the calendar year. It would not permit us to travel to these remote communities throughout the year. It would simply become too expensive to deal with going to these communities to listen to their complaints and to view them and to be able to report to the Senate.

I believe that if a plane is going to a village in the direction I need to go, if there is room on that for my staff and me, we should be able to get on that plane and go see the problems they want us to see. And it is reasonable to compensate them at what it would cost to fly on a commercial flight, if there was one. That is what we have been doing. I have never had a complaint from anyone in my years here in the Senate traveling under the existing rule. Taxpayers, however, should not have to pay outrageous costs for us to do our business.

As a matter of fact, as I said, once we have exhausted our allowances, and coming from a State that has a small population but is enormous, this is going to be an enormous burden on those of us who represent our State.

I have hesitated to try to get an exemption for Alaska. I am not doing that. The amendment I have before the Senate will continue the current rule but would say that we can travel on a privately owned aircraft to the point where there is not commercial service, but we would have to go to the Ethics Committee and show there is no appearance or actual conflict of interest in taking the trip, and the trip would have to be approved by the Ethics Committee. I think that gives it a transparency. We not only will report after we take the trip, but we will get approval of the Ethics Committee before we take the trip.

There is a lack of commercial air service in many areas in the lower 48 that this would apply to, the larger States in the West in particular. We just do not have frequent flights between our communities that other States enjoy. We travel great distances to see our constituents. When I go west from Anchorage out to Shemya—that is the place where the X-band radar was going to be and where the current radars they operate in the North Pacific are, a former large air base that is not very large now—that is 1,200 miles. If I go out farther than that to Adak, it is almost 1,800 miles. If I fly from Anchorage to Unalakleet, the charter rate under the Reid amendment would be thousands of dollars. I should go to places like that at least once a year. I try to do that.

The effect of this prohibition against using these private planes unless we pay the charter rate is really very oppressive.

Mr. GREGG. Will the Senator yield so I may ask a question?

Mr. STEVENS. I do yield without losing my right to the floor.

Mr. GREGG. I ask unanimous consent that at the conclusion of the Senator's remarks, I be recognized.

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

Mr. STEVENS. The pending amendment will not improve the system as far as those of us from these rural States are concerned. It will hurt our constituents. I think it will punish the taxpayers.

Some have suggested that raising the cost of private plane travel is important because it gives the appearance of fairness. The reason is that citizens cannot fly on private planes, so we should not be able to fly on them, either. The difference is that a private citizen in my State doesn't have to go to Kivalina, doesn't have to go to Unalakleet, doesn't have to go to these places where changes are taking place as we speak. The whole Arctic is changing because of the current circumstances. I think the Senate is going to hear more about that. But as these changes take place, we must go there. We must try to take people from the administration there. We must try to get the Corps of Engineers and other agencies to go with us to see what can be done to meet the problems our constituents face.

I don't think there are many Senators who would have to visit four or five communities in one weekend that are so far apart. We usually only have a weekend to make trips such as this. If those of us who have to do this have to pay this charter rate, it is not our money, this is official business. If this amendment passes, I will be asked to spend part of the allowance I get to run my Senate office at enormous cost to pay the full cost of flying the plane on a charter rate even though there are other people in that plane who are already going on company business and they are willing to take us along on the basis of paying what would be the equivalent in terms of a commercial rate.

We need transparency. I support that. We want to try to do this without additional burden to our taxpayers. I think we should disclose flights on private planes, and we do. We disclose

them. Today we disclose. Under the current rule, we disclose whom we paid when we go on these flights. From my point of view, we ought to look at this amendment from the point of view of appearances, but it really is not totally appearances. It is necessity. If this amendment passes, we will face the difficult choice of either flying to remote communities at considerable cost to the taxpayer or to the State and the developed communities or failing to do the duty to those we represent who live in these remote areas. I think Alaska has probably the most pressing problems of any State in terms of the changes that are coming back because of global climate change. There is no question about that.

We will do everything we can to assist a Senator who faces problems such as that but not do it in a way that will increase substantially the cost to the taxpayers and reduce our ability to do our jobs as Senators. If I have to use this money to take those trips to these small cities, I will not have the money to do the things I would normally do—for instance, flying from here to Alaska. The same funds that are available to us to pay these charters flights are the funds I use to fly to Alaska.

I parenthetically say, Mr. President, when I came here, a Senator was allowed two trips a year. One to come down and go back and another to go home. Today, many of us make 10, 15, 20 trips. One time, I made 35 trips home to my State of Alaska because there were so many problems and things we had to do. It was not for campaigning or an election year, it was to talk to people about problems they were facing.

I don't think this amendment is part of lobbying reform. I understand the need to find some way to deal with it. I, also, believe we should have some exception in the amendments that deals with the problems we face, where we cannot travel except by the use of private planes. I hope the Senator from California will take occasion to look at this amendment. I know that being a Californian, there are problems she faces, too, but not on the regular basis that we face, in terms of dealing with Alaska.

I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I know there is a unanimous consent agreement of the Senator from New Hampshire. Would he allow me to answer the Senator from Alaska?

Mr. GREGG. Yes, I will do that.

Mrs. FEINSTEIN. On the face of this, I don't have a problem with it.

Mr. STEVENS. I thank the Senator.

Mrs. FEINSTEIN. I appreciate the smile. It is a rare one.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

AMENDMENT NO. 17

Mr. GREGG. Mr. President, I rise to offer an amendment to this bill, along with Senator DEMINT and a number of colleagues—about 25 of them.

Mr. GREGG. This amendment we are offering is what we call the second look at waste amendment. It is a child of the original line-item veto, although it is not a line-item veto. As the Congress will remember, we passed the line-item veto in the early 1990s and gave President Clinton that authority. He actually used that authority. It was challenged in court and was found to be unconstitutional. But that line-item veto was passed rather strongly by this Congress and by the Senate, and it was a bipartisan effort, which I hope this will be, to try to allow the executive branch more opportunity to address omnibus bills around here.

This proposal that we put forward is not like the line-item veto because it doesn't have the same constitutional impact. It is truly a second look at waste amendment, where we basically say to the executive branch that if you get one of these omnibus bills filled with different initiatives—and these bills can be hundreds of pages long and can involve hundreds of billions of dollars of spending and massive amounts of authorization, and it is not unlikely that there is going to be a fair amount of activity put in there because somebody knows it is an omnibus bill and they know it is going to have to pass and go forward, and even though the language put in may be questionable as to purpose, policy or as to just plain waste, it gets stuck in this—baggage thrown in the train as they say—that baggage can never be looked at. The President has no capacity to take another look at this. Congress ends up with the vote—and we get one vote, usually, on these types of bills; sometimes in the Senate we get more shots at it. They are not scrutinized at an intensity level that they should be.

So this second look at waste language essentially says that the President can, on four different occasions during the year, send up what amounts to an enhanced rescission package, where if he has gotten bills that have had in them things the executive branch deems to be inappropriate, most likely wasteful spending or spending that is unnecessary or maybe counterproductive even, he can ask the Congress—or she, maybe in the next round—to take another look at that spending, and there is a fast-track procedure where that goes to a vote.

The savings, should they occur as a result of rescission—and it is presumed that all rescissions will involve savings—will go to deficit reduction. The language itself is essentially modeled after language that was offered as a Democratic substitute by the Democratic leadership back when we were debating the original line-item bill President Clinton ended up having the authority to use. So we have tried to structure it in a bipartisan way, using bipartisan language and verses—for example, the language originally sent up by the White House as to how they would have liked to have handled this, which we felt overreached the authority of the executive significantly, and we have basically set that language aside and moved forward with this language, which is more restrictive on executive rights. It truly retains the right of the legislative branch to control the spending issues. But it does ask us, as the legislative branch, to take another look at things that may be of questionable interest. Of course, if both Houses don't approve the request from the President, the spending stays in place. So it is one of these light-of-day amendments that tracks very closely what is being proposed in both Houses in the area of earmarks.

It is an attempt to address what is a common event, which is a cluster or a significant earmark not necessarily individually directed but maybe more expansive, that is put in a bill that the executive simply can't not sign and the Congress can't not pass. So it is an attempt to basically bring some transparency, light of day, on some of what occurs around here and is referred to as occurring in the middle of the night.

It is an initiative which has very strong support by a large number of groups. A few would be the Chamber of Commerce, the Center for Individual Freedom, the Concord Coalition, Americans for Tax Reform—groups that are interested—the National Taxpayers Union—groups that are interested in having more discipline over the fiscal process of this Government.

All this is is another disciplining mechanism. It actually gives the executive branch the opportunity to come forward and say, listen, do you want to do this? Did you want to spend this money in this way? If the Congress concludes that, yes, it did, the matter is over. In fact, it takes an affirmative action of the Congress to confirm the decision of the executive or the request of the executive to pursue this course of action of not spending this money. The original Presidential proposal would have allowed them to send up numerous rescission requests, which could have tied the Congress up technically and practically for months. This avoids that. It is very limited. They can only send up four, and one has to come up with a budget. The original request from the executive branch would have said that they could withhold spending on something that they decided to send a rescission up on for up to 180 days, with the practical effect being they could have withheld spending almost forever.

This bill dramatically shortens that to 45 days or until Congress acts. It is similar to a BRAC approach, in other words. It says you tell us what you think should be rescinded. We will act within a short timeframe. If we disagree or decide not to act in a way that is consistent with your request, then the matter is over and the money gets spent. If we agree, the rescission occurs and both Houses must concur in the rescission.

So this is an exercise in good Government, in transparency, and it is an exercise in trying to give the American people the information they need on bills that are very complex and sometimes have a lot of questionable activity buried in them, to give them another chance to have those decisions reviewed. It is an exercise in fiscal discipline because the money saved goes to deficit reduction.

As I said, it has very strong support. I hope that my colleagues will join us in supporting this. I see that the Senator from South Carolina has joined us on the floor. He has been a strong spokesperson for this initiative.

I send my amendment to the desk.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside without objection.

The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire (Mr. GREGG), for himself, Mr. DEMINT, Mrs. DOLE, Mr. BURR, Mr. CHAMBLISS, Mr. THOMAS, Mr. SESSIONS, Mr. MCCONNELL, Mr. LOTT, Mr. KYL, Mrs. HUTCHISON, Mr. CORNYN, Mr. ALLARD, Mr. CRAPO, Mr. BUNNING, Mr. VITTER, Mr. BROWNBACK, Mr. ALEXANDER, Mr. CRAIG, Mr. MCCAIN, Mr. SUNUNU, Mr. ENZI, Mr. MARTINEZ, Mr. COLEMAN, Mr. GRAHAM, and Mr. VOINOVICH, proposes an amendment numbered 17.

Mr. GREGG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. GREGG. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. DEMINT. Mr. President, I rise in support of the amendment offered by Senator GREGG. This amendment would establish a legislative line-item veto.

The American people sent a clear message in November that they were tired of a broken system that wasted their hard-earned money on pork projects. They want us to make the tough decisions and end the ''favor factory,'' where taxpayer money goes to the highest bidding lobbyist.

The legislative line-item veto strikes at the heart of this ethics dilemma. It gives the President the ability to strip special spending and earmarks out of a bill and send them back to Congress for an up-or-down vote. By doing this, it allows the administration to work with Congress in a constructive way to reduce wasteful spending, to reduce the budget deficit and ensure that taxpayer dollars are spent wisely.

The Senator's amendment permits the President to submit to Congress proposals to cancel specific appropriations, as well as items of direct spending and targeted tax benefits. Both the House and the Senate would have to vote on each Presidential proposal, without amendment, within a short timeframe. But the proposed rescission could not take effect unless approved by Congress.

Mr. President, giving the President enhanced authority to seek rescission of new spending will help ensure that taxpayer dollars are not wasted on earmarks that are not national priorities. Since the Supreme Court struck down the Line-Item Veto Act of 1996, the number of earmarks has significantly increased. The line-item veto has a long history of bipartisan support. At least 11 Presidents from both parties have called for the authority to address individual spending items wrapped into larger bills. These Presidents include Grant, Hayes, Arthur, Roosevelt, Truman, Eisenhower, Nixon, Ford, Reagan, Bush, and Clinton. Additionally, the Governors of 43 out of 53 States already have this authority.

Mr. President, the Senator's proposal is also consistent with the Constitution. In its 1998 ruling striking down the Line-Item Veto Act of 1996, the Supreme Court concluded that the act ''gave the President the unilateral power to change the text of duly enacted statutes.'' However, this amendment does not raise those constitutional issues because the President's rescissions must be enacted by both Houses of Congress and signed into law.

This amendment has been dramatically curtailed so that even supporters of congressional earmarks can support it because it limits the President to four rescission packages a year. The fast-track mechanism is similar to what we use for BRAC, as well as free trade agreements. Rather than forcing Americans to accept a foot-tall omnibus spending bill with thousands of earmarks, this amendment will give the President a second look at waste so we can all protect American taxpayers.

This is an important amendment. We know that earmarks have gotten way out of control and must be reduced. Without this commonsense provision, this bill cannot be serious about addressing earmarks, as well as the corruption that is associated with them.

The Senator's amendment is very sound, and I urge my colleagues to support the amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mrs. HUTCHISON. Mr. President, will the Senator yield? I ask unanimous consent that following the remarks of Senator CONRAD, I be recognized to speak in support of the amendment.

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

The Senator from North Dakota.

Mr. CONRAD. Mr. President, this is one of the all-time worst ideas to be brought to the Chamber. First, it has no place on this bill. This bill is about ethics reform. What our colleagues have brought is a budget matter, without taking it to the Budget Committee first, without hearings, without a chance for review, without a recommendation. As a result, it is subject to a budget point of order which, if other action is not taken, I will be constrained to raise at the appropriate time.

Why do I say this is a bad idea? Because it has virtually nothing to do with budget discipline, and it has virtually everything to do with increasing the power of the President. That is what this is about.

I hope colleagues understand that this provision, if adopted, would actually undermine the chances to do something about our long-term fiscal imbalances. People listening may wonder: How can that be? How can the line-item veto in any way endanger a long-term agreement on entitlements? Let me say why.

Tucked away in this little legislative offering that has been casually brought to the floor without going through the Budget Committee first are provisions that would allow the President to target any agreement reached on a long-term solution to our entitlement challenges. So we could have—and we are working to achieve now—a long-term agreement to face up to the demographic tsunami that is coming at us. We could engage all of this year in resolving those matters in a bipartisan way—Democrats and Republicans working together—and then the President could come in the backdoor and cherry-pick those provisions with which he disagrees.

If my colleagues want to undermine the negotiation, the bipartisan negotiation that needs to occur here on long-term entitlements, if they want to endanger that enterprise, adopt this amendment, hand that power to the President. If they want to instead engage in a serious negotiation, forget about this amendment, and let's get about the work of preparing a plan to deal with our long-term fiscal challenges. But if anybody thinks we are going to enter into a seriatim negotiation in which we first negotiate in good faith on both sides to achieve a long-term solution and then we hand the President the ability to come and cherry-pick the whole thing, forget it. That is not going to work.

We already know what the President's policies have done to our fiscal outlook. The deficits on this President's watch have exploded. He inherited a balanced budget. He promptly put us in deficit and then in record deficits for 2003 and 2004, 2005, the third worst deficit in our history, and some improvement last year.

These have been enormous deficits and deficits that understate the problem because last year while the deficit was $248 billion, the addition to the debt was $546 billion. I find when I talk to my constituents that they are very surprised by this enormous difference between the size of the deficit and the additions to the debt. The biggest reason for the differences is the $185 billion of Social Security money that was taken last year to pay other bills.

I have said to my constituents: If anybody tried to do this in the private sector—tried to take the retirement

funds of their employees and use it to pay other operating expenses—they would be on their way to a Federal institution, but it wouldn't be the Congress of the United States, it wouldn't be the White House. They would be headed for the big house because that is a violation of Federal law.

The combined result, in terms of our debt, of these fiscal policies has been to increase the debt of the country by more than 50 percent through last year, and we are headed for another $3 trillion of debt over the next 5 years if the President's policies are pursued. That is a combination of increases in spending and reductions in revenue.

On the spending side, the President inherited a budget that was spending about 18.4 percent of GDP. We are up to 20.4 percent of GDP last year. This is a very significant increase in spending and, of course, revenue has stagnated.

Only last year did we get back to the revenue base that we had in the year 2000. While there has been significant revenue growth in the last 2 or 3 years, even with that we are only now back to the revenue base we enjoyed in 2000.

On the question of whether this line-item rescission is going to make a difference with respect to the deficit, here is a USA Today editorial from last year on the line-item veto. The editorial states:

. . . [T]he line-item veto is a convenient distraction. The vast bulk of the deficit is not the result of self-aggrandizing line items, infuriating as they are.

And make no mistake, I am for disciplining the notion of these line items, these individual items that Members stick into appropriations bills. Senator MCCAIN and I had a legislative proposal last year to discipline that process. The line-item veto before us makes very little difference.

The deficit is primarily caused by unwillingness to make hard choices on benefit programs or to levy the taxes to pay for the true cost of government.

This is the Roanoke Times, a newspaper in Virginia, from last year. They pointed out:

. . . [T]he president already has the only tool he needs: The veto. That Bush has declined to challenge Congress in five-plus years is his choice. The White House no doubt sees reviving this debate as a means of distracting people from the missteps, miscalculations, mistruths and mistakes that have dogged Bush and sent his approval rating south. The current problems are not systemic; they are ideological. A line-item veto will not magically grant lawmakers and the president fiscal discipline and economic sense.

They are not alone in that assessment. Here is the previous CBO Director. He is actually still the CBO Director, will be until his successor takes office some time later this week or perhaps some time next week. Here is what he said:

Such tools, however, cannot establish fiscal discipline unless there is a political consensus to do so. . . . In the absence of that consensus, the proposed changes to the rescission process . . . are unlikely to greatly affect the budget's bottom line.

Not only do newspaper editorialists and the CBO Director cast doubt on the significance of this with respect to the question of fiscal discipline, Senator GREGG said this last year:

Passage of [the line-item veto] legislation would be a ''political victory'' that would not address long-term problems posed by growing entitlement programs.

The Budget Committee chairman also said:

. . . it would have ''very little impact'' on the budget deficit.

He was being a truthteller then, and I think it is the truth now.

George Will, the conservative columnist, made this point:

It would aggravate an imbalance in our constitutional system that has been growing for seven decades: the expansion of executive power at the expense of the legislature.

Those are words. Let me put it into a real-life example. If we give this power to the President, what is to prevent him from calling up Senator CONRAD and saying: You know, Senator, I know you represent a State that is rural. I know that rural electric cooperatives are critically important to delivering electricity in your rural areas. I know you have a provision in a recent appropriations bill that would address safety concerns on those systems. You know, we are looking at the line-item rescission package that I might be sending up, and I would like to be able to help you on that proposal you have to improve the safety of rural electric systems, but, you know, separately I have a judge who is coming up for confirmation. I know you have said some harsh things about that judge, that you don't want to approve him. I don't want to suggest in any way these things are linked, but, Senator, I need your help on the confirmation of that judge. Separately—I don't want to connect these two at all—I also am reviewing this package of rescissions and would very much hope I wouldn't have to include your provision to make rural electric systems in your State more safe and more secure.

I think I would get the message. That is exactly what we don't need: to hand more power to this President; frankly, as far as I am concerned, to hand more power to any President, more power to put leverage on individuals in the Senate and the House to bend to the will of the White House. They already have enough power down there.

American Enterprise Scholar Mr. Ornstein said this about the line-item veto:

The larger reality is that this line-item veto proposal gives the President a great additional mischief-making capability, to pluck out items to punish lawmakers he doesn't like, or to threaten individual lawmakers to get votes on other things, without having any noticeable impact on budget growth or restraint.

More broadly, it simply shows the lack of institutional integrity and patriotism by the majority in Congress. They have lots of ways to put the responsibility of budget restraint where it belongs—on themselves. Instead, they willingly, even eagerly, try to turn their most basic power over to the President. Shameful, just shameful.

I think it is shameful. More than shameful, this, I believe, is a fundamental threat to the negotiation which must occur in this body and in the other body and with the President of the United States. That is a negotiation on the long-term fiscal imbalances of this country, including Medicare, Social Security, Medicaid, and the structural deficit as well.

If we are to engage in good faith on that negotiation, we simply can't be subject to a circumstance in which once that negotiation is completed, the President is free to cherry-pick which part of the deal he will allow to move forward. That would completely undermine the ability to have this negotiation.

Let me just end by making these points. One, this proposal represents an abdication of congressional responsibility. Two, it shifts too much power to the executive branch with little impact on the deficit. Three, it provides the President up to a year to submit rescission requests—up to a year. It requires the Congress to vote on the President's proposals within 10 days. It provides no opportunity to amend or filibuster proposed rescissions—no opportunity to amend. Sometimes I really don't know what our colleagues are thinking. It allows the President to cancel new mandatory spending proposals passed by Congress such as those dealing with Social Security, Medicare, veterans, and agriculture at the very time we are poised to enter into a negotiation on those very matters.

If there were ever an ill-considered amendment, inappropriate to the underlying legislation, this is it. I urge my colleagues to either support a budget point of order against this matter because it violates the budget rules very clearly or support a tabling motion to get on to the business of passing this ethics reform proposal. But to mix budget issues with ethics reform has the entire matter confused and fundamentally threatens the opportunity to do what must be done, which is for Democrats and Republicans together to consider long-term entitlement reform.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I rise today to speak in favor of the amendment, but I do think that some of the points that have been made are valid. I am supporting this amendment because I believe it is important that we do everything possible to put restraints on spending and go back to the balanced budget we had before terrorists struck our country in 2001. I think that is so important that passing an amendment to try for 4 years—and it does have a 4-year sunset provision—to see if we can give the President the authority to do some big overall cuts is a good idea, but I did do it with some reservation.

I supported the line-item veto that was passed by the Congress in 1996. I supported it because I thought it would provide fiscal restraint. I think it was misused, and I was very pleased when the Supreme Court overturned it. I said I would never vote for it again because I believe the Constitution is very clear that Congress has the purse strings. That is how James Madison phrased it in the Federalist Papers: the power of the purse is in Congress. That is where the budget is passed to go to the President, and I believe we should uphold our part of the Constitution.

Earmark reform is important, and the most important part that I hope we will pass is transparency. It is important that people be willing to stand up and say: Yes, I did this earmark.

Let me just tell my colleagues how I operate on the Appropriations Committee with regard to my State. Obviously, as chairman of the Military Construction and Veterans Affairs Subcommittee and now as its ranking member, I pass appropriations that come from the President and from the Pentagon for military installations. But I also take care of my State—that is what I was elected by my constituents to do—and I balance the needs of the cities in my State. So if the biggest need in Houston, TX, is the dredging of the port because it is such an economic engine for Houston, that is what my major priority for Houston is going to be. On the other hand, for Dallas, it is going to be the Dallas Area Rapid Transit Authority or the Trinity River flood control project, and that is my major priority for Dallas. And it goes on that way. I balance so that the major needs of my cities are met and their highest priorities are met. But it doesn't mean they get everything they ask for. The lower priorities will not be met.

If we turn this over to the executive branch, how is the employee sitting at the Department of Transportation going to know that the major need of Dallas is DART and the major need of Houston is over in the Interior Department or the Energy Department or the Corps of Engineers? How are those two people in Federal agencies who have never been to Dallas or Houston going to know that the first priority is something besides what they are giving them? That is my job. That is what I do. I am proud of it, and I want it to be transparent, and that is the reform which we should enact.

So I don't want to just continue to hear that earmark reform is pork barrel spending reform. Spending is spending. If it is done in the executive branch or if it is done by Congress, it is spending, and hopefully we have a system that funds the top priorities.

I believe there are projects that are not in the national interest that go into appropriations bills. That is why I think some reining in of the process through this amendment can be a good thing, and it is why I have supported it and am supporting it. It does have the capability to give the President the authority to go in and look at projects he believes don't meet the national need, and he is elected by the people of our country. I believe letting him have four different times to come to Congress and rescind may be too many. I hope that number could be brought to two. I would think the OMB and the President would be able to see, during two different budget or appropriations analyses, that a project wouldn't meet the President's standards, and then it could come back to Congress and Congress can say we disagree with the President or we agree with the President. It is the coming back to Congress that is the change from the original line-item veto that was passed in 1996 and which should allow the Supreme Court to affirm this rescission process.

I think it is worth a try. But I also would say for the record that we are going to have President Bush for 2 years and we are going to have a new President for 2 years, the duration of this amendment if it passes and goes into law. I think that will be a good test. Congress will then have the right to come back and say it has worked well, it has cut spending, it has prioritized better. Frankly, maybe some people won't put earmarks in bills if they are not proud that the earmarks serve a national interest, and maybe that in itself will bring down the number of earmarks and the spending.

But the bottom line is that we are on a trajectory to have a balanced budget because we are setting budget limits on what we appropriate. We always do that, and then we reconcile. And we have been able to keep the economy strong and bring down the unemployment rate by keeping the tax cuts we gave the American people in 2001 and 2003. Unemployment is at an all-time low. So I think we are exercising fiscal restraint, particularly in light of the fact that we have had some major hits on our country that have required us to spend money—hits such as 9/11, the war on terror, which is the most important security issue facing our country, and Hurricane Katrina and the rebuilding of New Orleans and Mississippi. We need to do those things and do them well. We know that. Despite all of those added expenditures, we have half the deficit that was built up after our country was hit by terrorists, and we are on the way to bringing it lower, and that is our goal. It must be our goal. I think this amendment can help us in furthering that goal.

So I am going to support it. It has changed since the first time the Senator from New Hampshire introduced it. I didn't support it in the beginning. He has made changes that make it more palatable to a Member of Congress who is trying to uphold the right of Congress under the Constitution, which I believe is my responsibility to do. I must uphold the rights of Congress in order to keep the three branches equal, as much as we can do that. That is the beauty of our constitutional framework, that balance of power.

I also have a responsibility to my constituents who elected me to make sure that my State is treated fairly. I am proud of what we have been able to do, and I want it in the open. I believe reform is necessary, and I am going to support the amendment. But if this amendment does go into effect, I would urge this President and the next President who will have this vast authority to use it wisely and judiciously because that is the only way it will have the effect we are all intending it to have.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Ms. STABENOW. Mr. President, I rise today to oppose the Gregg amendment because as a member of the Budget Committee, as we have watched this develop and as we worked on it last year in committee, I believe it is too broad and not in the public interest.

I am not opposed to line-item veto. In Michigan, when I was in the State legislature for 16 years, we had and have a line-item veto, but it is a very narrowly crafted line-item veto in a very different setting. We have a germaneness rule in Michigan that certainly we do not have here, where topic by topic is taken up separately, or legislation separately. We here work in a larger format where we are many times—most of the time—negotiating very complex legislation, and frequently we have a number of different issues and interests coming into the same bill, and it creates a very different climate in which this is being discussed.

Also, this is a very broad application, and I believe too broad. Let me give my colleagues an example. The amendment would give the President unprecedented powers to dramatically weaken any legislation we might put together that would strengthen Social Security or Medicare or any other areas of mandatory spending such as veterans' benefits or other areas where we have critical needs. Let's suppose for a moment that we come together, and this is the way it is always done, and we negotiate an agreement around Social Security or around Medicare, and as always, it is a give and take.

Let's say, for instance, around Medicare, it is a provision where the industry receives certain things they would like to see happen, and on the other side, those things that are important for people, for seniors, for the disabled, for those trying to be able to afford medicine, we negotiate things there that allow prices to go down or more competition or better benefits. But then it goes to the President, and under this particular bill the President will be allowed to go into that legislation and veto certain parts of an agreement that the Senate and the House made to come up with something that was balanced, that would allow legislation to happen. The President will be

able to come in, for instance, and decide to keep the provisions of the pharmaceutical industry, an industry he has been very close to, and at the same time he might then strike out provisions regarding negotiation or improved benefits or something else that might help seniors or people and put pressure on the industry to have a more competitive pricing system.

This is something that I believe we should not, in good conscience, allow to happen. It is our job to sort through all of the pieces of the legislative process, all the complexities, all the competing needs. If we come up with something that is balanced and supported by this Senate and the House of Representatives and it is sent to the President, the President should not be able to go in and cherry-pick which provisions of a compromise he supports or does not support.

This particular amendment in this proposal would undermine the very intent of Congress. In the case of Medicare, I believe it would create a situation where it is impossible for us, certainly within this time and this administration, to move forward on many positive things that are necessary to improve Medicare for seniors or to address Social Security in a way that keeps Social Security secure for the future.

Also, it is important to say that this is not a necessary tool to reduce the deficit. In fact, we, on both sides of the aisle, have been speaking about reducing the deficit. On this side of the aisle our distinguished incoming chairman of the Budget Committee has been our leader on speaking out through that committee, as has our leader in this Senate. Senator REID has spoken out and made pay-go a priority, fiscal responsibility a priority for us coming into this new year. We will soon adopt what is called pay-as-you-go legislation that basically says, if we decide to spend dollars, whether it is in the form of a tax cut or in new spending of some kind, we have to pay for it.

It is the same thing that any family or any business has to do: figure out how you are going to pay for it. We are the ones who have committed, as part of our agenda, our priority: to bring this huge deficit under control and try to get our arms around some fiscal responsibility in this Government. We have put that forward and that will play a major role, reinstituting pay-go.

Unfortunately, our colleagues on the other side of the aisle have blocked this for 6 years. During that time we have seen deficits go up and up and up and decisions being made that have added to the spending of this country.

We have seen policies that turned a $5.6 trillion surplus created under the Clinton policies into record deficits.

Now we understand that we are at a crossroads in this country. It is absolutely critical that we bring fiscal responsibility and we begin to turn this around. But this proposal in front of us does not do that. I hope we will see strong support on both sides of the aisle for fiscal responsibility and pay-go legislation and begin to make tough decisions about what is in the interests of America, what is in the interests of our businesses trying to do business and stay in America, of our families who need jobs and health care and want to know they can send the kids to college and breathe the air and drink the water and all of those things that are critical to our quality of life. We have a lot of tough decisions to make. But one strategy is not to create this broad tool for the President to be able to undermine anything that we are doing together on a bipartisan basis to get to agreement, to be able to move things forward.

I am very concerned particularly at this time with this type of legislation. I speak a lot about Medicare. I know the distinguished Chair is also deeply concerned and involved in health care issues and Medicare. We want very much to be able to see change occur, change that is good for our seniors, change to make health care coverage and prescription drugs more affordable and make sure our businesses, large and small, have the capacity to compete effectively in Michigan and be able to afford health care for their employees. I am very concerned this kind of proposal would enable the President to come in in support of those interests he supports, that I believe are on the opposite side of what we are trying to do, unfortunately, in the health care arena, and allow him to undermine any effort that we make to go forward together. People are desperately asking that we move forward and get something done on the issues that are critical to them, that matter to them.

Again, I rise to oppose the Gregg amendment. I encourage colleagues to do the same. We stand together and we can move forward together around fiscal responsibility. This is not the way to do that. This gives unprecedented power and flexibility to the President for him to undermine what we need to do together in order to solve big problems and get things done for people.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I have enjoyed this debate on this amendment. At the risk of sounding like wishy-washy Charlie Brown, I agree with both sides; that is, I agree with Senator CONRAD absolutely on the line-item veto. I came to the Congress supporting the line-item veto. I voted for the line-item veto. Then I watched how President Clinton used the line-item veto. What Senator CONRAD had to say is exactly right. When the Supreme Court struck it down and Senator BYRD and Senator Moynihan both talked about how glorious a day it was for the Congress that the line-item veto had been stricken, I took the floor and said: I am converted. I agree with you. I will never vote for the line-item veto again.

I remember Senator Moynihan saying,

If Lyndon Johnson had the line-item veto he would have turned into an emperor.

We must preserve the rights of the legislature against that kind of thing.

What Senator GREGG has proposed is not a line-item veto. I know the press described it as such, but this will not be the first time the press has inaccurately described something that is going on here. Under the terms of Senator GREGG's amendment, the President is limited in the number of things he can send back to us. They can be overturned with a simple majority vote rather than the standard veto two-thirds. And it is not an abrogation of congressional authority. It simply gives the President the right to say, on selected issues: Do you really want to do this? I have looked this over. I found this, this, and this that strike me as particularly egregious. Do you really want to do this? And by a majority vote the Congress can say: Yes, we really do. And it is done.

So it is not a line-item veto. It is simply a review of a relatively—not relatively, an absolutely narrow, few number of items.

I am not sure I would have crafted it that way. I am not sure this is going to make much difference. But it does not have the potential for the kinds of mischief that Senator CONRAD talked about. I agree with Senator CONRAD, I am a new convert—not new anymore. I am a firm convert against the line-item veto. But I think the kind of additional executive review subject to a majority vote to overturn in Congress that Senator GREGG has proposed is not going to threaten the foundations of the Republic or even the stability of this institution. For that reason I will support the amendment.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, if I may, I listened carefully to the remarks of the ranking member, a friend for whom I have great respect and with whom I hope to work very closely. I do disagree on this.

I have watched Senator CONRAD, now, for more than a decade. He is usually armed with charts when he comes to the floor or a committee or a caucus. I have never ever found him to be wrong. I don't think there is any person in this body who knows better what he is doing than Senator CONRAD. I have been just unusually proud of his leadership on the Budget Committee.

My objection to this amendment—and I agree with Senator BENNETT; I was an original supporter of the line-item veto. This is a different day right now. It is a different situation. Different issues are at stake in a line-item veto. This is an ethics bill. We are talking about lobby reform and earmark reform and we want very much to have a bipartisan bill. We are not going to have a bipartisan bill if we get into campaign finance reform and line-item vetoes and a number of other issues that are beginning to percolate.

It is my hope that we could keep this bill restricted to ethics, restricted to

lobby reform, earmark reform, those things that are properly before this body. That is the only way we are going to get a broad consensus that is going to survive a conference and come back with something all Members can support.

I am going to begin to move to table items that are outside of the germane issues of this bill in the hopes that we could keep this broad, bipartisan support.

The underlying bill from which we have already moved away with the substitute amendment passed this body early last year by a vote of 90 to 8. The substitute amendment seeks to toughen it. Again, the substitute confines itself to matters within the bill. I must say that I think it is ill-advised to come forward with some of these amendments. At an appropriate time I will rise to begin to move to table them.

I yield the floor.

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

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

Mr. DORGAN. Mr. President, I understand we are waiting to lock in votes. I was asking the chairman of the committee if I might speak for 6 or 8 minutes in morning business while we are waiting to hear back.

I ask unanimous consent to speak for 8 minutes in morning business.

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

(The remarks of Mr. DORGAN pertaining to the introduction of S. 242 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. DORGAN. Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. BYRD. Mr. President, I rise at this moment to discuss a vote earlier today which began at approximately 12 noon on the Vitter amendment to the Legislative Transparency and Accountability Act of 2007, S. 1.

Had I been permitted to vote, I would have voted for the Vitter amendment. Now, why do I say ''permitted''? Why do I say ''had I been permitted to vote''? I say it because even though I was in the Capitol Building and on my way to the Senate floor, and even though my staff had so advised the Democratic cloakroom and was told that I had time to get to the Senate Chamber, the leadership arbitrarily closed the vote before I could get to the floor. That action prevented me from doing my constitutional duty to represent the people of my State of West Virginia. I was not more than 5 minutes from the Senate Chamber.

Next year, Mr. President, I will begin my 50th year of service in the Senate. In November, I was elected to serve an unprecedented ninth full term in the Senate. And I was also elected, just days ago, by my colleagues to serve as President pro tempore of the Senate, a position fourth in line in the order of succession to the Presidency of the United States.

I have cast, as of 11:59 a.m. this morning, 17,779 rollcall votes. And the vote I was prevented from casting would have made that number 17,780. The last rollcall that I missed in casting a vote was on March 30, 2006. It was 5 days after my darling wife of nearly 69 years had passed away.

And so I rise at this time not to blame anybody or to lecture anybody, but I do feel that I owe an explanation to the people of West Virginia why I missed the vote. I take these matters very seriously. And I want to explain to the people, who rightfully expect me to do on this day of January 10—and on every other day that the Senate has rollcall votes—they expect me to be here and to answer the rollcall.

I well understand the need to avoid undue delays in transacting the people's business. As majority leader of the Senate from 1977 to 1981, and from 1987 to 1989, I had to wrestle with such issues myself. It is very difficult to accommodate the schedules of 100 Senators and to get the Nation's business done expeditiously. I know all about that. I have been down that road. I have had my feet in those tracks before.

But I hope that as Senators, who serve in a body that reveres tradition, seniority, debate, deliberation, experience, and common courtesy, we try to avoid sacrificing an understanding of individual Members' circumstances and constitutional obligations as we aim for efficiency in our work, which we know that the Senate is not expected to be, and never will be—never has been—an efficient body. That is not the way legislation is done in a body such as ours where we do have free and open debate.

There is no Senate rule mandating the length of time for rollcall votes. I think we have to be careful and considerate in putting constraints on votes. While I wholeheartedly support efforts to avoid unduly dragging rollcall votes, I also hope that we will not forget the common courtesies for which this body has for more than 200 years afforded its Members, especially when Senators are making every effort to get to the floor and are only a few minutes away from appearing here to cast a vote. No real reason exists to deny this Senator a right to represent his constituents, as I was elected to do.

Surely we do not need to coldly sacrifice our regard for Members who, after all, are only human and who experience the travails of life which befall many human beings—we have traffic; we have head colds; we have infirmities or unexpected emergencies—when only a slight accommodation would assist them. After all, we do—when I use the pronoun ''we,'' I include myself—represent real people and we purport to understand human needs and circumstances. I hope that we will reflect that same reasonableness in our treatment of one another and our dealings with one another here in the Senate and studiously avoid overly arbitrary, artificial, sometimes unconscionable and bloodless decrees that are such an ill fit for a legislative body in which each Member carries such tremendous burdens and responsibilities under the U.S. Constitution.

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

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

The assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mrs. FEINSTEIN. I ask unanimous consent that at 5 o'clock today, the Senate vote in relation to the following amendments in the order listed and that there be 2 minutes between the votes equally divided: the Vitter amendment No. 5 regarding Indian tribes and the Vitter amendment No. 6 regarding family members; that the time until then be divided as follows: 2 minutes each to Senators BENNETT and FEINSTEIN and 5 minutes for Senator VITTER.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Utah.

AMENDMENT NO. 6

Mr. BENNETT. I yield my 2 minutes to the Senator from Maine.

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

Ms. COLLINS. Mr. President, I thank my colleague from Utah.

I rise in opposition to the amendment offered by the Senator from Louisiana that would restrict the ability of a campaign to hire the spouse or child of a candidate. I just don't see why we would want to get into the issue of whom a candidate can put on his or her payroll. As long as it is a fully disclosed expense, which it would be through campaign finance reports and campaign disclosures, then the voters can judge whether it is appropriate. In some cases, it may be appropriate; in some cases, it may not. Why should we bar the ability of a family member to work for a candidate? I don't see the point of that.

This isn't a case where taxpayer dollars are being used and you might want to make sure that you are following some antinepotism rules. This is a campaign.

As it happens, I have never had a relative on my campaign payroll. I should perhaps make that clear. But many times when people are starting out, running for public office the first time, it is family members who are willing to

work on the campaign at very minimal pay in order to help their relative win the race.

I don't see this creating a problem. I think it is a mistake for us to legislate in this area. I urge opposition to Senator VITTER's amendment.

I thank the Chair.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from California.

Mrs. FEINSTEIN. I yield to Senator VITTER if he wishes, and then I will wrap up.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana.

Mr. VITTER. Mr. President, I urge all Members to vote against the motion to table. I believe I am correct that it will be in the form of a motion to table.

Mrs. FEINSTEIN. That is correct.

Mr. VITTER. I urge them to vote against the motion to table. I appreciate the legitimate concerns that have been expressed about this amendment. However, I do think this is not a solution looking for a problem. This is a real problem that we need to solve.

The problem is simply this: This has been abused in the past. There are clear and documented cases whereby Members, candidates especially, use their political position to add to the family income. If the case of a Member or a candidate hiring a family member on a campaign could truly be enforced, if we had a way consistently in all cases to make sure that the law was being followed that only bona fide work should be paid for at fair market value prices, that would be one thing. That is the law. You can do it, but it is only supposed to be done to compensate actual work at fair market value prices.

The fact is, there is no way to police that. There have been plenty of situations, unfortunately, in the past where this opportunity was used to allow a candidate to use his political position to increase the family income. This has come to light in the last several years. This has been an unfortunate practice. I think it is part of a whole series of abuses that Americans are just fed up with. They see Members of Congress, people in politics, using their political position to increase their income or increase their family's income. This is a situation which is wide open for that abuse.

Again, it would be one thing if present law were enforced. Present law says you can do it, yes, but it is only supposed to be for real work, bona fide services at a reasonable compensation level. It is crystal clear that that provision is not and cannot be policed. There is no real meaningful way to ensure that. So it is an opportunity which has been used by some folks who use their political position to add to their family income.

This goes to the heart of the concerns of many Americans. It goes to the heart of a lot of issues on the lobbying side. It goes to the heart of issues involving campaign finance.

I urge all Members of the Senate to solve this problem in the only way that is practical, which is to draw a red line, create a clear prohibition so that we avoid those abuses which have unfortunately happened in the past.

I urge Members of the Senate to vote against the motion to table.

I yield back my time.

Mr. LEVIN. Mr. President, while I am troubled by the potential questions raised by the employment of a family member on a campaign committee or leadership PAC, I will support the chairman of the Senate Rules Committee, Senator FEINSTEIN's motion to table the Vitter amendment No. 6 because it deals primarily with campaign finance reforms and because Senator FEINSTEIN has assured me, personally, that the Rules Committee will hold hearings on this specific issue as a part of comprehensively addressing campaign finance reform later this year.

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

Mrs. FEINSTEIN. Mr. President, I find myself in agreement with the Senator from Maine. I don't understand why we are getting into this issue at this place and time. I see no evidence of anything improper in this body. To a great extent what I see happening is legislation being developed in reaction to things that have happened in the other body, not in this body. I have been very proud of this body because we have been able to conduct our business in a very respectful manner. If there is evidence in this body of any improper and unreasonable payment to which the Senator seemed to allude, I ask him, please, bring it to the Rules Committee. I can assure him we will hold a hearing, if necessary. We will pass legislation. But at this time, what we are trying to do is coalesce around a 90-to-8 vote that took place early last year, that passed almost unanimously a bill out of this Senate dealing with earmarks, dealing with lobbying reform, dealing with ethics reform.

We are trying to keep extraneous matters, to the extent that we can, out of this bill.

With that in mind, I move to table Vitter amendment No. 5 and ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

The Senator from Louisiana.

Mr. VITTER. I ask unanimous consent simply to be recognized for the time remaining of my 5 minutes so that I may also address my second amendment which will be voted on. I misunderstood. I thought the time allotments only applied to the amendment I addressed, not the other amendment. Therefore, I want to address the second amendment as well.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 5

Mr. VITTER. Mr. President, the second of my amendments that will be voted on through a motion to table is with regard to the clear loophole in campaign finance law about Indian tribes. We have talked about this and debated this. This has been widely recognized for quite some time. It is a loophole in the law that allows tribes to give to candidates directly, including gambling proceeds, without any necessity of forming a PAC and going through those rigorous requirements that corporations, labor unions, and other entities have to do. This is a loophole that has been widely recognized and needs to be closed.

Certainly no legitimate argument exists that this is beyond the present debate. Think about the single biggest scandal that got us to this debate, the Jack Abramoff scandal. Indian tribes and their unfettered access to money, including gambling revenues, was at the center of the single biggest scandal that brought us to this debate. There is no legitimate argument that the amendment is somehow extraneous to the debate. If this is going to be a meaningful exercise about real reform, really cleaning things up, getting serious, not protecting sacred cows, then let's get real about it.

One way we get real about it is closing this Indian tribe loophole which clearly exists and has no legitimate justification. I urge all Senators to vote against the motion to table because, again, this goes to the heart of the Abramoff matter. We need to properly regulate those campaign contributions in the same way as we do other entities, corporations, labor unions, and the like.

With that, I appreciate the deference in allowing me to speak to this issue.

I yield the floor.

Mr. INOUYE. Mr. President, I rise today to express my strong opposition to an amendment to S.1, the Legislative Transparency Act of 2007, which is proposed by my colleague, Senator DAVID VITTER of Louisiana.

This amendment amends the Federal Election Campaign Act, FECA, so that Indian tribes would be singled out for the purposes of campaign finance law. In effect, this proposal would prohibit tribal campaign contributions by defining tribes as corporations under our Nation's campaign finance laws.

Indian tribes are constitutionally recognized sovereign governments, with whom the Federal Government has a trust relationship. The primary purpose of Indian tribes is to provide governmental services to their members. Corporations are for-profit entities whose primary goal is to maximize profits for its shareholders. Treating Indian tribes as corporations for the purposes of campaign finance sets a dangerous precedent for their treatment in other areas of the law.

In addition, I do not support this measure because it would treat Indian tribes differently from other similarly situated entities regarding their campaign contributions. Indian tribes are exempt from the aggregate limit and

the reporting requirements on their campaign contributions in the same manner as other unincorporated associations are exempt. While I support efforts to require more transparency with respect to the reporting of all contributions, I do so with the caveat that all similarly situated entities should be subject to the same reporting requirements.

If enacted this amendment would limit the ability of tribes to participate fully in the political process by preventing them from making campaign contributions.

Even though tribes are acknowledged as sovereigns, they have not been granted seats in the U.S. Congress. Instead, they must rely on the Congress to represent them. Having served in the United States Senate for 45 years and on the Indian Affairs Committee for the past 28 years, I have seen how the Congress has taken actions without considering their effects on tribes and individual Indians. At times, it even seemed that the Congress took action only to appease non-Indians. It causes one to wonder whether the Congress would have taken those actions if tribes had been consulted and been allowed to actively participate in the political process.

Due to some bad actions taken by non-Indians, some are calling to prevent tribes from fully participating in the electoral process. We must pause and reflect upon the impact that this proposal will have now and in the long term. We must ensure that the tribes, who were the victims of illegal acts, are not penalized in the name of reform. To do this, we must fully consider the unique nature of Indian tribes. Tribes need a voice to reflect their unique legal status. Without a seat in the U.S. Congress they must be allowed to use other means to participate in this process.

And once again, we must ensure that Indian gaming is not unfairly blamed. Some believe that Indian gaming is providing an improper tribal advantage in the political process. During the 2004 election cycle, tribal contributions comprised one-third of 1 percent of total contributions nationwide. Given the facts, it is hard to conceive of an unfair tribal advantage.

I believe that many critics of full tribal participation in the election process do not understand the unique history, status, and relationship that Indian tribes have with the Federal Government. Indian tribes have much to lose in the Federal process. The U.S. government has a history of taking from Indian tribes, and taking without fulfilling our obligations. We must fully consider the tribal role in the Federal process before determining that gaming revenues cannot be used in the Federal process or that tribes should not be allowed to fully participate. The U.S. Senate committees of jurisdiction should have the opportunity to hold hearings and fully explore this issue.

Therefore, for these reasons I urge my colleagues to join me in opposing this proposed measure, and preserving the rights of Indian tribes to participate in the political process.

Mr. DORGAN. Mr. President, I want to speak in response to the amendment offered by Mr. VITTER yesterday that relates to the application of the Federal campaign finance laws to Indian tribes. As Mr. VITTER suggested, this issue is outside the scope of the bill presently before us, and we should consider it at a later date when overall campaign fiance matters are being reviewed. I expect there to be a motion to table his amendment until a more appropriate time, and I will support such a motion.

More importantly though, I feel compelled to respond to some of the statements made in support of the amendment that are simply factually inaccurate. Mr. VITTER offered his amendment to correct what he describes as a very significant loophole in the campaign finance laws for Indian tribes. He stated that unlike other entities Indian tribes can give money directly from their tribal revenues and are not subject to the giving limits that apply to everyone else. Mr. VITTER stated that we should treat Indian tribes exactly as we treat other entities.

Contrary to these statements, we do treat Indian tribes exactly as we treat other unincorporated entities.

Last year, the Committee on Indian Affairs held a hearing on the applicability of the Federal campaign finance laws to Indian tribes. The committee held this hearing to counter the significant factual errors that were being reported in the news. In fact, the Federal Election Commission felt the need to issue an Advisory on Indian Tribes last year to clarify the misconceptions about the law that regulates the political activity of Indian tribes. The chairman and vice chairman of the Federal Election Commission testified before the committee on how the campaign finance laws apply to Indian tribes.

So let me convey some important facts about how Indian tribes are indeed treated under the campaign finance laws:

Indian tribes are treated as ''a group of persons'' under the Federal campaign finance laws. This decision was first made by the Federal Election Commission in 1978.

Thus, Indian tribes are subject to the contribution limitations and prohibitions applicable to all ''persons'' under the law. We treat them the same as all other persons. For the last election cycle, this was $2,100 to each candidate, $26,700 per year to a political party's national committee, and $5,000 per year to a political action committee.

Similar to other unincorporated entities, Indian tribes do not have to report their political contributions. However, political committees, including candidate and party committees, that receive contributions from Indian tribes must report those contributions in their disclosure reports.

Also, similar to other unincorporated entities, Indian tribes are not subject to the cumulative giving limits applicable to ''individuals.'' This is because Indian tribes are not ''individuals.'' This is the same way that other types of organizations are treated, such as partnerships or certain limited liability companies.

Indian tribes are not treated in any unique manner under the Federal campaign finance laws. They are treated just like other unincorporated entities. The concerns raised by Mr. VITTER are not unique to Indian tribes. Many entities can give money directly from their revenues, and only ''individuals'' are subject to a cumulative giving limit.

Now that is not to say that there shouldn't be any changes to the campaign finance laws, or that there should not be more transparency with regards to political contributions. However, Indian tribes should not be singled out because of misunderstandings about how the Federal laws apply to them. Nor should the sovereignty of Indian tribes or their ability to represent their tribal members be infringed upon.

Mrs. FEINSTEIN. Mr. President, once again, I move to table the Vitter amendment No. 5 and ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

Mr. LOTT. The following Senators were necessarily absent: the Senator from Kansas (Mr. BROWNBACK) and the Senator from Idaho (Mr. CRAPO).

Further, if present and voting, the Senator from Idaho (Mr. CRAPO) would have voted ''no.''

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 56, nays 40, as follows:

[Rollcall Vote No. 3 Leg.]

YEAS—56

Akaka	Durbin	Nelson (NE)
Baucus	Feingold	Obama
Bayh	Feinstein	Pryor
Biden	Harkin	Reed
Bingaman	Kennedy	Reid
Boxer	Kerry	Rockefeller
Brown	Klobuchar	Salazar
Byrd	Kohl	Sanders
Cantwell	Lautenberg	Schumer
Cardin	Leahy	Smith
Carper	Levin	Snowe
Casey	Lieberman	Stabenow
Clinton	Lincoln	Stevens
Coleman	McCaskill	Tester
Collins	Menendez	Thomas
Conrad	Mikulski	Webb
Dodd	Murkowski	Whitehouse
Domenici	Murray	Wyden
Dorgan	Nelson (FL)	

NAYS—40

Alexander	Ensign	Martinez
Allard	Enzi	McCain
Bennett	Graham	McConnell
Bond	Grassley	Roberts
Bunning	Gregg	Sessions
Burr	Hagel	Shelby
Chambliss	Hatch	Specter
Coburn	Hutchison	Sununu
Cochran	Inhofe	Thune
Corker	Isakson	Vitter
Cornyn	Kyl	Voinovich
Craig	Landrieu	Warner
DeMint	Lott	
Dole	Lugar	

NOT VOTING—4

Brownback	Inouye
Crapo	Johnson

The motion was agreed to.

Mrs. FEINSTEIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 6

The ACTING PRESIDENT pro tempore. Under the unanimous consent agreement, there remains 2 minutes equally divided between the Senator from Louisiana and the Senator from California on the Vitter amendment No. 6.

Who yields time? The Senator from Utah.

Mr. BENNETT. Mr. President, I am in favor of the tabling motion, so I will be happy to yield whatever time I have to the Senator from Louisiana.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana.

Mr. VITTER. Mr. President, how much time do I have under the unanimous consent agreement?

The ACTING PRESIDENT pro tempore. The Senator from Louisiana has 1 minute.

Mr. VITTER. Mr. President, I urge Senators to vote against this motion to table. Unfortunately, this opportunity to increase a Member's family income has been used and abused, and it tarnishes the entire body. It is one factor that has helped erode public confidence in the Congress.

If there was a way to truly police present law, I would say fine, but the fact is, there clearly is not and there is no way to know if services are being rendered and if a proper amount is being paid. So it is and will remain, if this amendment is tabled, a clear conduit of abuse of which some Members—I am not saying many or most, some Members—will take advantage. That will continue to hurt this institution and all of us who don't participate in that practice.

I yield back my time.

The ACTING PRESIDENT pro tempore. The Senator from California.

Mrs. FEINSTEIN. Mr. President, once again, this is related to campaign spending. It does not belong in this bill. We are trying to keep a bill with which the greatest majority of the Senate can agree.

Secondly, I know of no problems related to this issue in this body. Should there be any evidence that any Senator has that there are problems, please bring it to the Rules Committee and we will do something about it.

In the absence of that, I move to table the Vitter amendment No. 6, and I ask for the yeas and nays?

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. REID. Mr. President, prior to starting the vote on this and granting the request for the yeas and nays, we are going to come in at 9:30 in the morning. There will be a period for morning business for an hour. Then we hope to have debate on the Stevens amendment, a serious amendment, dealing with travel. We hope to be able to complete that debate fairly quickly, in an hour or so. So there will be a vote on that amendment, if things work out the way we hope, at around 11:30 in the morning.

There are a number of amendments pending. The managers have done extremely well. As I said earlier this morning, we couldn't have two better people managing this bill. People who have amendments to offer, please come and offer them; otherwise, we are going to get the idea that maybe people are wanting to move forward on this legislation in some other way.

Mrs. FEINSTEIN. Once again, Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mrs. BOXER. (When her name was called). Present.

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

Mr. LOTT. The following Senators were necessarily absent: the Senator from Kansas (Mr. BROWNBACK) and the Senator from Idaho (Mr. CRAPO).

Further, if present and voting, the Senator from Idaho (Mr. CRAPO) would have voted ''yea.''

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 41, as follows:

[Rollcall Vote No. 4 Leg.]

YEAS—54

Akaka	Domenici	Menendez
Alexander	Dorgan	Murkowski
Baucus	Durbin	Murray
Bennett	Enzi	Nelson (NE)
Biden	Feinstein	Pryor
Bingaman	Gregg	Reed
Bond	Hatch	Reid
Brown	Kennedy	Rockefeller
Bunning	Klobuchar	Salazar
Byrd	Kohl	Sanders
Cardin	Lautenberg	Schumer
Carper	Leahy	Sessions
Casey	Levin	Stabenow
Clinton	Lieberman	Sununu
Coleman	Lincoln	Thomas
Collins	Lott	Voinovich
Conrad	Lugar	Webb
Dodd	McCaskill	Whitehouse

NAYS—41

Allard	Graham	Nelson (FL)
Bayh	Grassley	Obama
Burr	Hagel	Roberts
Cantwell	Harkin	Shelby
Chambliss	Hutchison	Smith
Coburn	Inhofe	Snowe
Cochran	Isakson	Specter
Corker	Kerry	Stevens
Cornyn	Kyl	Tester
Craig	Landrieu	Thune
DeMint	Martinez	Vitter
Dole	McCain	Warner
Ensign	McConnell	Wyden
Feingold	Mikulski	

ANSWERED ''PRESENT''—1

Boxer

NOT VOTING—4

Brownback	Inouye
Crapo	Johnson

The motion was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 16 WITHDRAWN

Mr. STEVENS. Mr. President, I ask unanimous consent that amendment No. 16 be withdrawn. There has been confusion over the interpretation of that amendment. I will look at it and redraft it.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The amendment is withdrawn.

The Senator from Colorado.

AMENDMENT NO. 17 TO AMENDMENT NO. 3

Mr. ALLARD. Mr. President, what is the pending amendment?

The ACTING PRESIDENT pro tempore. Amendment No. 17 by the Senator from New Hampshire is pending.

Mr. ALLARD. Mr. President, I rise today in support of the Second Look at Wasteful Spending amendment offered by Senator GREGG to the pending Legislative Transparency Act of 2007.

I am proud to be an original cosponsor of this amendment, as I was to be a cosponsor of the Stop-Over-Spending Act of 2006, which contained a similar provision.

Spending is out of control and it is time that Congress put its money where its mouth is when it comes to reigning in spending. In addition to being a good first step, this amendment is symbolic because it is the first opportunity of this new Congress to do so.

I hope the new majority party will use this opportunity to live up to its promise of fiscal responsibility and support this amendment.

The amendment is simple. In a nutshell, it allows the President to identify individual items of wasteful spending that, for one reason or another, slipped through Congress and send them back for closer scrutiny.

Once under the microscope for Congress and all of America to see, both houses of Congress will have the opportunity to give the individual proposal an up-or-down vote.

If both Houses deem the spending appropriate, the President must release the funds. On the other hand, if it does

not survive the scrutiny of both Houses, the spending is rescinded.

Importantly, any savings resulting from rescinded items of spending goes to reduce the Federal deficit. With record revenues streaming into the Treasury as a result of the Republican pro-growth tax cuts, we have made significant strides toward cutting the deficit. This amendment provides an opportunity to chip away at the deficit from the spending side of the equation.

Some of you may recall the Line Item Veto Authority that a Republican Congress gave to President Clinton in 1996 and wonder how this differs. This legislation, although similar in purpose, is not nearly as far-reaching as the authority given to President Clinton.

Under that authority, presidential cancellations went into effect automatically, without Congressional action. Unlike that law, the Second Look at Wasteful Spending legislation requires that Congress take affirmative steps to affirm or deny any rescission package proposed by the President. In other words, Congress has the final say on the President's rescission request.

Today's legislation contains several other important limitations on the President's authority. First, the President is limited to the submission of four rescission packages per year. Second, the President's rescission requests are limited to discretionary or mandatory spending or tax bills introduced on or after the legislation's enactment. Third, the authority sunsets in 4 years to allow Congress to reevaluate it after two Presidents have each used it for 2 years.

I am pleased that Senator GREGG chose to address this issue during the pending lobbying reform legislation. Both pieces legislation share the goal of bringing greater transparency to the Federal spending process.

While I do not pretend that it will solve all of the long-term fiscal problems—such as long-term entitlement spending—I do believe that it is an important and symbolic first step.

Even if the authority is never used by the President, its mere existence will have a chilling effect on wasteful discretionary spending. Individual Members of Congress will give second thought to promoting wasteful items spending that they know will receive a second look.

Similarly, it will provide an additional check on new items of mandatory spending, each of which has the potential to exacerbate the crisis that is the unsustainable growth in long-term entitlement spending. I say crisis because we received testimony in the Budget Committee that, if left unchecked, in under 30 years spending on just three entitlement programs—Medicare, Medicaid and Social Security—will exceed, as a share of GDP, the amount of spending that the entire U.S. Government consumes today.

In other words, those three programs are unsustainable. To further put the issue in perspective, outstanding 75-year Government promises, including Medicare, Medicaid, and Social Security, exceed the total amount of taxes collected in U.S. history by $26 trillion.

Again, this amendment is only the first step in reducing spending—something that the American taxpayers demand and deserve.

I am hopeful that the new majority party will take the opportunity to support its promises of fiscal responsibility and join me in supporting this amendment.

It will bring more accountability and transparency to the legislative process so that Americans will know what is happening and can hold Members of Congress more accountable.

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

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

The assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 15, AS MODIFIED

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Salazar amendment No. 15 be the pending business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the amendment be modified with the changes at the desk.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment will be so modified.

The amendment (No. 15), as modified, is as follows:

At the appropriate place, insert the following:

SEC. ___. PUBLIC AVAILABILITY OF SENATE COMMITTEE AND SUBCOMMITTEE MEETINGS.

(a) IN GENERAL.—Paragraph 5(e) of rule XXVI of the Standing Rules of the Senate is amended by—

(1) by inserting after ''(e)'' the following: ''(1)''; and

(2) by adding at the end the following:

''(2) Except with respect to meetings closed in accordance with this rule, each committee and subcommittee shall make publicly available through the Internet a video recording, audio recording, or transcript of any meeting not later than 14 business days after the meeting occurs.''.

(b) EFFECTIVE DATE.—This section shall take effect October 1, 2007.

MORNING BUSINESS

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD a letter and accompanying section 102(b) report from the Office of Compliance Board of Directors.

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

OFFICE OF COMPLIANCE,
Washington, DC, January 4, 2007.

Hon. ROBERT C. BYRD,
President Pro Tempore, U.S. Senate, The Capitol, Washington, DC.

DEAR PRESIDENT PRO TEMPORE BYRD: Section 102(b)(2) of the Congressional Accountability Act of 1995 (CAA), 2 U.S.C. 1302, requires that, ''Beginning on December 31, 1996, and every 2 years thereafter, the Board shall report on (A) whether or to what degree the provisions described in paragraph (1) are applicable or inapplicable to the legislative branch and (B) with respect to provisions inapplicable to the legislative branch, whether such provisions should be made applicable to the the legislative branch. The presiding officers of the House of Representatives and the Senate shall cause each report to be printed in the CONGRESSIONAL RECORD, and each such report shall be referred to the committees of the House of Representatives and the Senate with jurisdiction.

The Board of Directors of the Office of Compliance is transmitting herewith the Section 102(b) Report for the 109th Congress. The Board requests that the accompanying Report be published in both the House and Senate versions of the CONGRESSIONAL RECORD on the first day on which both Houses are in session following receipt of this transmittal.

Any inquiries regarding the accompanying Notice should be addressed to Tamara Chrisler, Acting Executive Director of the Office of Compliance, 110 2nd Street, S.E., Room LA–200, Washington, D.C. 20540.

Sincerely,

SUSAN S. ROBFOGEL,
Chair of the Board of Directors.

OFFICE OF COMPLIANCE,
Washington, DC, December 21, 2006.

Hon. TED STEVENS,
President Pro Tempore of the Senate, U.S. Senate, The Capitol, Washington, DC.

DEAR MR. STEVENS: Pursuant to section 102(b) of the Congressional Accountability Act, I am pleased to announce that the Board of Directors of the Compliance has completed its biennial report. Accompanying this letter is a copy of our section 102(b) report for the 109th Congress.

The section 102(b) report and its incorporated recommendations are an integral part of the Congressional Accountability Act. As a principle function of the Board, this report provides insight into the ever-changing climate that exemplifies the working environment of the legislative branch. As such, the Board views the submission of this report as the primary method of keeping the Act alive beyond its inception. With this submission, the Board presents its prior recommendations and specifically makes recommendations concerning the need for additional tools and mechanisms to increase the Office's efforts to ensure continued safety and health of legislative branch employees and visitors; as well as the need for regulations in the legislative branch for veterans entering and returning to the workforce.

With more than ten years of experience living with congressional accountability, the Board and the office are committed to the recommendations we outline in this report. As the sixth such report to Congress, we are seeking appropriate time for review, consultation, and action in the 110th Congress.

On behalf of the Board of Directors, I submit this important document for your review and attention.

Sincerely,

TAMARA E. CHRISLER,
Acting Executive Director.

OFFICE OF COMPLIANCE SECTION 102(B) REPORT, DECEMBER 2006

This is the sixth biennial report submitted to Congress by the Board of Directors of the Office of Compliance of the U.S. Congress, pursuant to the requirements of section 102(b) of the Congressional Accountability Act (2 U.S.C. 1302 (b)). Section 102(b) of the Act states in relevant part:

Beginning on December 31, 1996, and every 2 years thereafter, the Board shall report on (A) whether or to what degree [provisions of Federal law (including regulations) relating to (A) the terms and conditions of employment (including hiring, promotion, demotion, termination, salary, wages, overtime compensation, benefits, work assignments or reassignments, grievance and disciplinary procedures, protection from discrimination in personnel actions, occupational health and safety, and family and medical and other leave) of employees; and (B) access to public services and accommodations] . . . are applicable or inapplicable to the legislative branch, and (B) with respect to provisions inapplicable to the legislative branch, whether such provisions should be made applicable to the legislative branch. The presiding officers of the House of Representatives and the Senate shall cause each such report to be printed in the Congressional Record and each such report shall be referred to the committees of the House of Representatives and the Senate with jurisdiction.

Bracketed portion from section 102(b)(1).

INTRODUCTION

Prior to the enactment of the Congressional Accountability Act of 1995 (CAA), Congress recognized the need to legislate many aspects of the workplace, and it did so by passing laws to address workplace rights and the employment relationship. These laws, however, were not applicable to Congress. Congress had excluded itself and other instrumentalities of the legislative branch from the requirements of these laws. Passage of the CAA, with nearly unanimous approval, in the opening days of the 104th Congress, reflected a national consensus that Congress must live under the laws it enacts for the rest of society.

The CAA is not meant to be static. The Act intended that there be an ongoing, vigilant review of federal law to ensure that Congress continue to apply to itself—where appropriate—the labor, employment, health, and safety laws it passes. To further this goal, the Board of Directors of the Office of Compliance (''Board'') was tasked with the responsibility of reviewing federal laws each Congress to make recommendations on how the CAA could be expanded. Since its creation, the Board has duly submitted biennial Reports to Congress, starting in 1996, detailing the limited and prudent amendments that should be made to the CAA. There was also an Interim Report in 2001, regarding Section 508 of the Rehabilitation Act of 1973. In past reports, the Board has taken a broad approach in presenting its recommendations to amend the Congressional Accountability Act, and has encouraged Congress to consider and act upon those recommendations. By including Appendices A through C in this Report, the Board incorporates these prior recommendations as part of this Report: amendments to the Rehabilitation Act, title II and title III of the Civil Rights Act, record-keeping and notice posting, jury duty, bankruptcy, garnishment, and employee protection provisions of environmental statutes. The Board continues to ask that these prior recommendations be implemented.

Now that Congress has had substantial time to reflect on the contents of the Board's prior reports, it is critical that Congress continue the example set in 1995 with the enactment of the original provisions of the CAA. Without action on the Board's recommendations, the worthy goal of the Congressional Accountability Act gradually may be eroded.

The overwhelming bipartisan support for the CAA's passage in 1995 is a testament to the importance of—and support for—the principles the CAA embodies, both in Congress and in the electorate as a whole. While recognizing the enormous importance of many of the other issues faced today by Congress, the Board is hopeful that issuance of this 2006 Section 102(b) Report will result in legislative action to finally implement these recommendations, so that the CAA remains current with the employment needs of the legislative branch.

EXECUTIVE SUMMARY

In this 2006 Report, the Board is prioritizing its recommendations, without in any way diminishing the importance of the recommendations made in prior Reports. In this current Report, the Board focuses on two areas of vital and immediate concern to the covered community—safety and health, and veterans' rights—and urges Congress to take action on them.

The Office of Compliance Office of the General Counsel (''OGC'') is responsible for ensuring safety and health of legislative branch employees through the enforcement of the provisions of the Occupational Safety and Health Act (''OSHA''). This responsibility includes inspection of the covered community, which the Office of the General Counsel performs in collaboration with employing offices. While enormous progress has been achieved by the Office of the Architect of the Capitol (''AOC'') and other employing offices in improving health and safety conditions, there remain circumstances where progress will be enhanced if the OGC is provided specific tools to perform: whistle blower and similar retaliation protection, temporary restraining orders, investigatory subpoenas, and recognition by the responsible party for health and safety violations in covered facilities. With these tools, the Office of the General Counsel would be better positioned to ensure that the covered community is a safe and healthy one for its employers and employees, as well as its visitors.

Congress has enacted laws to ensure that soldiers with civilian employment will not be penalized for their time spent away from their employers while serving in the military. Through the enactment of these laws, Congress ensured that military service will not prevent individuals from remaining professionally competitive with their civilian counterparts. The Veterans' Employment Opportunities Act (''VEOA'') and the Uniformed Services Employment and Reemployment Act (''USERRA'') currently provide protections for military personnel entering and returning to federal and other civilian workforces. Under VEOA, Congress has enacted protections for these soldiers, so that in certain circumstances, they receive a preference for selection to federal employment. Regulations for these laws have been implemented in the executive branch, and the Board encourages Congress to implement corresponding regulations in the legislative branch.

RECOMMENDATIONS

I. Whistle Blower Protection Act Application to the CAA

Retaliation protections

Over the years, the Office of Compliance has received numerous inquiries from legislative branch employees about their legal rights following their having reported allegations of employer wrongdoing or mismanagement. Unfortunately, these employees are not currently protected from employment retaliation by any law. The retaliation provisions of the CAA limit protection to employees who, in general, exercise their rights under the statute. Whistle blower protections are intended specifically to prevent employers from taking retaliatory employment action against an employee who discloses information which he or she believes evidences a violation of law, gross mismanagement, or substantial and specific danger to public health or safety.

The Whistle Blower Protection Act (''WPA'') prohibits executive branch personnel decision makers from taking any action to:

(3) coerce the political activity of any person (including the providing of any political contribution or service), or take any action against any employee or applicant for employment as a reprisal for the refusal of any person to engage in such political activity;

(4) deceive or willfully obstruct any person with respect to such person's right to compete for employment;

(5) influence any person to withdraw from competition for any position for the purpose of improving or injuring the prospects of any other person for employment;

(6) grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment;

(7) appoint, employ, promote, advance, or advocate for the appointment, promotion, advancement, in or to a civilian position any individual who is a relative (as defined in section 3110(a)(3) of this title) of such employee if such position is in the agency in which the employee is serving as a public official (as defined in section 3110(a)(2) of this title) or over which such employee exercises jurisdiction or control as such an official;

(8) take or fail to take, or threaten to take or fail to take, a personnel action with respect to any employee or applicant for employment because of—

(A) any disclosure of information by an employee or applicant for employment because of—

(i) a violation of any law, rule, or regulation, or

(ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive Order to be kept secret in the interest of national defense or the conduct of foreign affairs; or

(B) any disclosure to the Special Counsel, or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures of information which the employee or applicant reasonably believes evidences—

(i) a violation of any law, rule, or regulation, or

(ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive Order to be kept secret in the interest of national defense or the conduct of foreign affairs;

(9) take or fail to take, or threaten to take or fail to take, any personnel action against any employee or applicant for employment because of—

(A) the exercise of any appeal, complaint, or grievance right granted by any law, rule, or regulation;

(B) testifying for or otherwise lawfully assisting any individual in the exercise of any right referred to in subparagraph (A);

(C) cooperating with or disclosing information to the Inspector General of an agency, or the Special Counsel, in accordance with applicable provisions of law; or

(D) for refusing to obey an order that would require the individual to violate a law;

(10) discriminate for or against any employee or applicant for employment on the basis of conduct which does not adversely affect the performance of the employee or applicant or the performance of others; except that nothing in this paragraph shall prohibit an agency from taking into account in determining suitability or fitness any conviction of the employee or applicant of any crime under the laws of any State or the District of Columbia, or of the United States.[1]

Over the years, legislative branch employees have proven essential in informing the General Counsel of the possible existence of serious hazards that may affect the safety and health of employees, management representatives, and members of the public that would otherwise not come to his attention. In order to assure the free flow of this information, it is incumbent upon Congress to protect employees from intimidation and retaliation when they exercise their rights to report and allege violations.

On July 17, 2006, Senator Chuck Grassley introduced a bill[2] to Congress that would amend the Congressional Accountability Act to give legislative branch employees some of the whistle blower protection rights that are available to executive branch employees. In the executive branch, employees can take allegations of employment reprisal based on whistle blowing to the Office of the Special Counsel or can bring an individual action directly before the Merit Systems Protection Board.[3] As the bill is written, legislative branch employees would bring such matters to the Office of Compliance's dispute resolution program. Although this program provides a mechanism for employees to bring a complaint, the employees would have to prosecute these very technical issues themselves, or incur the cost of hiring an attorney to litigate these issues. Employees of the executive branch do not bear such a burden. To assure that whistle blower protection rights are effectively vindicated, it is imperative that the General Counsel be granted the same authority to investigate and prosecute OSHA-type violations of the CAA, as is provided under other remedial labor laws.

Executive agencies that are required to enforce labor and employment rights are often given explicit statutory authority to conduct investigations and litigation respecting charges of employer intimidation and retaliation of employees. For example, the General Counsel of the Federal Labor Relations Authority may investigate discrimination based on the filing of an unfair labor practice.[4] Under the Occupational Safety and Health Act, the Secretary of Labor is given very clear authority to investigate and prosecute reprisals.[5] The Equal Employment Opportunity Commission is granted authority to initiate charges and conduct investigations into claims of discrimination.[6] The National Labor Relations Act also grants to its General Counsel the authority to issue a complaint upon the filing of an employee charge of retaliation.[7]

Covered employees who have sought information from the Office of Compliance respecting their substantive rights under the safety and health provisions of the CAA have expressed concern about their exposure when they come forward to provide evidence in such investigations. They have also indicated reluctance or financial inability to shoulder the litigation burden without the support of the Office of the General Counsel investigative process and enforcement procedures.

The Board of Directors believes that the ability of the General Counsel to investigate and prosecute retaliation in the OSH process would effectively serve to relieve employees of these burdens. It would also preserve confidence in the CAA and empower legislative branch employees to exercise their rights without fear of adverse action in reprisal for their protected activities.

Protection from solicitation of recommendations

The Board believes that the subsection (b)(2) rule of the Whistle Blower Protection Act should be made applicable to all legislative branch employing offices, other than the two houses of Congress and the entities listed in section 220(e)(2)(A)–(E) of the CAA.

The Board urges Congress to discourage ''political'' recommendations in the filling of covered positions. Specifically, subsection (b)(2) of the Whistle Blower Protection Act provides that anyone with personnel authority may not: ''solicit or consider any recommendation or statement, oral or written, with respect to any individual who requests or is under consideration for any personnel action unless such recommendation or statement is based on the personal knowledge or records of the person furnishing it and consists of—(A) an evaluation of the work performance, ability, aptitude, or general qualifications of such individual; or (B) an evaluation of the character, loyalty, or suitability of such individual . . .''

The Board recommends that Congress apply this restriction to anyone with personnel authority in any legislative branch employing office, other than the two houses of Congress and the entities listed in section 220(e)(2)(A)–(E) of the CAA.

II. Increased safety and health compliance tools

Temporary restraining orders

The Occupational Safety and Health Act is applied, in part, to the legislative branch through Section 215(b) of the Congressional Accountability Act. Under this section, the remedy for a violation of the CAA is a corrective order similar to such an order granted under the remedial section of the OSH Act. Among other things, the OSH Act authorizes the Secretary of Labor to seek a temporary restraining order in district court in the case of imminent danger. Such enforcement authority is necessary for the General Counsel of the Office of Compliance to ensure that safety and health violations are remedied expeditiously. The General Counsel takes the position that although Section 215(b) of the CAA does not expressly provide preliminary injunctive relief as a remedy, such authority is implied by the Act's terms. Certain employing offices, as well as other stakeholders, however, differ with this interpretation, as the language is not stated directly in the Act. Accordingly, the Board seeks to amend the current language of the Act to alleviate all ambiguity and to make clear the General Counsel's authority to seek such relief.

Express authority to seek preliminary injunctive relief is essential to the General Counsel's ability to eliminate promptly all potential workplace hazards. Although a situation has not been presented yet where a court injunction was necessary to resolve a case of imminent danger, the General Counsel can foresee the very likelihood of having to do so. In fiscal year 2006, the General Counsel increased his efforts to remedy two serious violations which posed imminent danger to workers: unabated safety violations which existed in the Capitol Power Plant utility tunnels since before 1999, and the lack of safety shoring for AOC workers in trenches surrounding Library of Congress buildings. Fortunately, the prompt filing of a formal complaint led the AOC to implement immediate interim abatement measures to protect workers in the tunnels from imminent harm. In addition, the filing of a citation for the safety shoring violation prompted the AOC to take immediate steps to install appropriate shoring to protect its employees.

In both of these instances, the need for injunctive relief was obviated due to the prompt and voluntary compliance of the AOC. However, in other situations, employing offices may not so readily accept responsibility for correcting an imminent safety hazard. For example, the increased use of contractors to perform construction and repair work on Capitol Hill creates situations where the responsibility for assuring safe conditions may not be as clear, or as readily accepted, by an employing office. Cases of that nature demonstrate the need for the availability of injunctive relief to ensure the immediate and ongoing safety of employees and members of the public pending resolution of issues of responsibility and cost.

The Board urges Congress to recognize the General Counsel's need to have the authority to seek preliminary injunctive relief. Although implicitly provided in the Act, the current language under Section 215(b) creates ambiguity as to whether such authority has been granted to the General Counsel. The Board recommends that the CAA be amended to clarify that the General Counsel has the standing to seek a temporary restraining order in Federal district court and that the court has jurisdiction to issue the order.

Investigatory subpoenas

The General Counsel of the Office of Compliance is responsible for conducting health and safety inspections in covered offices in the legislative branch. In implementation of this mandate, the General Counsel is granted many, but not all, of the same authorities that are granted to the Secretary of Labor under section 8 of the Occupational Safety and Health Act.[8] One of the significant authorities granted to the Secretary of Labor is that of issuing investigatory subpoenas in aid of inspections. Other federal agencies, such as the National Labor Relations Board and the Federal Labor Relations Authority, likewise are given such authority in implementation of their authority to investigate complaints. However, the Congressional Accountability Act does not grant to the General Counsel the authority to require the attendance of witnesses and the production of evidence in furtherance of his investigations.

While most employing offices do not directly refuse to provide requested information during the General Counsel's investigations, significant delays in providing information are, unfortunately, not unusual. The lack of authority to compel the prompt release of information and witnesses from employing offices hampers the ability of the General Counsel to enforce health and safety regulations. To conduct a thorough workplace inspection, the General Counsel must interview witnesses and examine information that may reside solely within the possession of the employing office, and not otherwise readily available to employees, the public, or the General Counsel. Absent the authority to issue investigatory subpoenas, an employing office may, with impunity,

[1] Footnotes appear at end of report.

refuse or simply stall in responding to the General Counsel's requests for information. Such actions would hinder investigations and may exacerbate potential health and safety hazards. Recently, an employing office argued that the General Counsel was not entitled to the records of results of testing for hearing damage performed on legislative employees. The General Counsel was without an efficient mechanism to gain access to this information.

Currently, the only means to compel production of documents or testimony when cooperation is not forthcoming is to issue a citation and a complaint, and institute legal proceedings against the employing office. Besides being costly, this process is counterproductive to the General Counsel's efforts to maintain and further a collaborative relationship with employing offices. In addition, the inherent delays of litigation may have the effect of exposing employees and the public to unabated hazard and significant risk of exposure or injury. Prompt production of information or access to witnesses allows the General Counsel to collaborate with employing offices and make an informed decision and assess risks and hazards. This authority will directly enhance the ability of the General Counsel to carry out his statutory duty to maintain a safe and healthy workplace.

The Office of the Architect of the Capitol is responsible for safety and health violations in covered facilities

In its Report on Occupational Safety and Health Inspections for the 108th Congress, the General Counsel raised a concern regarding enforcing compliance with the OSH Act where work is performed by contractors hired by the Architect of the Capitol. In the 108th Biennial Report, three specific incidents were cited wherein AOC contractors created hazardous situations that posed significant risk to property in one instance, and severe bodily injury to employees and the public in the other two. The latter two conditions were corrected by the AOC, even though the AOC asserted it had no obligation to do so. In the other situation, a citation was issued by the General Counsel; however, the AOC has contested this citation, asserting that it has limited, if any, responsibility to monitor or ensure compliance with OSHA regulations and safety standards whenever work is performed by contractors.

OSHA, rather than the Office of Compliance General Counsel, has jurisdiction over AOC private sector contractors. As the AOC increasingly relies on such contractors to perform its construction and repair work, it is foreseeable that safety and health enforcement in the legislative branch could increasingly devolve to OSHA rather than the Office of Compliance General Counsel. Were the AOC to prevail in its contention that it was not responsible for hazards created by its contractors, the ability of the General Counsel to protect legislative branch employees would be severely undermined. Moreover, divided jurisdiction over the elimination of hazardous conditions that affect legislative branch employees would appear to be contrary to the purpose of the CAA.

The General Counsel's jurisdiction to hold an employing office accountable for complying with safety standards does not turn on whether the employing office performs its work directly or through the use of a contractor. Otherwise, the health and safety in much of the legislative branch would depend on the diligence and skill of independent contractors rather than that of the Architect of the Capitol. The Government Accountability Office recently expressed a similar concern that the ''AOC had not fully exercised its authority to have the contractors take corrective actions to address recurring safety concerns'' in regard to construction at the Capitol Visitor Center.[9]

OSHA has a ''Multi-Employer Citation Policy,''[10] under which employers can be considered both a ''controlling and exposing employer engaged in construction and repair work.'' This policy requires that these multi-employers be held accountable and responsible for any safety violations in their facilities. Because the AOC is charged with the responsibility for the supervision and control of all services necessary for the protection and care of the Capitol and the Senate and House Office Buildings, the AOC would be considered a multi-employer, under OSHA's definition, and thereby accountable and responsible for any safety violations in its facilities.[11] The Board of Directors encourages Congress to adopt OSHA's policy to ensure the uniform pattern of enforcement throughout the legislative branch.

The Board urges Congress to take a realistic look at the safety and health concerns in the covered community. Much work has been done, and progress continues to be made, to ensure that Congress provides a safe and healthy environment for its employees and visitors. In order to ensure this continued progress, there are certain mechanisms that must be in place for the General Counsel of the Office of Compliance to ensure that safety and health risks are at a minimum and are thoroughly and expeditiously addressed. The Board encourages Congress to allow the General Counsel to implement these tools to meet this goal.

III. Veterans' rights

Veterans' Employment Opportunities Act

Since the end of the Civil War, the United States Government has granted veterans a certain degree of preference in federal employment, in recognition of their duty to country, sacrifice, and exceptional capabilities and skills. Initially, these preferences were provided through a series of statutes and Executive Orders. In 1944, however, Congress passed the first law that granted our service men and women preference in federal employment: the Veterans' Preference Act of 1944.[12] The Veterans' Preference Act provided that veterans who are disabled or who served in military campaigns during specified time periods are ''preference eligible'' veterans and would be entitled to preference over non-veterans (and over non-preference-eligible veterans) in decisions involving selections and retention in reductions-in-force.

In 1998, Congress passed the Veterans Employment Opportunities Act (''VEOA''),[13] which ''strengthen[s] and broadens''[14] the rights and remedies available to military veterans who are entitled to preferences in federal employment. In particular, Congress clearly stated in the law itself that certain ''rights and protections'' of veterans' preference law provisions for certain executive branch employees, ''shall apply'' to certain ''covered employees'' in the legislative branch.[15]

Initially, the Board published an Advanced Notice of Proposed Rulemaking for VEOA regulations on February 28, 2000, and March 9, 2000. Upon consideration of the comments received, the Board changed its approach and published a Notice of Proposed Rulemaking on December 6, 2001. Since that time, the Board has engaged in extensive discussions with stakeholders to obtain input and suggestions into the drafting of the regulations. The Board is mindful that stakeholder input is critical in ensuring that the proposed regulations capture the particular workings and procedures of the legislative branch. To that end, the Board is committed to investing as much time as is necessary to promulgate and implement the VEOA regulations.

One of the most critical aspects of drafting these regulations has been to acknowledge the longstanding and significant differences between the personnel policies and practices, as well as the history, of the legislative branch and the executive branch. In particular, the executive branch distinguishes between employees in the ''competitive service'' and the ''excepted service,'' often with differing personnel rules applying to these two services. The legislative branch has no such classification system and hence, no dichotomy.

Although the CAA mandates application to the legislative branch of certain VEOA provisions originally drafted for the executive branch, the Board notes the central distinction made in the underlying statute: certain veterans' preference protections (regarding hiring) applied only to executive branch employees in the ''competitive'' service, while others (governing reductions in force and transfers) applied both to the ''competitive'' and ''excepted'' service. For example, the hiring practice in the executive branch includes a numeric rating and ranking process. Such process includes a point-preference for certain veterans. Because no such rating and ranking process exists in the legislative branch, the application of the point-preference had to be adjusted to properly fit the particular practices of the legislative branch.

The extensive discussions with various stakeholders across Congress and the legislative branch have raised these issues and have provided a forum in which to discuss how best to address these unsuited areas of the regulations. The suggestions made and comments received by stakeholders have allowed the Board to engage in thoughtful deliberation and careful consideration of the particular needs of the legislative branch. Accordingly, the Board has crafted proposed regulations that it believes will fit the practices and procedures of the varying entities in the covered community.

Uniformed Services Employment and Re-employment Rights Act

The Uniformed Services Employment and Re-employment Rights Act (''USERRA'') was enacted in December 1994, and the Department of Labor submitted regulations for the executive branch in 2005. USERRA's provisions ensure that entry and re-entry into the civilian workforce are not hindered by participation in non-career military service. USERRA accomplishes that purpose by providing rights in two kinds of cases: discrimination based on military service, and denial of an employment benefit as a result of military service.

Currently, the Board is engaged in drafting proposed regulations for USERRA's application to the legislative branch. During the 110th Congress, the Board will present its proposed regulations to stakeholders and engage in similar consultations as with the proposed VEOA draft regulations. The Board anticipates that this interactive and collaborative approach will allow the Board, as with the VEOA draft regulations, to ascertain the concerns and particular demands of the legislative branch with respect to application of these regulations.

There is a need for both VEOA and USERRA regulations in the legislative branch. Congress has seen fit to provide service men and women certain protections in federal civilian employment, and without adopted regulations, these protections are without legal effect in the legislative branch. The particular procedures and practices in the legislative branch necessitate

regulations written especially for the legislative branch. The Board encourages Congress to adopt these regulations, once proposed, so that VEOA and USERRA protections can be provided specifically to employees of the legislative branch with regulations suitable to the needs of the covered community.

CONCLUSION

As the tenth anniversary of the Congressional Accountability Act of 1995 has now passed, it is time for a comprehensive analysis and update of the law to ensure that it continues to reflect the commitment by the lawmakers of this nation to democratic accountability.

With this 102b Report, the Board of Directors of the Office of Compliance urges the leadership of both houses of Congress to seriously consider the recommendations included in this report. The Board encourages Congress to look at the recent activities in the covered community to recognize the need for the implementation of these recommendations. In particular, the efforts made by the Office of the General Counsel of the Office of Compliance and the Office of the Architect of the Capitol to eliminate safety and health hazards that exist in the covered community have been successful due to the collaborative nature of the approach to the problem. However, certain safety issues and certain hazards may only be successfully addressed by the use of other mechanisms, such as specific retaliation protections for whistle blowers, preliminary injunctive relief, investigative subpoenas, and the General Counsel's ability to investigate and prosecute OSH claims of retaliation.

A fair workplace consists of fair treatment for its applicants and employees who serve in the military. The legislative branch attracts and employs many men and women who have collateral military responsibility. Congress has enacted laws which ensure that these individuals receive the same treatment as their civilian counterparts. Those service men and women who make application for federal employment in the legislative branch and those individuals returning from active duty must be assured, through appropriate regulation, that their service in the military will not hinder them from serving in their country's legislative branch of government.

The Board also encourages the leadership to increase Congress's compliance with section 102(b)(3) of the CAA. Section 102(b)(3) requires that every House and Senate committee report accompanying a bill or joint resolution that impacts terms and conditions of employment or access to public services or accommodations must ''describe the manner in which the provisions of the bill or joint resolution apply to the legislative branch'' or ''in the case of a provision not applicable to the legislative branch, include a statement of the reasons the provision does not apply.'' Congress has made efforts to include such language in proposed bills, and the Board encourages its continued effort.

This Board, its executive appointees, and the staff of the Office of Compliance are prepared to work with the leadership, our oversight committees, other interested Members, and instrumentalities in Congress and the legislative branch to make these recommendations part of the Congressional Accountability Act during the 110th Congress.

Respectfully submitted,

SUSAN S. ROBFOGEL, *Chair*.
BARBARA L. CAMENS.
ALAN V. FRIEDMAN.
ROBERTA L. HOLZWARTH.
BARBARA CHILDS WALLACE.

APPENDIX A

Employment and civil rights which still do not apply to Congress or other legislative branch instrumentalities

The statutes below, with the exception of Section 508 of the Rehabilitation Act, were all first identified by the Board in 1996 as not included among the laws which were applied to Congress through the Congressional Accountability Act of 1995. The absence of section 508 of the Rehabilitation Act was first identified in our 2001 Interim Report to Congress. We here repeat the recommendations—made in our Reports of 1996, 1998, 2000, 2002, and 2004, as well as those of the Interim 2001 Report—that these statutes should also be applied to Congress and the legislative branch through the Act.

The 1998 amendments to section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d)

In November 2001, the Board submitted an Interim Section 102(b) Report to Congress regarding the 1998 amendments to the Rehabilitation Act of 1973 in which the Board urged Congress to make those amendments applicable to itself and the legislative branch. The purpose of the 1998 amendments is to: ''require each Federal agency to procure, maintain, and use electronic and information technology that allows individuals with disabilities the same access to technology as individuals without disabilities.'' [Senate Report on S. 1579, March 1998]

As of this time, some five years later, software and other equipment which is ''508 compliant'' is readily available and in use by some employing offices. The Board encourages consistent use of these technologies so that individuals with impairments may have the same opportunities to access materials as others.

The Board reiterates its recommendation that Congress and the legislative branch, including the General Accounting Office, Government Printing Office, and Library of Congress, be required to comply with the mandates of section 508.

Titles II and III of the Civil Rights Act of 1964 (42 U.S.C. §§2000a to 2000a–6, 2000b to 2000b–3)

These titles prohibit discrimination or segregation on the basis of race, color, religion, or national origin regarding the goods, services, facilities, privileges, advantages, and accommodations of ''any place of public accommodation'' as defined in the Act. Although the CAA incorporated the protections of titles II and III of the ADA, which prohibit discrimination on the basis of disability with respect to access to public services and accommodations,[16] it does not extend protection against discrimination based upon race, color, religion, or national origin with respect to access to public services and accommodations. For the reasons set forth in the 1996, 1998 and 2000 Section 102(b) Reports, the Board has determined that the rights and protections afforded by titles II and III of the Civil Rights Act of 1964 against discrimination with respect to places of public accommodation should be applied to employing offices within the legislative branch.

Prohibition against discrimination on the basis of jury duty (28 U.S.C. §1875)

Section 1875 provides that no employer shall discharge, threaten to discharge, intimidate, or coerce any permanent employee by reason of such employee's jury service, or the attendance or scheduled attendance in connection with such service, in any court of the United States. This section currently does not cover legislative branch employment. For the reasons set forth in the 1996, 1998 and 2000 Section 102(b) Reports, the Board has determined that the rights and protections against discrimination on this basis should be applied to employing offices within the legislative branch.

Prohibition against discrimination on the basis of bankruptcy (11 U.S.C. §525)

Section 525(a) provides that ''a governmental unit'' may not deny employment to, terminate the employment of, or discriminate with respect to employment against, a person who is or has been a debtor under the bankruptcy statutes. This provision currently does not apply to the legislative branch. For the reasons stated in the 1996, 1998 and 2000 Section 102(b) Reports, the Board recommends that the rights and protections against discrimination on this basis should be applied to employing offices within the legislative branch.

Prohibition against discharge from employment by reason of garnishment (15 U.S.C. §1674(a))

Section 1674(a) prohibits discharge of any employee because his or her earnings ''have been subject to garnishment for any one indebtedness.'' This section is limited to private employers, so it currently has no application to the legislative branch. For the reasons set forth in the 1996, 1998 and 2000 Section 102(b) Reports, the Board has determined that the rights and protections against discrimination on this basis should be applied to employing offices within the legislative branch.

APPENDIX B

Regulatory enforcement provisions for laws which are already applicable to the legislative branch under the act

Record-keeping and notice-posting requirements of the private sector CAA laws

As mentioned in its 1998, 2000, 2002, and 2004 Reports, experience in the administration of the Act leads the Board to recommend that all currently inapplicable record-keeping and notice-posting provisions be made applicable under the CAA. For the reasons set forth in its prior reports of 1998, 2002, and 2004, the Board recommends that the Office be granted the authority to require that records be kept and notices posted in the same manner as required by the agencies that enforce the provisions of law made applicable by the CAA in the private sector.

Other enforcement authorities exercised by the agencies that implement the CAA laws for the private sector

To further the goal of parity, the Board also recommends that Congress grant the Office the remaining enforcement authorities that executive branch agencies utilize to administer and enforce the provisions of law made applicable by the CAA in the private sector. Implementing agencies in the executive branch have investigatory and prosecutorial authorities with respect to all of the private sector CAA laws, except the WARN Act. Based on the experience and expertise of the Office, granting these same enforcement authorities would make the CAA more comprehensive and effective. By taking these steps to live under full agency enforcement authority, the Congress will strengthen the bond that the CAA created between the legislator and the legislated.

APPENDIX C

Employee protection provisions of environmental statutes

Since its 1996 Report, the Board has addressed the inclusion of employee protection provisions of a number of statutory schemes: the Toxic Substances Control Act, Clean Water Act, Safe Drinking Water Act, Energy Reorganization Act, Solid Waste Disposal Act/Resources Conservation Recovery Act, Clean Air Act, and Comprehensive Environmental Response, Compensation and Liability Act. In its 1996 Section 102(b) Report, the

Board stated: ''It is unclear to what extent, if any, these provisions apply to entities in the Legislative Branch. Furthermore, even if applicable or partly applicable, it is unclear whether and to what extent the Legislative Branch has the type of employees and employing offices that would be subject to these provisions. Consequently, the Board reserves judgment on whether or not these provisions should be made applicable to the Legislative Branch at this time.''

Further, in the 1998 Report the Board concluded that, while it remained unclear whether some or all of the environmental statutes apply to the legislative branch, ''[t]he Board recommends that Congress should adopt legislation clarifying that the employee protection provisions in the environmental protection statutes apply to all entities within the Legislative Branch.''

In the 2002 and 2004 Reports, the Board explicitly analyzed these protections and recommended that the employee protection provisions of these acts be placed within the CAA and applied to all covered employees, including employees of the Government Accountability Office, Government Printing Office, and Library of Congress. The Board reiterates those recommendations herein, including its recommendation to eliminate the separation of powers conflict inherent in enforcing these statutes, and urges Congress to include such amendments to the Act.

CONTACT INFORMATION

Office of Compliance, Room LA 200, John Adams Building, 110 Second Street, SE, Washington, DC 20540–1999, t/ 202–724–9250 tdd/ 202–426–1912 f/ 202–426–1913. Recorded Information Line/ 202–724–9260 www.compliance.gov.

ENDNOTES

[1] Subsections (b)(11) and (b)(12) refer to ''competitive service,'' merit systems principles, and other specific personnel matters within the . . . .

[2] S. 3676, 109th Cong. (2006)

[3] See 5 U.S.C. 1201 et seq.

[4] See 5 U.S.C. §7118(a)(1)

[5] See 29 U.S.C. §660(c)(2). See also Federal Mine Safety and Health Act, 30 U.S.C. §815 which grants the Secretary of Labor the authority to prosecute a discrimination claim before the Federal Mine Safety and Health Review Commission.

[6] These procedures do not apply to federal sector equal employment opportunity.

[7] 29 U.S.C. §158(a)(4); §160(b).

[8] 29 U.S.C. §657.

[9] See ''Testimony of David M. Walker, Comptroller General of the United States Before the Subcommittee on the Legislative Branch, Committee on Appropriations, U.S. Senate'' (May 17, 2005), p. 9.

[10] OSHA Directive CPL 2–0.124, December 10, 1999.

[11] Id, Sections X(c) and X(e).

[12] Act of June 27, 1944, ch. 287, 58 Stat. 387, amended and codified in various provisions of Title 5 of the United States Code.

[13] Pub. L. 105–339, 112 Stat. 3186 (October 31, 1998).

[14] Sen. Rept. 105–340, 105 Cong., 2d Sess. at 19 (Sept. 21, 1998).

[15] VEOA '' 4(c)(1) and (5).

HONORING PRESIDENT GERALD FORD

Mr. SCHUMER. Mr. President, it is with great sadness but great honor that I rise to commemorate the life and actions of Gerald R. Ford, the 38 President of the United States. President Ford led our country through turbulent and uncertain times and did so with a kind of strong modesty that he was known for his entire life. From his days as a star of the University of Michigan football team to serving as minority leader in the U.S. House of Representatives, Gerald Ford's ability to lead was apparent to all. Aside from his leadership qualities, President Ford was a man beyond reproach and respected by all. These qualities made him Richard Nixon's choice to replace his first Vice President, Spiro Agnew. Following President Nixon's resignation, Gerald Ford returned honor to the office of the President and restored the country's confidence in our leaders. Gerald Ford exemplified the best of America and served the country in every way. From his heroism in World War II to his Presidency and graceful retirement, he harkens back to a day when love of country and bipartisanship were paramount.

Mrs. DOLE. Mr. President, it is with a heavy heart that I join with all North Carolinians and all Americans in mourning the passing of President Gerald Ford. I was privileged to call President Ford a dear friend for more than 30 years, and my husband Bob and I continue to keep Betty and the entire Ford family in our thoughts and prayers.

President Ford presided over America during some of her most difficult and challenging times. Immediately upon entering the Oval Office, President Ford was confronted with a myriad of problems—a faltering economy, energy shortages, international disputes, and a nation disheartened and disillusioned by scandal. He confronted these challenges head-on, and he did so with honesty, integrity, common sense, and decency. He was a true American patriot who never failed to put the interests of his country above his own political interests. And, to me, that is the embodiment of a true leader.

Long before entering the White House, President Ford had a distinguished and successful career. He diligently represented the people of Michigan in the U.S. House of Representatives for 25 years, including 8 years serving as House minority leader. Throughout each chapter of his career, President Ford displayed extraordinary care and thoughtfulness as he worked tirelessly to bring together his colleagues—from both sides of the ideological spectrum—for the betterment of our Nation. And in turn, his colleagues respected him, relied on his wise judgment, and valued his leadership.

As my husband Bob says, President Ford was the type of person you would want as your next-door neighbor. He was humble, down-to-earth, and accessible. What you saw with President Ford was what you got.

In addition to having the honor of serving in President Ford's administration as a Federal Trade Commissioner, I had the privilege of spending a good bit of time with President Ford and his dear wife Betty when my husband campaigned as his running mate in 1976. During this time, I saw a side of the President that I wish every American could have seen.

I will never forget the day when President Ford announced that Bob would be his running mate. We were in Bob's hometown of Russell, KS, and my mother-in-law wanted very much to serve a home-cooked fried chicken dinner to the President. But when President Ford and Bob arrived at her home, they discovered that Mrs. DOLE had accidentally locked herself out of the house. So there was the President of the United States standing on the front stoop patiently waiting for Mrs. DOLE to find the spare key. She was a nervous wreck, but the President didn't mind one bit—instead, he kindly offered to help her find the key, so together they searched until they found it behind a drainpipe. I have always thought this story about a small kindness truly speaks volumes about the sterling character of a man I have long respected and admired. Even as President Ford had the weight of the world on his shoulders, he always treated his fellow man with kindness, respect, and personal modesty.

President Ford served the United States with courage and distinction, and he provided a shining example for all public servants to follow. I am so proud to have known this man of character, strength, and intellect. I will miss my friend, and I wish the best to Betty, his children, Michael, John, Steven, and Susan, and the entire Ford family.

Ms. SNOWE. Mr. President, I rise today to state how proud I was to support Senate Resolution 19, celebrating the life of the late President Gerald R. Ford.

It was an honor to commemorate the extraordinary legacy of the 38th President of the United States, Gerald Rudolph Ford, as we have mourned the loss of a treasured national leader and exceptional public servant.

President Ford will forever be remembered for his unassailable integrity and decency, at a most difficult and challenging time. He was truly a great American who devoted his life not only to the Nation he loved but also to the finest and most ennobling ideals of public service. Throughout the years, President Ford represented a voice of civility and problem-solving—of consensus-building—and healing. History will record that his contribution to America's story was both indispensable and irrefutable.

When our Nation looked to him for assurance, his stalwart character, disposition, and judgment instilled a quiet and renewed confidence in our country. He restored the public trust in the Presidency and in our Government, reminded us of the strength and durability of our Constitution, and engendered a hope that tempered our anxieties and turned our attention once again to the future.

During his distinguished 25 years as both a Member and later minority

leader of the U.S. House of Representatives, then-Congressman Gerald Ford never sought the office of Vice President or President, but when in 1974 he faced the daunting task of assuming the highest office in the land, his steadfast dedication to the bedrock principles of hardwork, common sense, and duty—so emblematic of his upbringing and his remarkable career in Congress—prepared him to occupy the White House and served him well over the course of his brief but historic tenure.

With an unwavering moral compass, a certain grasp of purpose, and an always-steady resolve, President Ford guided us out of conflict abroad and quelled our concerns here at home and in doing so brought honor to the Oval Office and reassurance to Americans. It is fitting that in football as well as in his public life, Gerald Ford was ever the keystone, the center that held those around him together, who exemplified the essential underpinning that made progress possible.

On a personal note, last summer I had the esteemed privilege of cosponsoring—along with Senators WARNER, STEVENS, and LEVIN—an amendment offered by Senator JOHN WARNER to the 2007 Defense authorization bill that would name our Nation's newest carrier the ''USS *Gerald R. Ford*.'' In fact, the Navy's entire class of future carriers would be known as the Ford class—in honor of the President we praise.

Later this month, that accolade—which the Senate passed unanimously—is expected to come to fruition. Such a bestowal by Navy Secretary Winter would be an appropriate tribute to then-Lieutenant Ford, who, as a sailor in December 1944, encountered a typhoon while aboard the carrier USS *Monterey* and demonstrated the virtues that would emerge as the hallmark of his unflagging service and sacrifice to our Nation, such as calm and courage amid turmoil, presence of mind to act decisively despite confusion and chaos, and an unflinching will of spirit to help others, even at great personal peril.

It has been recounted in the Bob Drury and Tom Clavin book ''Halsey's Typhoon: The True Story of A Fighting Admiral, an Epic Storm, and an Untold Rescue'' that Lieutenant Ford rescued wounded comrades, beat back raging fires, and helped salvage a ship that was ordered to be abandoned. Gerald Ford was integral to the effort driven by the simple belief of the skipper, Captain Ingersoll, that ''we can fix this.'' As part of Admiral Halsey's Third Fleet, they did not give up the USS *Monterey* in what reportedly was ''one of the worst natural disasters in U.S. military history,'' a disaster where much of the fleet was decimated and more men were purportedly killed than in the Battle of Midway.

Mr. President, this story in many ways embodies the essence of this great son of Michigan. The story of the USS *Monterey* is telling in that—like President Ford—it has for years taken a humble and unassuming place in the American narrative—and yet over time has rightfully grown in stature and acclaim. We also see a disposition and valor in a young sailor that would be brought to bear later in life as a statesman. Lieutenant Ford's reaction to conflagration and crisis was to take action and help tamp it down. Gerald Ford helped bring under control the flames that imperiled the USS *Monterey*. He would do similarly as President when charged to guide the ship of state—which he did with a fearless, unflappable demeanor. And which he did, to paraphrase President Lincoln, ''with firmness in the right as God [gave him] to see the right.'' And through his eloquence of action, Gerald Ford moved us all to ''strive on to finish the work we [were] in'' . . . and helped ''to bind up the nation's wounds.'' And for that we are eternally grateful.

Our thoughts and prayers continue to be with First Lady Betty Ford, their children, and the entire Ford family. May God bless and keep President Gerald R. Ford and may God bless the United States of America he so ably led.

HONORING HOLIDAY WREATHS AT ARLINGTON CEMETERY

Ms. SNOWE. Mr. President, I rise today to recognize and honor the patriotic and exemplary contribution of Morrill Worcester, owner of Worcester Wreath Company in Harrington, ME, who for the past 15 years has undertaken what has become an extraordinary tradition—to donate, transport, and oversee the placement of Maine balsam fir holiday wreaths on the graves of the exceptional service men and women buried and forever extolled at Arlington National Cemetery.

It is truly inspiring to see how the actions of one man can transform into such an honorable and moving tribute to America's fallen heroes. Unquestionably, I am immensely grateful to have been part of Morrill Worcester's dream, which began in December of 1992 when he called my office to ask if he could place his excess wreaths on the graves of soldiers at Arlington National Cemetery. I never could have imagined that what occurred on that day would evolve remarkably into a nationwide gesture of unfailing gratitude for our troops.

During the season of thankfulness and giving, Morrill Worcester's tremendous generosity exemplifies not only the very best of the holiday spirit but also the inherent good will and can-do belief which is the abiding hallmark of Mainers. And what better way to celebrate the joy engendered by that time of year than to pay rightful homage to the countless courageous veterans who made the ultimate sacrifice to ensure and protect the many freedoms we cherish everyday. It is on occasions such as this that I could not be more proud to be both a Mainer and an American.

This past December Mr. Worcester was joined by 800 volunteers, including Maine Civil Air Patrol Units, local VFW and American Legion Posts, military units, congressional staffers, schoolchildren, Scout troops, and an array of American veterans for the trek down U.S. Route 1 from Harrington to Washington, DC, with 5,000 Maine balsam fir holiday wreaths.

In fact, it was on Thursday, December 14, 2006 when the tractor-trailer with the logo ''Wreaths across America'' was parked at the top of the 11th section of the cemetery, with more than 500 volunteers gathered and ready to grace those monuments to heroism with red ribbons, making an already beautiful testament to bravery and valor even more stunning and glorious. The Maine wreaths were also laid on the grave of Edmund Muskie, former U.S. Senator from Maine and Secretary of State, and near the sites of the Tomb of the Unknown Soldier and the USS *Maine* Memorial.

The many white tombstones that one day prior had stood barren now had come to life because of one man and hundreds of dedicated volunteers who, with full hearts and sharing hands, simply took the time to thank those who sacrificed themselves on our behalf—men and women whose undaunted service recalls the timeless words of President John Adams: ''If we do not lay out ourselves in the service of mankind whom should we serve?''

With many of America's finest in harm's way, especially in Iraq and Afghanistan, it is more imperative than ever that we remember always that freedom is not free—and there are those who gave the full measure of devotion to protect us and defend our liberty.

A NEW CHANCE FOR GUN LEGISLATION

Mr. LEVIN. Mr. President, on April 20, 1999, two students walked into Columbine High School and carried out a shooting rampage, killing 12 fellow students and a teacher, as well as wounding 24 others, before committing suicide. A week later, we paused in the Senate to observe a moment of silence in tribute to those who died and to express our sympathy for their loved ones. Since this tragic event, many of us, on many occasions, have urged our colleagues to debate and pass sensible gun legislation.

Between 1999 and 2004, over 117,000 people have been killed by guns, criminals continue to gain easy access to guns and law enforcement officers do not have the tools they need to investigate gun-related crimes. The 109th Congress nonetheless has failed to act and has missed numerous opportunities to enhance the safety of our communities across the Nation. Congress has not reauthorized the 1994 assault weapons ban. Congress has not closed the

gun show loophole. Congress has failed to make the necessary improvements to the National Instant Criminal Background Check System that could significantly decrease the likelihood of convicted criminals gaining access to guns. And, the President has failed to provide the necessary leadership. Instead we have seen a continual rise in the levels of gun related crime. This increase in crime levels has not been restricted to America's largest cities, but has also permeated America's small and mid-sized cities. As Paul Helmke, president of the Brady Campaign to Prevent Gun Violence and former mayor of Fort Wayne, IN, describes it:

For almost six years, many have systematically made it easier for criminals to have access to firearms by weakening enforcement of laws that cut illegal gun trafficking, supporting policies that encourage more firearms on the streets of American cities, putting AK–47s and other military-style semi-automatic weapons back onto our streets and even placing huge restraints on the ability of governments and individuals to hold the gun pushers accountable through the civil court system.

The 110th Congress has a fresh opportunity to act on a bipartisan basis to pass legislation that will make our streets safer for all Americans. I urge my colleagues to work to enact sensible gun safety legislation for the benefit of our families, communities and police officers.

CREATION OF A U.S. AFRICA COMMAND

Mr. FEINGOLD. Mr. President, as the Defense Department continues its planning for the creation of an Africa Command, it is important to realize that the creation of a new regional combatant command focused exclusively on Africa will have a profound impact on our country's presence, policies, and engagement in what is becoming one of the most critical regions of the world. New bases, new personnel, new missions, new efforts, and new relationships will be created, and our potential to have a positive impact throughout the continent will be enhanced greatly.

We have to be strategic and forward-thinking as we create this new organization, though. Because we are making such a profound change to our posture on the continent, we need to ensure that the new organization will contribute to, not define, the U.S. Government's overall strategy and objectives for the continent. We also need to make sure that the U.S. military's activities and involvement on the continent do not overshadow, skew, or otherwise hinder our Government's other key objectives.

It is clear that challenges in Africa are diverse and complex. We have a number of security-related concerns there, ranging from terrorist organizations and safe havens to large-scale corruption, regional conflicts, and the disruption of global energy markets. Continuing to establishing firm and productive military-to-military relations with a number of African nations is also critical.

But we have learned that the way to address the underlying causes of the security challenges throughout the continent is not generally through military power. In fact, the best way to address the full range of security-related concerns in Africa is to focus on the underlying conditions that plague governments and societies throughout the continent. Security threats and instability stem from corruption, absence of human rights, poverty, disease, lagging economies, and joblessness. Weak governments are incapable of addressing the dynamics that often contribute to lawlessness or violence, and are often left without any capacity to help defeat trans-national threats.

Our focus as a government, therefore, must be on strengthening African governance capacities and legitimacy, as well as the commitment to the rule of law, sound democratic mechanisms, and human rights. We must continue to help alleviate the humanitarian suffering that exists throughout the continent, and we must work hard to assist African countries develop sound democratic institutions that are credible and capable, and that have the technical capacity to provide for their people and to govern fairly. Only then will we start to see real returns—real, long-term returns—for our national security.

This isn't to suggest that continued military involvement throughout the continent isn't essential. It is. But only if it is a component of a broader strategy to address these underlying causes of instability. U.S. military activities throughout Africa must help support a larger framework that seeks to strengthen African governments and balance the need for good governance and security capacity. Our security assistance to African nations, and more broadly, the work of the U.S. military throughout Africa, must not interfere with, create an imbalance in, or skew the necessary political, economic, and social work that must be done if we are going to see any long-term improvement in areas of critical concern.

Accordingly, establishing a new combatant command for Africa presents an opportunity to strengthen our national security focus in Africa, but it also presents an opportunity to create a military command with the primary mission of supporting diplomatic, development, humanitarian assistance, and regional initiatives led by the Department of State, USAID, and other agencies. This command, if designed right, will be able to serve as a contributor to broader U.S. Government efforts throughout the continent, and will help provide an additional platform for regional thinking, strategizing, and activity that will advance the strategic interests of our country throughout Africa.

To be effective, of course, this command will take careful planning. It will also take a considerable amount of planning on the part of the Department of State, USAID, and other departments and agencies that will have to adjust to this new organization. It will take intensive coordination and adjustments throughout the civilian interagency and it will be crucial that State, USAID, and other departments and agencies are playing a full role in the creation of this command.

The mission of this command will need to be relatively broad. Africa Command should establish strong security-oriented relationships with our partner nations throughout Africa. These relationships should be coordinated with our embassies and with Washington, but should only be part of our broader efforts with any given country. The command's efforts should be balanced and should take into consideration the scale and scope of diplomatic, development, humanitarian, and human rights efforts in each country.

The command should also prepare to deal with international organizations—particularly the African Union and subregional organizations that often play leading roles in regional and continental peacekeeping efforts, conflict mitigation activities, and humanitarian response. Establishing a strong relationship with the AU and other organizations will be essential to unlocking the potential for Africans to address security challenges throughout their continent.

The command should also prepare to conduct missions that have often taken a backseat to higher profile or less military-focused efforts. Humanitarian assistance—often one of the best ways to win hearts and minds in the immediate aftermath of a natural disaster or conflict—will need to be at the top of the command's list of priorities. So too should efforts to help rebuild societies after conflict. This might take the form of logistical assistance for humanitarian or development personnel, or potentially a direct role for U.S. military personnel, when appropriate. Other critical components of the new command's mission should include anticorruption efforts, leadership training, strengthening civilian oversight of national militaries, preventing the spread of HIV/AIDS, demobilizing or reintegrating ex-combatants, and being on standby for rapid response to new conflicts or challenges.

The Department of Defense does a lot of this already. Many of these missions have been carried out by dedicated men and women in uniform who are stationed in places like Nigeria, Uganda, or at the Combined Joint Task Force—Horn of Africa. The challenge, though, is to establish a command that places these initiatives on its priority list, and to ensure that these efforts are resourced appropriately, are coordinated with the appropriate departments and agencies, and that they do not distort or disrupt other key initiatives throughout the continent.

With this new mission and these challenges in mind, I would like to

raise a series of issues that I believe to be important as our government begins developing this new command.

First, as the Department of Defense plans for the creation of an Africa Command, it is essential that it think outside of the traditional model of the regional combatant command. While this new command will help us defeat terrorist networks that operate, recruit, stage, or otherwise seek haven throughout the continent of Africa, this new command should not have combat as its primary mission. It should have as its core mission the task of supporting bilateral, regional, and continental diplomatic and development efforts. It also should be focused on bolstering State, USAID, and other government activities—providing resources, information, and logistical support for programs that have often been slowed or stopped because of the very absence of these things.

Second, the creation of an Africa Command and the design of its mission, objectives, and capacity, must be done in concert with the Department of State, the U.S. Agency for International Development, and other departments and agencies that are active in Africa. This new organization—the first regional command to be focused exclusively on Africa—will obviously be military in nature, but it must cast a new mold for regional combatant commands that incorporates interagency interests and responsibilities from the outset, as well as personnel from throughout the government that can help advance the mission of the U.S. Government in Africa. The Department of State and USAID personnel should be embedded deeply into the command and should play important leadership roles in the various components of this command. Formal coordination mechanisms, too, must be established between the new command, our embassies, Washington, and other pertinent regional and functional commands around the world.

Given its potential impact throughout the continent, we should make every effort to ensure that the command represents a unified U.S. Government effort, and that in the early planning phases of this command that civilian interagency requirements are absorbed and incorporated into the final organization.

Third, and more specifically, the planning process for the creation of an Africa Command must be met with parallel—and equally aggressive—discussions within the Department of State. The Department of State must realize that an Africa Command will have a significant impact on how it does its business and how it coordinates and collaborates with the Defense Department. It should begin planning for internal bureaucratic changes, as well as posture changes throughout the continent, to account for the fact that the Defense Department's presence and focus will be regional, while the Department of State's efforts will remain largely bilateral.

Africa Command will help alleviate many coordinate challenges between departments that have existed to date. But it won't change the fact that the State Department still focuses on bilateral relationships and often has trouble organizing, coordinating, or planning for regional initiatives or programs. Closer State-DOD relations will come about as a result of the creation of Africa Command if and when the State Department begins addressing how it can better organize itself to address regional conflicts, transnational counterterrorism efforts, humanitarian emergencies that spill over borders, and ungoverned spaces.

We must also recognize the resource disparity between the Defense Department and the Department of State. This will most likely be an important issue as this new command is created. But short of dramatically increasing the State Department's budget in the next few years to account for an additional and needed focus on Africa, it will be essential that the State Department maintain a leadership role throughout this entire process, and that it adjusts itself to better manage and coordinate all U.S. government efforts throughout the continent. The State Department should apply its best Africa and political-military minds to DOD's efforts to create this new command, and it should view its role as both client and patron, knowing well that the creation of this new command will require new leadership efforts within the State Department.

Fourth, it is crucial that the Defense Department and the State Department move faster to establish joint planning mechanisms—both strategic and financial. It has become widely known that Defense and State planning mechanisms are not in sync, and that both organizations plan, or don't plan, for events, missions, and strategic objectives differently. This needs to be addressed immediately. The creation of Africa Command will give both departments an opportunity to begin syncing planning capabilities, and may open the window to truly interagency budgeting and strategic planning processes that will align all U.S. Government resources to address challenges in places like Africa.

This may sound bureaucratic, but it has real implications on how we position our government to address the wide-ranging challenges throughout Africa, and indeed throughout the rest of the world. The State Department develops bilateral strategic plans and generates resource requirements largely based on bilateral, and sometimes multilateral efforts. The Defense Department views things more regionally, establishing regional commands and task forces that can evaluate, strategize, and implement programs based on the needs or challenges unique to a given region—challenges that often transcend national borders or programming allocations. Neither department's strategic planning process is perfect, but I would urge both Departments—in addition to USAID, the Department of Treasury, Justice, Agriculture, as well as others—to begin evaluating how the strategic planning process can incorporate departmental or agency-specific activities and efforts into comprehensive U.S. Government strategies for the continent, subregions, and partner nations. Creating combined planning processes would also benefit lawmakers that are constantly seeking better coordination and a higher return on taxpayer investments.

Fifth, and in a related vein, the President should make absolutely clear that ambassadors—chiefs of mission in any given country—are his representatives and must be accountable and responsible for all actions taken on behalf of the U.S. Government in any given country. It is essential that ambassadors have the ultimate say of what happens in country, and that he or she has the ability to ''turn off'' any programs, initiatives, or efforts that may adversely affect our government's broader goals in or relationship with a given country. That said, the Department of State may want to consider creating a new position for Africa that can help liaise—at a sufficiently senior level—with the senior Africa Command commander on daily issues. This position would be more than a political advisor. This person would ideally have the ability to make decisions at the traditional three- or four-star level, and provide a substantive and management-oriented perspective on State and DOD efforts throughout the continent. This person would ideally not be based in Washington, and might benefit from serving side-by-side with the new combatant commander.

The Department of State—both in Washington and at our embassies—must step up and play a stronger leadership role. I would imagine that DOD would welcome this. In many countries in Africa the Defense Department represents the bulk of U.S. efforts or presence. Our security assistance programs are wide-ranging and often overshadow development, economic, or political assistance to fragile and poor countries. This is not to suggest that the creation of a new command for Africa is bad. It is not. I authored a successful piece of legislation last year that required the Defense Department to do a complete feasibility study on this very issue. I believe that it will enhance our ability to do important work throughout Africa, and that it will have a positive impact on our national security. But it is essential that as we increase our efforts to strengthen the security capabilities of our partners in Africa, we do not undermine critical human rights and that we work to strengthen democratic institutions. The State Department must prepare to exert its authority and influence on the new command's activities and ensure that future U.S. Government efforts in Africa are balanced and take into consideration the larger strategic efforts in any

given country, region, and throughout the continent.

Finally, the Congress needs to be prepared to support this new effort. It will be essential that Congress take into account the needs of the Defense Department and the individual uniformed services as this new command is created. But it is equally essential that Congress take into account the needs of the State Department, USAID, and other agencies that are trying to ramp up their efforts throughout the continent. If anything, the creation of a new combatant command for Africa should signal the dramatically increasing importance of Africa to our national security, and that to truly address the range of challenges present there we need to look at an equally aggressive plan to strengthen our diplomatic, development, humanitarian, and human rights work throughout the continent. This may include addressing how the Congress allocates funds—both to this new command and to the other departments and agencies that will make the spirit and intent of this command work.

In closing, we must focus greater resources on Africa but we should ensure that our efforts in Africa do not become primarily military in nature, and that the State Department continues to play the primary leadership role with respect to our efforts on the continent. Those within the Defense Department, the State Department, at USAID and other key departments and agencies will need to use this as an opportunity to evaluate and enhance the way they do business. The success of this governmental effort requires it, and our national security depends on it.

COAL TO LIQUIDS FUEL PRODUCTION ACT

Mr. OBAMA. Mr. President, I am pleased to join my distinguished colleague, the Senator from Kentucky, Mr. BUNNING, in introducing this important legislation.

The geologic deposit known as Illinois Basin Coal—which lies beneath Illinois, Indiana and Kentucky—has more untapped energy potential than the combined oil reserves of Saudi Arabia and Kuwait. This coal deposit underlies more than 65 percent of the surface of the State of Illinois, with recoverable reserves estimated to be in excess of 38 billion tons from my State alone. Moreover, with just a glance at a map of Illinois, one can see that my State is dotted with towns that reflect our 200-year coal mining history—towns with names like Carbondale, Energy, Carbon Hill, Coal City, and Zeigler.

In some parts of Illinois, however, these names are just shadows of the past. More than 15 years ago, upon the enactment of the Clean Air Act Amendments of 1990, coal mining in Illinois was drastically transformed. Given the high sulfur content of Illinois coal, many users switched from Illinois coal to other, lower sulfur coals mined out West. As a result, thousands of Illinois jobs vanished, and with it, the life force of many of these towns. Air quality throughout the Nation improved drastically, but vast energy resources were rendered idle, awaiting new future technologies.

Today, we are exploring those new technologies, which promise a renaissance for coal communities. Two east central Illinois towns, for example, are under consideration for the billion-dollar FutureGen project, which many of my colleagues know will be the first near zero-emissions coal-fired powerplant in the world.

But coal from the Illinois Basin, with its high energy content, is a superb feedstock not just for power generation, as promised by FutureGen, but also for the manufacture of Fischer-Tropsch—FT—fuel. Created in the 1920s by German scientists and used during World War II, the FT process is the major fuel source for vehicles in South Africa. In both nations, the production of diesels from coal was developed as a response to petroleum embargoes against those nations at various points in their history.

Meanwhile, in the United States, more than 55 percent of our fuel consumption continues to come from foreign oil, and that number is growing. Our economy is exposed to potential jeopardy from oil supply disruptions and price shocks. We must diversify our fuel supply, and that means all domestic options should be on the table for consideration.

Fischer-Tropsch fuel is interchangeable with standard diesel, functioning in existing engines with little or no modification. FT fuels can be transported in our existing fuel distribution infrastructure. Moreover, FT fuels have far lower emissions than standard diesel. The Department of Defense, the largest consumer of petroleum in the United States, has great interest in acquiring this fuel. But Fischer-Tropsch is not manufactured in the U.S., and no focused federal initiatives exist to encourage the development of a Fischer-Tropsch manufacturing base.

The bill introduced by Senator BUNNING and myself will provide that Federal focus. This bill will help to create a new market for abandoned and abundant Illinois Basin coal, revitalizing economic development and jobs in the coal communities of our States. It will help develop the capital infrastructure for producing FT fuels at the levels necessary for preliminary testing by the Department of Defense and for the private sector. It will explore carbon sequestration for this technology before we can pursue construction. And it will play a key role in reducing our Nation's dependence on foreign oil.

I know that there are no perfect answers in the pursuit of energy independence. There is no single fuel or feedstock that offers affordability, reliability, transportability, and sensitivity to the environment in equal ways. But, as we pursue the best course of action for our energy independence, we cannot delay action until we reach the perfect solution. Maintaining our dependency on unstable regions of the world for the fuel that we cannot live without is far too great a risk. Actions taken today must be accompanied by rigorous concurrent debate in preparation for the second and third generation choices of our alternative fuel infrastructure.

I urge my colleagues to support this bill.

ADDITIONAL STATEMENTS

60TH BIRTHDAY OF THE NORTH DAKOTA AIR NATIONAL GUARD

● Mr. DORGAN. Mr. President, January 16, 2007, is a special day for North Dakota.

It is the 60th birthday of the North Dakota Air National Guard. It will also mark a major milestone in the history of the North Dakota Air National Guard. On that day the 119th Fighter Wing will conduct a ceremony honoring the final flight of their F–16s, closing out an illustrious history of flying fighter aircraft in defense of our country.

On that day, the 119th Fighter Wing will also introduce the public to its two new missions, operating Predator unmanned aerial systems and flying light transport aircraft.

The North Dakota Air National Guard began on January 16, 1947. The first Air Guard squadron organized in North Dakota was the 178th Fighter Squadron in Fargo. The first meetings were held in the Army National Guard Armory in downtown Fargo but the squadron moved to Hector Airport by the end of the year.

Duane Larson was the squadron commander during the 1950s. He was nicknamed ''Pappy'' because he was the senior fighter pilot. The squadron started calling themselves Pappy Larson and his Happy Hooligans after an old comic strip. The squadron has been called the Happy Hooligans ever since.

The Happy Hooligans began operations with the P–51D Mustang. They flew the Mustang until 1954. After that they flew F–94s, F–89s, F–102s, F–101B Voodoos and F–4D Phantoms. Since 1990, they have flown F–16s.

On April 1, 1951, the Hooligans were mobilized for Federal service and ordered to active duty during the Korean conflict. When they were demobilized in 1954, they were put on alert to defend against an attack by the Soviet Union. At first, the alert consisted of aircraft on the main ramp of Hector Field with aircrew sleeping in a nearby building on base.

The alert mission was supposed to be a temporary mission for the Happy Hooligans. It was only supposed to last

6 months to a year. It turned into a 52 year stint. From 1954 to 2006, the North Dakota Air National Guard flew alert in more than a dozen states and nearly a dozen nations.

In 1998 the Happy Hooligans established a permanent alert detachment of F–16s, pilots and ground crews at Langley Air Force Base in Virginia. Their mission was to provide air defense for Washington, DC, and other locations along the eastern seaboard. That mission came to an end on October 12, 2006.

I cannot talk about the Happy Hooligans alert mission without mentioning the events of 9/11.

The attack on the World Trade Center in New York precipitated an order for the fighters of 119th Fighter Wing's alert detachment to scramble from Langley. Three North Dakota Air National Guard F–16s took to the air, but regrettably they were not yet over Washington's airspace when American Airlines flight 77 hit the Pentagon. They were still some minutes away. But they then flew, as I understand it, 7 or 8 hours that day performing combat air patrol over the skies of Washington, DC.

In the shock of that morning, I have to tell you that I will never forget what it meant to look up to the bright blue September morning sky and see F–16 fighter planes flying air cover over the Nation's Capitol. We found out later those were the Happy Hooligans from Fargo, ND.

The Happy Hooligans are folks who farm; run drug stores; teach school. They do a lot of things in their community. But they also are members of an Air National Guard unit that maintains and flies aircraft. And they do that better than anybody.

For almost 60 years the Happy Hooligans have ranked with the best fighter pilots in the world. They have flown in contests against the world's top combat pilots, and they have brought the trophies home to Fargo, ND, as proof that they are the best fighter pilots in the world.

Several years ago, USA Today wrote about the Happy Hooligans. It called them the ''Godfathers of air superiority.'' It said, ''When you strap one of these senior fliers into the cockpit of an F–16 Fighting Falcon, the younger boys get out of the way because these are the best air-to-air combat fighters in the world.''

That article was about one of the three times that the 119th Fighter Wing won the Air Force's William Tell competition.

William Tell is the U.S. Air Force's foremost air-to-air competition. It is the Super Bowl of air superiority. F–16 units are not supposed to win it. Reserve component units are not supposed to win it. F–15 teams from active Air Force wings are supposed to win it. But someone must have forgotten to tell this to the Happy Hooligans.

So this National Guard unit from Fargo, ND, has taken its airplanes to the William Tell contest, and they have flown against the world's top combat pilots, and they have brought the William Tell Award home to Fargo, ND, three times, as proof that they are the best fighter pilots in the world.

The Happy Hooligans have also won the Hughes Trophy twice. That award recognizes the outstanding air-to-air unit in the country. It too has been dominated by F–15s. The 119th is the only F–16 unit that has ever won it.

Alongside their flying record, the Happy Hooligans also have an unmatched safety record.

Since 1973, they have flown more than 150,000 hours in F–101s, F–4s and F–16s without a single major accident. That amount of flight time translates to about 17 accident-free years in the air.

That is the longest continuous period of safe fighter aircraft operations for any Air National Guard fighter unit and one of best safety records in U.S. Air Force history. In March 2006, the 119th Fighter Wing was recognized for flying its F–16s for a total of 70,000 hours in 3,920 individual sorties without mishap. That is also a record.

All those trophies and records are a testament to the thousands of men and women who have served in the North Dakota Air National Guard since 1947. The pilots make the headlines but they would not get off the ground without all the other people in the unit.

U.S. defense policy is changing, and the role of the Happy Hooligans is going to change with it.

But make no mistake about it: the 119th Wing will still lead the way, doing its job for America.

The Happy Hooligans are going to accept their new missions of controlling unmanned aerial vehicles and flying the future Joint Cargo Aircraft with the same enthusiasm and professionalism as they flew fighters. And they will perform those missions better than anyone else in the country. Because that is the way they do everything.●

HONORING CORTLANDT DIETLER

● Mr. SALAZAR. Mr. President, I would like to recognize Cortlandt Dietler, a great Coloradan who tonight is receiving the National Western Stock Show's 2007 Citizen of the West award. This is an honor befitting a man whose life and career exemplify the Western values of independence, hard work, and humility.

A native Coloradan, Cort is a pioneer in the oil industry and has helped make Denver an energy center for our Nation. He began his career with ARAMCO in Lebanon in 1947, and has been involved with more than 30 energy companies since, many of which he has led or has founded. Today, he is the chairman of TransMontaigne Inc, a petroleum product distribution and marketing company which he founded. He is so respected in his industry that his peers have honored him repeatedly; in 1976 the Denver Petroleum Club named him the Oil Man of the Year, in 1986 the Colorado Petroleum Association named him the Pioneer Oil Man of the Year, and in 2003 the Independent Petroleum Association of the Mountain States selected him as the Wildcatter of the Year.

I have known Cort to be a spirited contributor to his community. He lends his expertise to organizations like the Denver Art Museum, the El Pomar Foundation, and the Buffalo Bill Memorial Association. He is generous as a philanthropist and has a candid voice on the shared challenges we face.

While Cort has worked primarily in the oil industry, he has also worked in ranching and with the National Western Stock Show for many years. He and a partner ran a cattle operation in the Eagle River Valley, near Vail, and bred thoroughbreds for racing.

He is being honored today because he epitomizes the values which are so central to Western life—he has worked hard, acted ethically, and served his community with humility and honor. Cort belongs among the select group of leaders who have received this award, and I congratulate him on this honor.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 5:43 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. 2. An act to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage.

ENROLLED BILL SIGNED

The President pro tempore (Mr. BYRD) reported that he had signed the following enrolled bill, which was previously signed by the Speaker of the House:

S. 159. An act to redesignate the White Rocks National Recreation Area in the State of Vermont as the ''Robert T. Stafford White Rocks National Recreation Area''.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 2. An act to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage.

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–252. A communication from the Principal Deputy, Office of the Under Secretary of Defense (Personnel and Readiness), transmitting, authorization of 2 officers to wear the insignia of brigadier general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

EC–253. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting, a report on the approved retirement of General John P. Abizaid, United States Army, and his advancement to the grade of general on the retired list; to the Committee on Armed Services.

EC–254. A communication from the Federal Register Certifying Office, Financial Management Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Administrative Offset Under Reciprocal Agreements with States'' (RIN1510–AB09) received on January 9, 2007; to the Committee on Banking, Housing, and Urban Affairs.

EC–255. A communication from the Regulatory Specialist, Office of the Comptroller of the Currency, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Community Reinvestment Act Regulations'' (RIN1557–AD00) received on January 9, 2007; to the Committee on Banking, Housing, and Urban Affairs.

EC–256. A communication from the Director, Strategic Human Resources Policy Division, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Awards'' (RIN3206–AL06) received on January 9, 2007; to the Committee on Homeland Security and Governmental Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–1. A resolution adopted by the Senate of the State of Louisiana relative to memorializing Congress to adopt the Constitution Restoration Act; to the Committee on the Judiciary.

SENATE RESOLUTION NO. 16

Whereas, in 2005, the United States Supreme Court, in two razor thin majorities of 5–4 in Van Orden v. Perry (Texas) and ACLU v. McCreary County (Kentucky), concluded that it is inconsistent with the First Amendment to display the Ten Commandments in an outdoor public square in Texas, but not on the courthouse walls of two counties in Kentucky; and

Whereas, at the instance of the Indiana Civil Liberties Union, a federal judge recently ordered the Indiana House of Representatives to discontinue opening its sessions in prayer in the name of Jesus Christ, ruling that the practice is now ''unconstitutional''; and

Whereas, despite the fact that America's Constitution ends with an acknowledgment of Jesus Christ in Article VII, providing in pertinent part ''Done . . . in the Year of our Lord . . .,'' threats of federal court litigation over the acknowledgment of God now have some Americans doubtful whether it is even ''constitutional'' to extend greetings of ''Merry Christmas'' or otherwise publicly acknowledge the historical birth of Christ; and

Whereas, the First Amendment of the United States Constitution, which provides in part that ''Congress shall make no law respecting an establishment of religion,'' is specific and unequivocal instruction to only the United States Congress and the United States Constitution makes no restriction on the ability of states, municipalities, or individuals to acknowledge God, the Supreme Ruler of the Universe; and

Whereas, the federal judiciary has overstepped its constitutional boundaries and ruled against the acknowledgment of God as the sovereign source of law, liberty, and government by local and state officers and other state institutions, including state schools; and

Whereas, a constant complaint from the federal courts is that their caseloads are too heavy due in part to an increasingly large proportion of cases consuming the docket of federal courts which involve ''unconstitutional separation between church and state'' claims involving litigants who claim to be offended at the mention of Jesus Christ; and

Whereas, one significant way dockets of federal courts could be reduced would be the adoption of the Constitutional Restoration Act by Congress which would remove the jurisdiction of the federal courts over these types of claims or controversies under the authority of Article III, Section 2, of the United States Constitution; and

Whereas, the Senate of the Louisiana Legislature recognizes that this is the season to give gifts and be charitable and an integral part of the season is the inclusion and acknowledgment of Jesus Christ: Therefore, be it

Resolved, That the Senate of the Legislature of Louisiana memorializes the Congress of the United States to adopt the Constitution Restoration Act, thereby reducing the caseload of our federal courts by removing from their jurisdiction any and all cases involving the acknowledgment of God as the sovereign source of law, liberty, or government as authorized by Article III, Section 2, of the United States Constitution. Be it further

Resolved, That a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana delegation to the United States Congress.

POM–2. A concurrent resolution adopted by the Legislature of the State of Louisiana relative to memorializing Congress to adopt the Constitution Restoration Act; to the Committee on the Judiciary.

SENATE CONCURRENT RESOLUTION NO. 23

Whereas, in 2005, the United States Supreme Court, in two razor thin majorities of 5–4 in Van Orden v. Perry (Texas) and ACLU v. McCreary County (Kentucky), concluded that it is inconsistent with the First Amendment to display the Ten Commandments in an outdoor public square in Texas, but not on the courthouse walls of two counties in Kentucky; and

Whereas, at the instance of the Indiana Civil Liberties Union, a federal judge recently ordered the Indiana House of Representatives to discontinue opening its sessions in prayer in the name of Jesus Christ, ruling that the practice is now ''unconstitutional''; and

Whereas, despite the fact that America's Constitution ends with an acknowledgment of Jesus Christ in Article VII, providing in pertinent part ''Done . . . in the Year of our Lord . . .,'' threats of federal court litigation over the acknowledgment of God now have some Americans doubtful whether it is even ''constitutional'' to extend greetings of ''Merry Christmas'' or otherwise publicly acknowledge the historical birth of Christ; and

Whereas, the First Amendment of the United States Constitution, which provides in part that ''Congress shall make no law respecting an establishment of religion,'' is specific and unequivocal instruction to only the United States Congress and the United States Constitution makes no restriction on the ability of states, municipalities, or individuals to acknowledge God, the Supreme Ruler of the Universe; and

Whereas, the federal judiciary has overstepped its constitutional boundaries and ruled against the acknowledgment of God as the sovereign source of law, liberty, and government by local and state officers and other state institutions, including state schools; and

Whereas, a constant complaint from the federal courts is that their caseloads are too heavy due in part to an increasingly large proportion of cases consuming the docket of federal courts which involve ''unconstitutional separation between church and state'' claims involving litigants who claim to be offended at the mention of Jesus Christ; and

Whereas, one significant way dockets of federal courts could be reduced would be the adoption of the Constitutional Restoration Act by Congress which would remove the jurisdiction of the federal courts over these types of claims or controversies under the authority of Article III, Section 2, of the United States Constitution; and

Whereas, the Louisiana Legislature recognizes that this is the season to give gifts and be charitable and an integral part of the season is the inclusion and acknowledgment of Jesus Christ: Therefore, be it

Resolved, That the Legislature of Louisiana memorializes the Congress of the United States to adopt the Constitution Restoration Act, thereby reducing the caseload of our federal courts by removing from their jurisdiction any and all cases involving the acknowledgment of God as the sovereign source of law, liberty, or government as authorized by Article III, Section 2, of the United States Constitution. Be it further

Resolved, That a copy of this Resolution be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana delegation to the United States Congress.

POM–3. A resolution adopted by the House of Representatives of the State of Louisiana relative to memorializing Congress to take such actions as are necessary to create a federal catastrophe fund; to the Committee on Banking, Housing, and Urban Affairs.

HOUSE RESOLUTION NO. 6

Whereas, creation of a federal catastrophe fund is a comprehensive, integrated approach to help better prepare and protect the nation from natural catastrophes, such as hurricanes, tornadoes, wildfires, snowstorms, and earthquakes; and

Whereas, the current system of response to catastrophes leaves many people and businesses at risk of being unable to replace what they lost, wastes tax dollars, raises insurance premiums, and leads to shortages of insurance needed to sustain our economy; and

Whereas, creation of a federal catastrophe fund would help stabilize insurance markets following a catastrophe and help steady insurance costs for consumers while making it

possible for private insurers to offer more insurance in catastrophe-prone areas; and

Whereas, a portion of the premiums collected by insurance companies could be deposited into such a fund which could be administered by the United States Treasury and grow tax free; and

Whereas, the federal catastrophe fund would operate as a ''backstop'' and could only be accessed when private insurers and state catastrophe funds have paid losses in excess of a defined threshold; and

Whereas, utilizing the capacity of the federal government would help smooth out fluctuations consumers currently experience in insurance prices and availability because of exposure to large catastrophic losses and would provide better protection at a lower price; and

Whereas, when there is a gap between the insurance protection consumers buy and the damage caused by a major catastrophe, taxpayers across the country pay much of the difference, as congressional appropriations of billions of dollars for after-the-fact disaster relief in the aftermath of Hurricane Katrina demonstrated: Therefore, be it

Resolved, That the House of Representatives of the Legislature of Louisiana does hereby memorialize the United States Congress to take such actions as are necessary to create a federal catastrophe fund; and be it further

Resolved, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM–4. A concurrent resolution adopted by the Legislature of the State of Louisiana relative to commending and memorializing Congress for passing the Domenici-Landrieu Gulf of Mexico Energy Security Act of 2006; to the Committee on Energy and Natural Resources.

SENATE CONCURRENT RESOLUTION NO. 16

Whereas, since 1930 the coastal landscape of Louisiana has lost over 1,900 square miles of land, eroding at a rate of 25 square miles every year. In addition, hurricanes Katrina and Rita converted over 200 square miles of wetlands into open water; and

Whereas, the communities, economy, natural resources, and cultural heritage of south Louisiana remain vulnerable to the extremes of coastal flooding, hurricanes, and land loss; and

Whereas, the protection and restoration of coastal Louisiana will require a long term commitment of funding to establish comprehensive, effective and sustainable coastal protection projects and programs; and

Whereas, the Louisiana congressional delegation has been working for decades to secure a steady stream of revenue to fund the critical work of coastal protection and restoration in Louisiana; and

Whereas, since the inception and development of federal offshore oil and gas production in the Gulf of Mexico, the state of Louisiana has provided essential onshore support for such production; and

Whereas, such support has included numerous components of Louisiana's vital ''energy corridor'' that provide the nation with a third of its domestic oil and gas supply, including the pipeline systems that cross Louisiana's coastal wetlands; and

Whereas, the countless communities in south Louisiana that form the backbone and labor force to facilitate the delivery of these crucial energy resources to the rest of the nation are critical factors in such support; and

Whereas, the federal government collects over $6 billion each year from the bonus bids, rents and royalties derived from federal leases on the Outer Continental Shelf in the Gulf of Mexico, and under current federal law nearly all of these revenues are deposited into the General Treasury of the United States; and

Whereas, in recognition of the urgent crisis facing coastal Louisiana and of the support provided by each of the Gulf Coast states that produce oil and gas for the nation, and in further acknowledgment of the significant amount of funding available from oil and gas production on the Outer Continental Shelf, the United States Congress passed the Domenici-Landrieu Gulf of Mexico Energy Security Act of 2006 on December 9, 2006; and

Whereas, this act authorizes oil and gas development in about 8.3 million acres of the eastern Gulf of Mexico, including 2.5 million acres within a section known as Lease Area 181; and

Whereas, beginning in the federal Fiscal Year 2007 and in each fiscal year thereafter, this Act directs the secretary of the United States Department of the Interior to share 37.5 percent of the revenues from these new areas with the states of Texas, Louisiana, Mississippi and Alabama for coastal restoration, with such funds to be derived from bonus bids, rents, and royalties on leases within the new areas; and

Whereas, beginning in the federal Fiscal Year 2016 and in each fiscal year thereafter, this Act further directs the secretary of the United States Department of the Interior to share 37.5 percent of the revenues with the states of Texas, Louisiana, Mississippi and Alabama from all new federal oil and gas leases after the date of enactment in existing U.S. Department of Interior, Mineral Management Service, planning areas throughout the Gulf of Mexico; and

Whereas, the enactment of this Act represents the most significant change offshore oil and gas policy in over fifty years; and

Whereas, the dedication of these revenues constitute the beginning of the steady stream of federal funding sought by the Louisiana congressional delegation for decades; and

Whereas, such steady stream of federal funding is a truly significant step towards sustainable coastal protection and restoration as an attainable goal for Louisiana: Therefore, be it

Resolved, That the Legislature of Louisiana commends and memorializes the United States Congress for passing the Domenici-Landrieu Gulf of Mexico Energy Security Act of 2006, which provides for sharing of federal offshore oil and gas revenue with Louisiana for coastal protection and restoration. Be it further

Resolved, That the Legislature of Louisiana congratulates the members of the Louisiana congressional delegation for their dedication, persistence, and vigilance in fighting for a share of federal offshore oil and gas revenues to protect and restore coastal Louisiana through the passage of the Domenici-Landrieu Gulf of Mexico Energy Security Act of 2006. Be it further

Resolved, That the Legislature of Louisiana requests and urges President George W. Bush to immediately sign the Domenici-Landrieu Gulf of Mexico Energy Security Act of 2006. Be it further

Resolved, That a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives, to each member of the Louisiana delegation to the United States Congress, and to the office of the President of the United States.

POM–5. A concurrent resolution adopted by the Legislature of the State of Louisiana relative to memorializing Congress to authorize Louisiana to lease closed interstate rest areas to private entities; to the Committee on Environment and Public Works.

SENATE CONCURRENT RESOLUTION NO. 13

Whereas, many rest areas located on Louisiana's interstate highways have been closed in recent years; and

Whereas, these closed rest areas have created a burden on the state and an eyesore to interstate travelers; and

Whereas, if the Congress authorized Louisiana to lease closed interstate rest areas to private entities, certain conveniences, such as gas stations, auto repair stations and restaurants, could be offered to the traveling public in a convenient manner; and

Whereas, these conveniences would then be available in areas where they are not currently available; and

Whereas, such developments could provide a revenue stream to Louisiana by making use of property in a desirable area not currently being used in commerce: Therefore, be it

Resolved, That the Legislature of Louisiana memorializes the Congress of the United States to authorize Louisiana to lease closed interstate rest areas to private entities in order to provide services and products helpful or desirable to interstate travelers. Be it further

Resolved, That a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana delegation to the United States Congress.

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 Ms. CANTWELL:

S. 235. A bill to authorize the Secretary of the Interior to convey certain buildings and lands of the Yakima Project, Washington, to the Yakima-Tieton Irrigation District; to the Committee on Energy and Natural Resources.

By Mr. FEINGOLD (for himself, Mr. SUNUNU, Mr. LEAHY, and Mr. AKAKA):

S. 236. A bill to require reports to Congress on Federal agency use of data mining; to the Committee on the Judiciary.

By Mrs. FEINSTEIN (for herself, Mr. CRAIG, Mr. KENNEDY, Mr. MARTINEZ, Mrs. BOXER, and Mr. VOINOVICH):

S. 237. A bill to improve agricultural job opportunities, benefits, and security for aliens in the United States and for other purposes; to the Committee on the Judiciary.

By Mrs. FEINSTEIN (for herself, Mr. GREGG, Mr. SUNUNU, Mr. NELSON of Florida, and Mr. LEAHY):

S. 238. A bill to amend title 18, United States Code, to limit the misuse of Social Security numbers, to establish criminal penalties for such misuse, and for other purposes; to the Committee on the Judiciary.

By Mrs. FEINSTEIN:

S. 239. A bill to require Federal agencies, and persons engaged in interstate commerce, in possession of data containing sensitive personally identifiable information, to disclose any breach of such information; to the Committee on the Judiciary.

By Mr. CRAIG (for himself, Mr. DOMENICI, Mr. BINGAMAN, Mr. ENZI, Mr. STEVENS, Mr. BENNETT, Ms. MURKOWSKI, and Mr. BUNNING):

S. 240. A bill to reauthorize and amend the National Geologic Mapping Act of 1992; to the Committee on Energy and Natural Resources.

By Mr. WYDEN (for himself and Mr. AKAKA):

S. 241. A bill to authorize the Secretary of the Interior to enter into cooperative agreements to protect natural resources of units of the National Park System through collaborative efforts on land inside and outside of units of the National Park System; to the Committee on Energy and Natural Resources.

By Mr. DORGAN (for himself, Ms. SNOWE, Mr. GRASSLEY, Mr. KENNEDY, Mr. MCCAIN, Ms. STABENOW, Mr. SPECTER, Mr. BINGAMAN, Ms. COLLINS, Mrs. FEINSTEIN, Mr. DURBIN, Mr. NELSON of Florida, Mr. PRYOR, Mr. KOHL, Mr. LEVIN, Mr. SCHUMER, Mr. LEAHY, Mr. OBAMA, Mr. WYDEN, Mr. SANDERS, Mr. KERRY, Mr. BROWN, Mr. FEINGOLD, Mr. INOUYE, Mrs. LINCOLN, Mr. SALAZAR, Mrs. CLINTON, Mrs. BOXER, and Mr. TESTER):

S. 242. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the importation of prescription drugs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ENSIGN (for himself, Mr. MCCONNELL, Mr. GREGG, Mr. CORNYN, Mr. SESSIONS, Mr. DEMINT, Mr. INHOFE, Mr. COBURN, Mr. VITTER, Mrs. DOLE, Mr. VOINOVICH, Mr. THUNE, Mr. ALLARD, Mr. ALEXANDER, and Mr. BURR):

S. 243. A bill to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system; to the Committee on Health, Education, Labor, and Pensions.

By Mr. GREGG (for himself, Mr. MCCONNELL, Mr. ENSIGN, Mr. CORNYN, Mr. SESSIONS, Mr. DEMINT, Mr. INHOFE, Mrs. DOLE, Mr. VOINOVICH, Mr. THUNE, Mr. ALLARD, and Mr. ALEXANDER):

S. 244. A bill to improve women's access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the delivery of obstetrical and gynecological services; to the Committee on the Judiciary.

By Mr. PRYOR (for himself and Mrs. LINCOLN):

S. 245. A bill to authorize the Secretary of the Interior to designate the President William Jefferson Clinton Birthplace Home in Hope, Arkansas, as a National Historic Site and unit of the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. SNOWE (for herself, Mr. KERRY, Mr. ENZI, and Ms. LANDRIEU):

S. 246. A bill to enhance compliance assistance for small business; to the Committee on Small Business and Entrepreneurship.

By Mr. BOND:

S. 247. A bill to designate the United States courthouse located at 555 Independence Street, Cape Girardeau, Missouri, as the ''Rush Hudson Limbaugh, Sr. United States Courthouse''; to the Committee on Environment and Public Works.

By Mr. BAUCUS (for himself and Ms. SNOWE):

S. 248. A bill to amend the Internal Revenue Code of 1986 to permanently extend and modify the work opportunity credit, and for other purposes; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 249. A bill to permit the National Football League to restrict the movement of its franchises, and for other purposes; to the Committee on the Judiciary.

By Ms. SNOWE (for herself and Mr. WYDEN):

S. 250. A bill to reduce the costs of prescription drugs for Medicare beneficiaries and to guarantee access to comprehensive prescription drug coverage under part D of the Medicare program, and for other purposes; to the Committee on Finance.

By Mr. VITTER (for himself and Mr. DEMINT):

S. 251. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the importation of prescription drugs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. FEINGOLD:

S. 252. A bill to repeal the provision of law that provides automatic pay adjustments for Members of Congress; to the Committee on Homeland Security and Governmental Affairs.

By Ms. LANDRIEU:

S. 253. A bill to permit the cancellation of certain loans under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. ENZI (for himself and Mrs. CLINTON):

S. 254. A bill to award posthumously a Congressional gold medal to Constantino Brumidi; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 255. A bill to provide assistance to the State of New Mexico for the development of comprehensive State water plans, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. COLLINS (for herself, Mr. LIEBERMAN, Mr. CARPER, Mr. COLEMAN, and Mr. AKAKA):

S. Res. 22. A resolution reaffirming the constitutional and statutory protections accorded sealed domestic mail, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

ADDITIONAL COSPONSORS

S. 2

At the request of Mr. KENNEDY, the name of the Senator from Oregon (Mr. WYDEN) 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.

S. 5

At the request of Mr. REID, the name of the Senator from Maine (Ms. COLLINS) 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. 10

At the request of Mr. REID, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 10, a bill to reinstate the pay-as-you-go requirement and reduce budget deficits by strengthening budget enforcement and fiscal responsibility.

S. 43

At the request of Mr. ENSIGN, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 43, a bill to amend title II of the Social Security Act to preserve and protect Social Security benefits of American workers and to help ensure greater congressional oversight of the Social Security system by requiring that both Houses of Congress approve a totalization agreement before the agreement, giving foreign workers Social Security benefits, can go into effect.

S. 65

At the request of Mr. INHOFE, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 65, a bill to modify the age-60 standard for certain pilots and for other purposes.

S. 143

At the request of Ms. CANTWELL, the names of the Senator from Nevada (Mr. REID) and the Senator from Tennessee (Mr. CORKER) were added as cosponsors of S. 143, a bill to amend the Internal Revenue Code of 1986 to make permanent the deduction of State and local general sales taxes.

S. 147

At the request of Mrs. BOXER, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 147, a bill to empower women in Afghanistan, and for other purposes.

S. 191

At the request of Mrs. HUTCHISON, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 191, a bill to provide relief for all air carriers with pension plans that are not frozen pension plans.

S. 195

At the request of Mr. DORGAN, the names of the Senator from Minnesota (Ms. KLOBUCHAR), the Senator from Wyoming (Mr. ENZI) and the Senator from Montana (Mr. TESTER) were added as cosponsors of S. 195, a bill to amend the Federal Crop Insurance Act to establish permanent authority for the Secretary of Agriculture to quickly provide disaster relief to agricultural producers that incur crop or livestock losses as a result of damaging weather or related condition in federally declared disaster areas, and for other purposes.

S. 211

At the request of Mrs. CLINTON, the names of the Senator from Arkansas (Mrs. LINCOLN), the Senator from Kansas (Mr. ROBERTS) and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S. 211, a bill to facilitate nationwide availability of 2–1–1 telephone service for information and referral on human services, volunteer services, and for other purposes.

S. 214

At the request of Mrs. FEINSTEIN, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 214, a bill to amend chapter 35 of title 28, United States Code, to preserve the independence of United States attorneys.

S. 223

At the request of Mr. FEINGOLD, the name of the Senator from Delaware

(Mr. BIDEN) was added as a cosponsor of S. 223, a bill to require Senate candidates to file designations, statements, and reports in electronic form.

S. 233

At the request of Mr. KENNEDY, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 233, a bill to prohibit the use of funds for an escalation of United States military forces in Iraq above the numbers existing as of January 9, 2007.

AMENDMENT NO. 4

At the request of Ms. KLOBUCHAR, her name was added as a cosponsor of amendment No. 4 proposed to S. 1, a bill to provide greater transparency in the legislative process.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS—JANUARY 4, 2007

By Mr. SALAZAR (for himself, Mr. LEAHY, Mr. REID, Mr. MENENDEZ, Mrs. BOXER, and Mrs. FEINSTEIN):

S. 188. A bill to revise the short title of the Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, today I join Senator SALAZAR in introducing a bill to include Cesar E. Chavez among the names of the great civil rights leaders we honor in the title of last year's Voting Rights Act Reauthorization and Amendments Act of 2006, ''VRARA''. I supported taking this action last year during the Senate Judiciary Committee's consideration of the VRARA when I offered an amendment on behalf of Senator SALAZAR to add the Hispanic civil rights leader to those for whom the law is named. As Senator SALAZAR reminded us, Cesar Chavez is an American hero who sacrificed his life to empower the most vulnerable in America. Like Fannie Lou Hamer, Rosa Parks, and Coretta Scott King, for whom the VRARA is named, he believed strongly in the right to vote as a cornerstone of American democracy. I offered the amendment in the Judiciary Committee and it was adopted without dissent.

In order not to complicate final passage of the Voting Rights Act, the Senate proceeded to adopt the House-passed bill without amendment so that it could be signed into law without having to be reconsidered by the House. At that time, I committed to work with Senator SALAZAR to conform the law to include recognition of the contribution to our civil rights, voting rights and American society by Cesar Chavez.

Cesar Chavez's name should be added to the law as important recognition of the broad landscape of political inclusion made possible by the Voting Rights Act. This bill would not alter the bill's vital remedies for continuing discrimination in voting, but is overdue recognition of the importance of the Voting Rights Act to Hispanic-Americans. Prior to the VRA, Hispanics, like minorities of all races, faced major barriers to participation in the political process, through the use of such devices as poll taxes, exclusionary primaries, intimidation by voting officials, language barriers, and systematic vote dilution.

I urge the Senate quickly to take up and pass this measure as we convene the new Congress and commit ourselves again to ensuring that the great promises of the 14th and 15th amendments are kept for all Americans and that the Voting Rights Act Reauthorization and Amendments Act is fully implemented to protect the rights of all Americans.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FEINGOLD (for himself, Mr. SUNUNU, Mr. LEAHY, and Mr. AKAKA):

S. 236. A bill to require reports to Congress on Federal agency use of data mining; to the Committee on the Judiciary.

Mr. FEINGOLD. Mr. President, I am pleased today to introduce the Federal Agency Data Mining Reporting Act of 2007. I want to thank Senator SUNUNU for once again cosponsoring this bill, which we also introduced in the last Congress. Senator SUNUNU has consistently been a leader on privacy issues, and I am pleased to work with him on this effort. I also want to thank Senators LEAHY, AKAKA, and WYDEN, for their continuing support of the bill.

The controversial data analysis technology known as data mining is capable of reviewing millions of both public and private records on each and every American. The possibility of government law enforcement or intelligence agencies fishing for patterns of criminal or terrorist activity in these vast quantities of digital data raises serious privacy and civil liberties issues—not to mention serious questions about the effectiveness of these types of searches. But four years after Congress first learned about and defunded the Defense Department's program called Total Information Awareness, there is still much Congress does not know about the Federal Government's work on data mining.

We have made some progress. We know from reviews conducted by the Government Accountability Office that as of May 2004 there were nearly 200 Federal data mining programs, more than one hundred of which relied on personal information and 29 of which were for the purpose of investigating terrorists or criminals. And we have learned a few more details on five of those programs from a follow-up report that GAO issued in August 2005. We also have a brief report from the DHS Inspector General published in August 2006, and as a result of my amendment to the DHS appropriations bill we have a July 2006 report from the Privacy Office at the Department of Homeland Security that provides some interesting policy suggestions relating to data mining.

But this information has come to us haphazardly, and lacks detail about the precise nature of the data mining programs being utilized or developed, their efficacy, and the consequences Americans could face as a result. Furthermore, much of the reporting thus far has focused on the Department of Homeland Security. It also appears there has been little if any government-wide consideration of privacy policies for these types of programs. Indeed, public debate on government data mining has been generated more by press stories than as a result of congressional oversight.

My bill would require all Federal agencies to report to Congress within 180 days and every year thereafter on data mining programs developed or used to find a pattern or anomaly indicating terrorist or other criminal activity on the part of individuals, and how these programs implicate the civil liberties and privacy of all Americans. If necessary, specific information in the various reports could be classified.

This is information we need to have. Congress should not be learning the details about data mining programs after millions of dollars are spent testing or using data mining against unsuspecting Americans. The possibility of unchecked, secret use of data mining technology threatens one of the most important values that we are fighting for in the war against terrorism—freedom.

Data mining could rely on a combination of intelligence data and personal information like individuals' traffic violations, credit card purchases, travel records, medical records, and virtually any information contained in commercial or public databases. Congress must conduct oversight to make sure that all government agencies engaged in fighting terrorism and other criminal enterprises—not just the Department of Homeland Security, but also the Department of Justice, the Department of Defense and others—use these types of sensitive personal information effectively and appropriately.

Let me clarify what this bill does not do. It does not have any effect on the government's use of commercial data to conduct individualized searches on people who are already suspects, nor does it require that the government report on these types of searches. It does not end funding for any program, determine the rules for use of data mining technology, or threaten any ongoing investigation that might use data mining technology.

My bill would simply provide Congress with information about the nature of the technology and the data that will be used. The Federal Agency Data Mining Reporting Act would require all government agencies to assess

the efficacy of the data mining technology they are using or developing—that is, whether the technology can deliver on the promises of each program. In addition, my bill would make sure that Congress knows whether the Federal agencies using data mining technology have considered and developed policies or guidelines to protect the privacy and due process rights of individuals, such as privacy technologies and redress procedures. With complete information about the current data mining plans and practices of the Federal Government, Congress will be able to conduct a thorough review of the costs and benefits of the practice of data mining on a program-by-program basis and make considered judgments about whether programs should go forward. Congress will also be able to evaluate whether new privacy rules are necessary.

In addition, Congress must look closely at the government's activities because data mining is unproven in this area. Some argue that data mining can help locate potential terrorists before they strike. But we do not, today, have evidence that pattern-based data mining will prevent terrorism. In fact, some technology experts have warned that this type of data mining is not the right approach for the terrorism problem. Just last month, the Cato Institute released a report—coauthored by a scientist specializing in data analytics and an information privacy expert—concluding that ''[t]he only thing predictable about predictive data mining for terrorism is that it would be consistently wrong.''

Some commercial uses of data mining have been successful, but have arisen in a very different context than counterterrorism efforts. For example, the financial world has successfully used data mining to identify people committing fraud because it has data on literally millions, if not billions, of historical financial transactions. And the banks and credit card companies know, in large part, which of those past transactions have turned out to be fraudulent. So when they apply sophisticated statistical algorithms to that massive amount of historical data, they are able to make a pretty good guess about what a fraudulent transaction might look like in the future.

We do not have that kind of historical data about terrorists and sleeper cells. We have just a handful of individuals whose past actions can be analyzed, which makes it virtually impossible to apply the kind of advanced statistical analysis required to use data mining in this way. That raises serious questions about whether data mining will ever be able to locate an actual terrorist. Before the government starts reviewing personal information about every man, woman and child in this country, we should learn what data mining can and can't do—and what limits and protections are needed if data mining programs do go forward.

We must also bear in mind that there will inevitably be errors in the underlying data. Everyone knows people who have had errors on their credit reports—and that is the one area of commercial data where the law already imposes strict accuracy requirements. Other types of commercial data are likely to be even more inaccurate. Even if the technology itself were effective, I am very concerned that innocent people could be ensnared because of mistakes in the data that make them look suspicious. The recent rise in identity theft, which creates even more data accuracy problems, makes it even more important that we address this issue.

I also want to touch on one issue that has proved difficult in many debates about data mining: how to define the term. What is data mining? From policy debates to government reports, many people have wrestled with this question. While it can be defined more broadly, for the purpose of this reporting requirement, data mining is limited to the process of attempting to predict future events or actions by discovering or locating patterns or anomalies in data. However, for purposes of the reporting requirement in this bill, which seeks information on those data mining programs most likely to threaten the privacy and civil liberties of Americans, I have limited the definition in a couple of other ways. First, the bill's core definition of data mining is to conduct a query, search or other analysis of one or more electronic databases to ''discover a predictive pattern or an anomaly indicative of terrorist or criminal activity on the part of any individual or individuals.'' Data mining has a number of applications at various government agencies outside the context of terrorism and other criminal investigations, but I have limited the definition for purposes of this legislation in order to get reports on the programs most likely to raise privacy concerns. For example, the May 2004 GAO report identified a number of government data mining programs whose goals are managing resources efficiently or identifying fraud, waste and abuse in government programs, and that do not rely on personally identifiable information. I am not seeking reports on programs like these.

Second, as I alluded to earlier, the definition explicitly excludes queries to retrieve information from a database that is based on information—such as address, passport number or license plate number—that is associated with a particular individual or individuals. This type of query is a traditional investigative technique. Although government agencies must be careful in their use of commercial databases, simply querying a Choicepoint database for information about someone who is already a suspect is not data mining.

Most Americans believe that their private lives should remain private. Data mining programs run the risk of intruding into the lives of individuals who have nothing to do with terrorism or other criminal activity and understandably do not want their credit reports, shopping habits and doctor visits to become a part of a gigantic computerized search engine operating without any controls or oversight, and without much promise of locating terrorists. As the Cato report put it, ''[t]he possible benefits of predictive data mining for finding planning or preparation for terrorism are minimal. The financial costs, wasted effort, and threats to privacy and civil liberties are potentially vast.''

At a minimum, the administration should be required to report to Congress about the various data mining programs now underway or being studied, and the impact those programs may have on our privacy and civil liberties, so that Congress can determine whether any benefits of this practice come at too high a price to our privacy and personal liberties. As Senator WYDEN and I have told the Director of National Intelligence, we must have a public discussion about the efficacy and privacy implications of data mining. We wrote a letter to him on November 15, 2006, that included the following:

[W]e believe there needs to be a public discussion before the implementation of any government data mining program that would rely on domestic commercial data and other information about Americans. There are serious questions about whether pattern analysis of such data can effectively identify terrorists, given the relative lack of historical data about terrorist activities. And as the furor over the Total Information Awareness program demonstrated, the American public has serious—and legitimate—concerns about the privacy ramifications of programs designed to fish for patterns of criminal or terrorist activity in vast quantities of digital data, collected by other entities for entirely different reasons. Pattern analysis runs the risk of generating a large number of false positives, meaning that innocent Americans could become the subject of investigation. Before we go down that path, it is critical that we have a public discussion about the efficacy and privacy implications of this technology. And, if we decide that data mining is effective enough to warrant spending taxpayer dollars on it, we should establish strong privacy protections to protect innocent people from being the subject of government suspicion.

Of course, the Intelligence Community should be taking advantage of new technologies in its critical responsibility to protect our country from terrorists, and much of its work must remain classified to protect national security. But we can have a public debate about what privacy rules should constrain data mining programs deployed domestically, without revealing sensitive information like the precise algorithms that the government has developed.

This bill is the first step in this process—a way for Congress and, to the degree appropriate, the public to finally understand what is going on behind the closed doors of the executive branch so that we can start to have a policy discussion about data mining that is long overdue. I urge my colleagues to support this bill. All it asks for is information to which Congress and the American people are entitled.

Mr. President, I ask unanimous consent that the text of this 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. 236

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Agency Data Mining Reporting Act of 2007''.

SEC. 2. DEFINITIONS.

In this Act:

(1) DATA MINING.—The term ''data mining'' means a query, search, or other analysis of 1 or more electronic databases, where—

(A) a department or agency of the Federal Government, or a non-Federal entity acting on behalf of the Federal Government, is conducting the query, search, or other analysis to discover or locate a predictive pattern or anomaly indicative of terrorist or criminal activity on the part of any individual or individuals; and

(B) the query, search, or other analysis does not use personal identifiers of a specific individual, or inputs associated with a specific individual or group of individuals, to retrieve information from the database or databases.

(2) DATABASE.—The term ''database'' does not include telephone directories, news reporting, information publicly available to any member of the public without payment of a fee, or databases of judicial and administrative opinions.

SEC. 3. REPORTS ON DATA MINING ACTIVITIES BY FEDERAL AGENCIES.

(a) REQUIREMENT FOR REPORT.—The head of each department or agency of the Federal Government that is engaged in any activity to use or develop data mining shall submit a report to Congress on all such activities of the department or agency under the jurisdiction of that official. The report shall be made available to the public, except for a classified annex described in subsection (b)(8).

(b) CONTENT OF REPORT.—Each report submitted under subsection (a) shall include, for each activity to use or develop data mining, the following information:

(1) A thorough description of the data mining activity, its goals, and, where appropriate, the target dates for the deployment of the data mining activity.

(2) A thorough description of the data mining technology that is being used or will be used, including the basis for determining whether a particular pattern or anomaly is indicative of terrorist or criminal activity.

(3) A thorough description of the data sources that are being or will be used.

(4) An assessment of the efficacy or likely efficacy of the data mining activity in providing accurate information consistent with and valuable to the stated goals and plans for the use or development of the data mining activity.

(5) An assessment of the impact or likely impact of the implementation of the data mining activity on the privacy and civil liberties of individuals, including a thorough description of the actions that are being taken or will be taken with regard to the property, privacy, or other rights or privileges of any individual or individuals as a result of the implementation of the data mining activity.

(6) A list and analysis of the laws and regulations that govern the information being or to be collected, reviewed, gathered, analyzed, or used with the data mining activity.

(7) A thorough discussion of the policies, procedures, and guidelines that are in place or that are to be developed and applied in the use of such technology for data mining in order to—

(A) protect the privacy and due process rights of individuals, such as redress procedures; and

(B) ensure that only accurate information is collected, reviewed, gathered, analyzed, or used.

(8) Any necessary classified information in an annex that shall be available, as appropriate, to the Committee on Homeland Security and Governmental Affairs, the Committee on the Judiciary, the Select Committee on Intelligence, and the Committee on Appropriations of the Senate and the Committee on Homeland Security, the Committee on the Judiciary, the Permanent Select Committee on Intelligence, and the Committee on Appropriations of the House of Representatives.

(c) TIME FOR REPORT.—Each report required under subsection (a) shall be—

(1) submitted not later than 180 days after the date of enactment of this Act; and

(2) updated not less frequently than annually thereafter, to include any activity to use or develop data mining engaged in after the date of the prior report submitted under subsection (a).

Mr. LEAHY. Mr. President, I am pleased today to join with Senators FEINGOLD, SUNUNU and others to introduce the Federal Agency Data Mining Reporting Act of 2007. This important privacy legislation would begin to restore key checks and balances by requiring Federal agencies to report to Congress on their datamining programs and activities. We joined together to introduce a similar bill last Congress. Regrettably, it received no attention. This year, I intend to make sure that we do a better job in considering Americans' privacy, checks and balances, and the proper balance to protect Americans' privacy rights while fighting smarter and more effectively against security threats.

In recent years, the Federal Government's use of data mining technology has exploded. According to a May 2004 report by the General Accounting Office, there are at least 199 different government data mining programs operating or planned throughout the Federal Government, with at least 52 different Federal agencies currently using data mining technology. And, more and more, these data mining programs are being used with little or no notice to ordinary citizens, or to Congress.

Advances in technologies make data banks and data mining more powerful and more useful than at any other time in our history. These can be useful tools in our national security arsenal, but we should use them appropriately so that they can be most effective. A mistake can cost Americans their jobs and wreak havoc in their lives and reputations that can take years to repair. Without adequate safeguards, oversight and checks and balances, these powerful technologies also become an invitation to government abuse. The government must take steps to ensure that it is properly using this technology. Too often, government data mining programs lack adequate safeguards to protect the privacy rights and civil liberties of ordinary Americans, whose data is collected and analyzed by these programs. Without these safeguards, government data mining programs are prone to produce inaccurate results and are ripe for abuse, error and unintended consequences.

This legislation takes an important first step in addressing these concerns by pulling back the curtain on how this Administration is using this technology. It does not by its terms prohibit the use of this technology, but rather provides an oversight mechanism to begin to ensure it is being used appropriately and effectively. This bill would require Federal agencies to report to Congress about its data mining programs. The legislation provides a much-needed check on federal agencies to disclose the steps that they are taking to protect the privacy and due process rights of American citizens when they use these programs.

We need checks and balances to keep government data bases from being misused against the American people. That is what the Constitution and our laws should provide. We in Congress must make sure that when our government uses technology to detect and deter illegal activity that it does so in a manner that also protects our most basic rights and liberties. This bill advances this important goal, and I urge all Senators to support this important privacy legislation.

By Mrs. FEINSTEIN (for herself, Mr. CRAIG, MR. KENNEDY, Mr. MARTINEZ, Mrs. BOXER, and Mr. VOINOVICH):

S. 237. A bill to improve agricultural job opportunities, benefits, and security for aliens in the United States and for other purposes; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, Senators CRAIG, KENNEDY, MARTINEZ, BOXER, VOINOVICH and I are once again introducing legislation that will address the chronic labor shortage in our Nation's agricultural industry. This bill is a priority for me—and for the tens of thousands of farmers who are currently suffering—and I hope we will move it forward early in this Congress.

The Agricultural Job Opportunities, Benefits, and Security Act, or AgJOBS, is the product of more than ten years of work. It is a bipartisan bill supported by growers, farmers, and farm workers alike. It passed the Senate last year as part of the comprehensive immigration reform bill last spring in the 109th Congress. It is time to move this bill forward.

The agricultural industry is in crisis. Farmers across the Nation report a 20 percent decline in labor.

The result is that there are simply not enough farm workers to harvest the crops.

The Nation's agricultural industry has suffered. If we do not enact a workable solution to the agricultural labor crisis, we risk a national production loss of $5 billion to $9 billion each year,

according to the American Farm Bureau.

California, in particular, will suffer. California is the single largest agricultural state in the nation. California agriculture accounts for $34 billion in annual revenue. There 76,500 farms that produce half of the nation's fruits, vegetables, and nuts from only 3 percent of the Nation's farmland.

California farms produce approximately 350 different crops: pears, walnuts, raisins, lettuce, onions, cotton, just to name a few.

Many of the farmers who grow these crops have been in the business for generations. They farm the land that their parents and their grandparents farmed before them.

The sad consequence of the labor shortage is that many of these farmers are giving up their farms. Some are leaving the business entirely. Others are bulldozing their fruit trees—literally pulling out trees that have been in the family for generations—because they do not have the labor they need to harvest their fruit.

Once the trees are gone, they are replaced by crops that do not require manual labor. And our pears, our apples, our oranges will come from foreign sources.

The trend is quite clear. If there is not a means to grow and harvest our produce here, we will import produce from China, from Mexico, from other countries who have the labor they need.

We will put American farmers out of business. And there will be a ripple effect felt throughout the economy: in farm equipment, inputs, packaging, processing, transportation, marketing, lending and insurance. Jobs will be lost and our economy will suffer.

The reality is that Americans have come to rely on undocumented workers to harvest their crops for them.

In California alone, we rely on approximately one million undocumented workers to harvest the crops. The United Farm Workers estimate that undocumented workers make up as much as 90 percent the farm labor payroll.

Americans simply will not do the work. It is hard, stooped labor, requiring long and unpredictable hours. Farm workers must leave home and travel from farm to farm to plant, prune, and harvest crops according to the season.

We must come to terms with the fact that we rely on an undocumented migrant work force. We must bring those workers out of the shadows and create a legal and enforceable means to provide labor for agriculture. That realization is what led to the long and careful negotiations creating AgJOBS.

The AgJOBS bill is a two part bill. Part one identifies and deals with those undocumented agricultural workers who have been working in the United States for the past 2 years or more. Part two creates a more usable H–2A Program, to implement a realistic and effective guest worker program.

The first step requires undocumented agricultural workers to apply for a ''blue card'' if they can demonstrate that they have worked in American agriculture for at least 150 workdays over the past 2 years. The blue card entitles the worker to a temporary legal resident status.

The blue card itself is encrypted and machine readable; it is tamper and counterfeit resistant, and contains biometric identifiers unique to the farm worker.

The second step requires that a blue card holder work in American agriculture for an additional 5 years for at least 100 workdays a year, or 3 years at 150 workdays a year.

Blue card workers would have to pay a $500 fine. The workers can travel abroad and reenter the United States and they may work in other, non-agricultural jobs, as long as they meet the agricultural work requirements.

The blue card worker's spouse and minor children, who already live in the United States, may also apply for a temporary legal status and identification card, which would permit them to work and travel.

The total number of blue cards is capped at 1.5 million over a five year period and the program sunsets after 5 years.

At the end of the required work period, the blue card worker may apply for a green card to become a legal permanent resident.

There are also a number of safeguards. If a blue card worker does not apply for a green card, or does not fulfill the work requirements, that individual can be deported.

Likewise, a blue card holder who commits a felony, three misdemeanors, or any crime that involves bodily injury, the threat of serious bodily injury, or harm to property in excess of $500, cannot get a green card and can be deported.

This program, for the first time, allows us to identify those hundreds of thousands of farm workers who now work in the shadows. It requires the farm workers to come forward and to be identified in exchange for the right to work and live legally in the United States. And it gives farmers the legal certainty they need to hire the workers they need.

The program also modifies the H–2A guest worker program so that it realistically responds to our agricultural needs.

Currently, the H–2A program is bureaucratic, unresponsive, expensive, and prone to litigation. Farmers cannot get the labor when they need it. AgJOBS offers a much-needed reform of the outdated system.

The labor certification process, which often takes 60 days or more, is replaced by an ''attestation'' process. The employer can file a fax-back application form agreeing to abide by the requirements of the H–2A program. Approval should occur in 48 to 72 hours.

The interstate clearance order to determine whether there are U.S. workers who can qualify for the jobs is replaced by a requirement that the employer file a job notification with the local office of the state Employment Security Agency. Advertising and positive recruitment must take place in the local labor market area.

Agricultural associations can continue to file applications on behalf of members.

The statutory prohibition against ''adversely affecting'' U.S. workers is eliminated. The Adverse Effect Wage Rate is instead frozen for 3 years, and thereafter indexed by a methodology that will lead to its gradual replacement with a prevailing wage standard.

Employers may elect to provide a housing allowance in lieu of housing if the governor determines that there is adequate rental housing available in the area of employment.

Inbound and return transportation and subsistence are required on the same basis as under the current program, except that trips of less than 100 miles are excluded, and workers whom an employer is not required to provide housing are excluded.

The motor vehicle safety standards for U.S. workers are extended to H–2A workers.

Petitions for admission of H–2A workers must be processed and the consulate or port of entry notified within 7 days of receipt. Requirements are the same as current law.

Petitions extending aliens' stay or changing employers are valid upon filing.

Employers may apply for the admission of new H–2A workers to replace those who abandoned their work or are terminated for cause, and the Department of Homeland Security is required to remove H–2A aliens who abandoned their work.

H–2A visas will be secure and counterfeit resistant.

A new limited federal right of action is available to foreign workers to enforce the economic benefits required under the H–2A program, and any benefits expressly offered by the employer in writing. A statute of limitations of three years is imposed.

Finally, lawsuits in State court under State contract law alleging violations of the H–2A program requirements and obligations are expressly preempted. Such State court lawsuits have been the venue of choice for litigation against H–2A employers in recent years.

AgJOBS is the one part of the immigration bill about which there is uniform agreement. Everyone knows that agriculture in America is supported by undocumented workers. As immigration enforcement tightens up, and increasing numbers of people are prevented from crossing the borders or are being deported, the result is our crops go unharvested.

We are faced today with a very practical dilemma and one that is easy to solve. The legislation has been vetted over and over again. Senator CRAIG, I,

and a multitude of other Senators have sat down with the growers, with the farm bureaus, with the chambers, with everybody who knows agriculture, and they have all signed off on the AgJOBS bill.

This is our opportunity to solve a real problem.

I ask my colleagues to join Senator CRAIG, Senator KENNEDY, Senator MARTINEZ, Senator BOXER, Senator VOINOVICH and me in supporting this legislation.

I also ask by unanimous consent that the text of this 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. 237

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 ''Agricultural Job Opportunities, Benefits, and Security Act of 2007'' or the ''AgJOBS Act of 2007''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. DEFINITIONS.

In this Act:

(1) AGRICULTURAL EMPLOYMENT.—The term ''agricultural employment'' means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 or the performance of agricultural labor or services described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

(2) BLUE CARD STATUS.—The term ''blue card status'' means the status of an alien who has been lawfully admitted into the United States for temporary residence under section 101(a).

(3) DEPARTMENT.—The term ''Department'' means the Department of Homeland Security.

(4) EMPLOYER.—The term ''employer'' means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

(5) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of Homeland Security.

(6) TEMPORARY.—A worker is employed on a ''temporary'' basis when the employment is intended not to exceed 10 months.

(7) WORK DAY.—The term ''work day'' means any day in which the individual is employed 5.75 or more hours in agricultural employment.

TITLE I—PILOT PROGRAM FOR EARNED STATUS ADJUSTMENT OF AGRICULTURAL WORKERS

Subtitle A—Blue Card Status

SEC. 101. REQUIREMENTS FOR BLUE CARD STATUS.

(a) REQUIREMENT TO GRANT BLUE CARD STATUS.—Notwithstanding any other provision of law, the Secretary shall, pursuant to the requirements of this section, grant blue card status to an alien who qualifies under this section if the Secretary determines that the alien—

(1) has performed agricultural employment in the United States for at least 863 hours or 150 work days during the 24-month period ending on December 31, 2006;

(2) applied for such status during the 18-month application period beginning on the first day of the seventh month that begins after the date of enactment of this Act;

(3) is otherwise admissible to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), except as otherwise provided under section 105(b); and

(4) has not been convicted of any felony or a misdemeanor, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500.

(b) AUTHORIZED TRAVEL.—An alien who is granted blue card status is authorized to travel outside the United States (including commuting to the United States from a residence in a foreign country) in the same manner as an alien lawfully admitted for permanent residence.

(c) AUTHORIZED EMPLOYMENT.—The Secretary shall provide an alien who is granted blue card status an employment authorized endorsement or other appropriate work permit, in the same manner as an alien lawfully admitted for permanent residence.

(d) TERMINATION OF BLUE CARD STATUS.—

(1) IN GENERAL.—The Secretary may terminate blue card status granted to an alien under this section only if the Secretary determines that the alien is deportable.

(2) GROUNDS FOR TERMINATION OF BLUE CARD STATUS.—Before any alien becomes eligible for adjustment of status under section 103, the Secretary may deny adjustment to permanent resident status and provide for termination of the blue card status granted such alien under paragraph (1) if—

(A) the Secretary finds, by a preponderance of the evidence, that the adjustment to blue card status was the result of fraud or willful misrepresentation (as described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)); or

(B) the alien—

(i) commits an act that makes the alien inadmissible to the United States as an immigrant, except as provided under section 105(b);

(ii) is convicted of a felony or 3 or more misdemeanors committed in the United States;

(iii) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500; or

(iv) fails to perform the agricultural employment required under section 103(a)(1)(A) unless the alien was unable to work in agricultural employment due to the extraordinary circumstances described in section 103(a)(3).

(e) RECORD OF EMPLOYMENT.—

(1) IN GENERAL.—Each employer of an alien granted blue card status under this section shall annually—

(A) provide a written record of employment to the alien; and

(B) provide a copy of such record to the Secretary.

(2) SUNSET.—The obligation under paragraph (1) shall terminate on the date that is 6 years after the date of the enactment of this Act.

(f) REQUIRED FEATURES OF IDENTITY CARD.—The Secretary shall provide each alien granted blue card status, and the spouse and any child of each such alien residing in the United States, with a card that contains—

(1) an encrypted, machine-readable, electronic identification strip that is unique to the alien to whom the card is issued;

(2) biometric identifiers, including fingerprints and a digital photograph; and

(3) physical security features designed to prevent tampering, counterfeiting, or duplication of the card for fraudulent purposes.

(g) FINE.—An alien granted blue card status shall pay a fine of $100 to the Secretary.

(h) MAXIMUM NUMBER.—The Secretary may not issue more than 1,500,000 blue cards during the 5-year period beginning on the date of the enactment of this Act.

SEC. 102. TREATMENT OF ALIENS GRANTED BLUE CARD STATUS.

(a) IN GENERAL.—Except as otherwise provided under this section, an alien granted blue card status shall be considered to be an alien lawfully admitted for permanent residence for purposes of any law other than any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(b) DELAYED ELIGIBILITY FOR CERTAIN FEDERAL PUBLIC BENEFITS.—An alien granted blue card status shall not be eligible, by reason of such status, for any form of assistance or benefit described in section 403(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(a)) until 5 years after the date on which the alien is granted an adjustment of status under section 103.

(c) TERMS OF EMPLOYMENT.—

(1) PROHIBITION.—No alien granted blue card status may be terminated from employment by any employer during the period of blue card status except for just cause.

(2) TREATMENT OF COMPLAINTS.—

(A) ESTABLISHMENT OF PROCESS.—The Secretary shall establish a process for the receipt, initial review, and disposition of complaints by aliens granted blue card status who allege that they have been terminated without just cause. No proceeding shall be conducted under this paragraph with respect to a termination unless the Secretary determines that the complaint was filed not later than 6 months after the date of the termination.

(B) INITIATION OF ARBITRATION.—If the Secretary finds that an alien has filed a complaint in accordance with subparagraph (A) and there is reasonable cause to believe that the alien was terminated from employment without just cause, the Secretary shall initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint a mutually agreeable arbitrator from the roster of arbitrators maintained by such Service for the geographical area in which the employer is located. The procedures and rules of such Service shall be applicable to the selection of

such arbitrator and to such arbitration proceedings. The Secretary shall pay the fee and expenses of the arbitrator, subject to the availability of appropriations for such purpose.

(C) ARBITRATION PROCEEDINGS.—The arbitrator shall conduct the proceeding under this paragraph in accordance with the policies and procedures promulgated by the American Arbitration Association applicable to private arbitration of employment disputes. The arbitrator shall make findings respecting whether the termination was for just cause. The arbitrator may not find that the termination was for just cause unless the employer so demonstrates by a preponderance of the evidence. If the arbitrator finds that the termination was not for just cause, the arbitrator shall make a specific finding of the number of days or hours of work lost by the employee as a result of the termination. The arbitrator shall have no authority to order any other remedy, including reinstatement, back pay, or front pay to the affected employee. Not later than 30 days after the date of the conclusion of the arbitration proceeding, the arbitrator shall transmit the findings in the form of a written opinion to the parties to the arbitration and the Secretary. Such findings shall be final and conclusive, and no official or court of the United States shall have the power or jurisdiction to review any such findings.

(D) EFFECT OF ARBITRATION FINDINGS.—If the Secretary receives a finding of an arbitrator that an employer has terminated the employment of an alien who is granted blue card status without just cause, the Secretary shall credit the alien for the number of days or hours of work not performed during such period of termination for the purpose of determining if the alien meets the qualifying employment requirement of section 103(a).

(E) TREATMENT OF ATTORNEY'S FEES.—Each party to an arbitration under this paragraph shall bear the cost of their own attorney's fees for the arbitration.

(F) NONEXCLUSIVE REMEDY.—The complaint process provided for in this paragraph is in addition to any other rights an employee may have in accordance with applicable law.

(G) EFFECT ON OTHER ACTIONS OR PROCEEDINGS.—Any finding of fact or law, judgment, conclusion, or final order made by an arbitrator in the proceeding before the Secretary shall not be conclusive or binding in any separate or subsequent action or proceeding between the employee and the employee's current or prior employer brought before an arbitrator, administrative agency, court, or judge of any State or the United States, regardless of whether the prior action was between the same or related parties or involved the same facts, except that the arbitrator's specific finding of the number of days or hours of work lost by the employee as a result of the employment termination may be referred to the Secretary pursuant to subparagraph (D).

(3) CIVIL PENALTIES.—

(A) IN GENERAL.—If the Secretary finds, after notice and opportunity for a hearing, that an employer of an alien granted blue card status has failed to provide the record of employment required under section 101(e) or has provided a false statement of material fact in such a record, the employer shall be subject to a civil money penalty in an amount not to exceed $1,000 per violation.

(B) LIMITATION.—The penalty applicable under subparagraph (A) for failure to provide records shall not apply unless the alien has provided the employer with evidence of employment authorization granted under this section.

SEC. 103. ADJUSTMENT TO PERMANENT RESIDENCE.

(a) IN GENERAL.—Except as provided in subsection (b), the Secretary shall adjust the status of an alien granted blue card status to that of an alien lawfully admitted for permanent residence if the Secretary determines that the following requirements are satisfied:

(1) QUALIFYING EMPLOYMENT.—

(A) IN GENERAL.—Subject to subparagraph (B), the alien has performed at least—

(i) 5 years of agricultural employment in the United States for at least 100 work days per year, during the 5-year period beginning on the date of the enactment of this Act; or

(ii) 3 years of agricultural employment in the United States for at least 150 work days per year, during the 3-year period beginning on the date of the enactment of this Act.

(B) 4-YEAR PERIOD OF EMPLOYMENT.—An alien shall be considered to meet the requirements of subparagraph (A) if the alien has performed 4 years of agricultural employment in the United States for at least 150 work days during 3 years of those 4 years and at least 100 work days during the remaining year, during the 4-year period beginning on the date of the enactment of this Act.

(2) PROOF.—An alien may demonstrate compliance with the requirement under paragraph (1) by submitting—

(A) the record of employment described in section 101(e); or

(B) such documentation as may be submitted under section 104(c).

(3) EXTRAORDINARY CIRCUMSTANCES.—In determining whether an alien has met the requirement of paragraph (1)(A), the Secretary may credit the alien with not more than 12 additional months to meet the requirement of that subparagraph if the alien was unable to work in agricultural employment due to—

(A) pregnancy, injury, or disease, if the alien can establish such pregnancy, disabling injury, or disease through medical records;

(B) illness, disease, or other special needs of a minor child, if the alien can establish such illness, disease, or special needs through medical records; or

(C) severe weather conditions that prevented the alien from engaging in agricultural employment for a significant period of time.

(4) APPLICATION PERIOD.—The alien applies for adjustment of status not later than 7 years after the date of the enactment of this Act.

(5) FINE.—The alien pays a fine of $400 to the Secretary.

(b) GROUNDS FOR DENIAL OF ADJUSTMENT OF STATUS.—The Secretary may deny an alien granted blue card status an adjustment of status under this section and provide for termination of such blue card status if—

(1) the Secretary finds by a preponderance of the evidence that the adjustment to blue card status was the result of fraud or willful misrepresentation, as described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)); or

(2) the alien—

(A) commits an act that makes the alien inadmissible to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), except as provided under section 105(b);

(B) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(C) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500.

(c) GROUNDS FOR REMOVAL.—Any alien granted blue card status who does not apply for adjustment of status under this section before the expiration of the application period described in subsection (a)(4) or who fails to meet the other requirements of subsection (a) by the end of the application period, is deportable and may be removed under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a).

(d) PAYMENT OF TAXES.—

(1) IN GENERAL.—Not later than the date on which an alien's status is adjusted under this section, the alien shall establish that the alien does not owe any applicable Federal tax liability by establishing that—

(A) no such tax liability exists;

(B) all such outstanding tax liabilities have been paid; or

(C) the alien has entered into an agreement for payment of all outstanding liabilities with the Internal Revenue Service.

(2) APPLICABLE FEDERAL TAX LIABILITY.—In paragraph (1) the term ''applicable Federal tax liability'' means liability for Federal taxes, including penalties and interest, owed for any year during the period of employment required under subsection (a)(1) for which the statutory period for assessment of any deficiency for such taxes has not expired.

(3) IRS COOPERATION.—The Secretary of the Treasury shall establish rules and procedures under which the Commissioner of Internal Revenue shall provide documentation to an alien upon request to establish the payment of all taxes required by this subsection.

(e) SPOUSES AND MINOR CHILDREN.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall confer the status of lawful permanent resident on the spouse and minor child of an alien granted any adjustment of status under subsection (a), including any individual who was a minor child on the date such alien was granted blue card status, if the spouse or minor child applies for such status, or if the principal alien includes the spouse or minor child in an application for adjustment of status to that of a lawful permanent resident.

(2) TREATMENT OF SPOUSES AND MINOR CHILDREN.—

(A) GRANTING OF STATUS AND REMOVAL.—The Secretary may grant derivative status to the alien spouse and any minor child residing in the United States of an alien granted blue card status and shall not remove such derivative spouse or child during the period that the alien granted blue card status maintains such status, except as provided in paragraph (3). A grant of derivative status to such a spouse or child under this subparagraph shall not decrease the number of aliens who may receive blue card status under subsection (h) of section 101.

(B) TRAVEL.—The derivative spouse and any minor child of an alien granted blue card status may travel outside the United States in the same manner as an alien lawfully admitted for permanent residence.

(C) EMPLOYMENT.—The derivative spouse of an alien granted blue card status may apply to the Secretary for a work permit to authorize such spouse to engage in any lawful employment in the United States while such alien maintains blue card status.

(3) GROUNDS FOR DENIAL OF ADJUSTMENT OF STATUS AND REMOVAL.—The Secretary may deny an alien spouse or child adjustment of status under paragraph (1) and may remove such spouse or child under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) if the spouse or child—

(A) commits an act that makes the alien spouse or child inadmissible to the United States under section 212 of such Act (8 U.S.C. 1182), except as provided under section 105(b);

(B) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(C) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500.

SEC. 104. APPLICATIONS.

(a) SUBMISSION.—The Secretary shall provide that—

(1) applications for blue card status under section 101 may be submitted—

(A) to the Secretary if the applicant is represented by an attorney or a nonprofit religious, charitable, social service, or similar organization recognized by the Board of Immigration Appeals under section 292.2 of title 8, Code of Federal Regulations; or

(B) to a qualified designated entity if the applicant consents to the forwarding of the application to the Secretary; and

(2) applications for adjustment of status under section 103 shall be filed directly with the Secretary.

(b) QUALIFIED DESIGNATED ENTITY DEFINED.—In this section, the term ''qualified designated entity'' means—

(1) a qualified farm labor organization or an association of employers designated by the Secretary; or

(2) any such other person designated by the Secretary if that Secretary determines such person is qualified and has substantial experience, demonstrated competence, and has a history of long-term involvement in the preparation and submission of applications for adjustment of status under section 209, 210, or 245 of the Immigration and Nationality Act (8 U.S.C. 1159, 1160, and 1255), the Act entitled ''An Act to adjust the status of Cuban refugees to that of lawful permanent residents of the United States, and for other purposes'', approved November 2, 1966 (Public Law 89–732; 8 U.S.C. 1255 note), Public Law 95–145 (8 U.S.C. 1255 note), or the Immigration Reform and Control Act of 1986 (Public Law 99–603; 100 Stat. 3359) or any amendment made by that Act.

(c) PROOF OF ELIGIBILITY.—

(1) IN GENERAL.—An alien may establish that the alien meets the requirement of section 101(a)(1) or 103(a)(1) through government employment records or records supplied by employers or collective bargaining organizations, and other reliable documentation as the alien may provide. The Secretary shall establish special procedures to properly credit work in cases in which an alien was employed under an assumed name.

(2) DOCUMENTATION OF WORK HISTORY.—

(A) BURDEN OF PROOF.—An alien applying for status under section 101(a) or 103(a) has the burden of proving by a preponderance of the evidence that the alien has worked the requisite number of hours or days required under section 101(a)(1) or 103(a)(1), as applicable.

(B) TIMELY PRODUCTION OF RECORDS.—If an employer or farm labor contractor employing such an alien has kept proper and adequate records respecting such employment, the alien's burden of proof under subparagraph (A) may be met by securing timely production of those records under regulations to be promulgated by the Secretary.

(C) SUFFICIENT EVIDENCE.—An alien may meet the burden of proof under subparagraph (A) to establish that the alien has performed the days or hours of work required by section 101(a)(1) or 103(a)(1) by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference.

(d) APPLICATIONS SUBMITTED TO QUALIFIED DESIGNATED ENTITIES.—

(1) REQUIREMENTS.—Each qualified designated entity shall agree—

(A) to forward to the Secretary an application submitted to that entity pursuant to subsection (a)(1)(B) if the applicant has consented to such forwarding;

(B) not to forward to the Secretary any such application if the applicant has not consented to such forwarding; and

(C) to assist an alien in obtaining documentation of the alien's work history, if the alien requests such assistance.

(2) NO AUTHORITY TO MAKE DETERMINATIONS.—No qualified designated entity may make a determination required by this subtitle to be made by the Secretary.

(e) LIMITATION ON ACCESS TO INFORMATION.—Files and records collected or compiled by a qualified designated entity for the purposes of this section are confidential and the Secretary shall not have access to such a file or record relating to an alien without the consent of the alien, except as allowed by a court order issued pursuant to subsection (f).

(f) CONFIDENTIALITY OF INFORMATION.—

(1) IN GENERAL.—Except as otherwise provided in this section, the Secretary or any other official or employee of the Department or a bureau or agency of the Department is prohibited from—

(A) using information furnished by the applicant pursuant to an application filed under this title, the information provided by an applicant to a qualified designated entity, or any information provided by an employer or former employer for any purpose other than to make a determination on the application or for imposing the penalties described in subsection (g);

(B) making any publication in which the information furnished by any particular individual can be identified; or

(C) permitting a person other than a sworn officer or employee of the Department or a bureau or agency of the Department or, with respect to applications filed with a qualified designated entity, that qualified designated entity, to examine individual applications.

(2) REQUIRED DISCLOSURES.—The Secretary shall provide the information furnished under this title or any other information derived from such furnished information to—

(A) a duly recognized law enforcement entity in connection with a criminal investigation or prosecution, if such information is requested in writing by such entity; or

(B) an official coroner, for purposes of affirmatively identifying a deceased individual, whether or not the death of such individual resulted from a crime.

(3) CONSTRUCTION.—

(A) IN GENERAL.—Nothing in this subsection shall be construed to limit the use, or release, for immigration enforcement purposes or law enforcement purposes, of information contained in files or records of the Department pertaining to an application filed under this section, other than information furnished by an applicant pursuant to the application, or any other information derived from the application, that is not available from any other source.

(B) CRIMINAL CONVICTIONS.—Notwithstanding any other provision of this subsection, information concerning whether the alien applying for blue card status under section 101 or an adjustment of status under section 103 has been convicted of a crime at any time may be used or released for immigration enforcement or law enforcement purposes.

(4) CRIME.—Any person who knowingly uses, publishes, or permits information to be examined in violation of this subsection shall be subject to a fine in an amount not to exceed $10,000.

(g) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—

(1) CRIMINAL PENALTY.—Any person who—

(A) files an application for blue card status under section 101 or an adjustment of status under section 103 and knowingly and willfully falsifies, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry; or

(B) creates or supplies a false writing or document for use in making such an application,

shall be fined in accordance with title 18, United States Code, imprisoned not more than 5 years, or both.

(2) INADMISSIBILITY.—An alien who is convicted of a crime under paragraph (1) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)).

(h) ELIGIBILITY FOR LEGAL SERVICES.—Section 504(a)(11) of Public Law 104–134 (110 Stat. 1321–53 et seq.) shall not be construed to prevent a recipient of funds under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.) from providing legal assistance directly related to an application for blue card status under section 101 or an adjustment of status under section 103.

(i) APPLICATION FEES.—

(1) FEE SCHEDULE.—The Secretary shall provide for a schedule of fees that—

(A) shall be charged for the filing of an application for blue card status under section 101 or for an adjustment of status under section 103; and

(B) may be charged by qualified designated entities to help defray the costs of services provided to such applicants.

(2) PROHIBITION ON EXCESS FEES BY QUALIFIED DESIGNATED ENTITIES.—A qualified designated entity may not charge any fee in excess of, or in addition to, the fees authorized under paragraph (1)(B) for services provided to applicants.

(3) DISPOSITION OF FEES.—

(A) IN GENERAL.—There is established in the general fund of the Treasury a separate account, which shall be known as the ''Agricultural Worker Immigration Status Adjustment Account''. Notwithstanding any other provision of law, there shall be deposited as offsetting receipts into the account all fees collected under paragraph (1)(A).

(B) USE OF FEES FOR APPLICATION PROCESSING.—Amounts deposited in the ''Agricultural Worker Immigration Status Adjustment Account'' shall remain available to the Secretary until expended for processing applications for blue card status under section 101 or an adjustment of status under section 103.

SEC. 105. WAIVER OF NUMERICAL LIMITATIONS AND CERTAIN GROUNDS FOR INADMISSIBILITY.

(a) NUMERICAL LIMITATIONS DO NOT APPLY.—The numerical limitations of sections 201 and 202 of the Immigration and Nationality Act (8 U.S.C. 1151 and 1152) shall not apply to the adjustment of aliens to lawful permanent resident status under section 103.

(b) WAIVER OF CERTAIN GROUNDS OF INADMISSIBILITY.—In the determination of an alien's eligibility for status under section 101(a) or an alien's eligibility for adjustment of status under section 103(b)(2)(A) the following rules shall apply:

(1) GROUNDS OF EXCLUSION NOT APPLICABLE.—The provisions of paragraphs (5), (6)(A), (7), and (9) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply.

(2) WAIVER OF OTHER GROUNDS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary may waive any other provision of such section 212(a) in the case of individual aliens for humanitarian purposes, to ensure family unity, or if otherwise in the public interest.

(B) GROUNDS THAT MAY NOT BE WAIVED.—Paragraphs (2)(A), (2)(B), (2)(C), (3), and (4) of such section 212(a) may not be waived by the Secretary under subparagraph (A).

(C) CONSTRUCTION.—Nothing in this paragraph shall be construed as affecting the authority of the Secretary other than under this subparagraph to waive provisions of such section 212(a).

(3) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for blue card status under section 101 or an adjustment of status under section 103 by reason of a ground of inadmissibility under section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)) if the alien demonstrates a history of employment in the United States evidencing self-support without reliance on public cash assistance.

(c) TEMPORARY STAY OF REMOVAL AND WORK AUTHORIZATION FOR CERTAIN APPLICANTS.—

(1) BEFORE APPLICATION PERIOD.—Effective on the date of enactment of this Act, the Secretary shall provide that, in the case of an alien who is apprehended before the beginning of the application period described in section 101(a)(2) and who can establish a nonfrivolous case of eligibility for blue card status (but for the fact that the alien may not apply for such status until the beginning of such period), until the alien has had the opportunity during the first 30 days of the application period to complete the filing of an application for blue card status, the alien—

(A) may not be removed; and

(B) shall be granted authorization to engage in employment in the United States and be provided an employment authorized endorsement or other appropriate work permit for such purpose.

(2) DURING APPLICATION PERIOD.—The Secretary shall provide that, in the case of an alien who presents a nonfrivolous application for blue card status during the application period described in section 101(a)(2), including an alien who files such an application within 30 days of the alien's apprehension, and until a final determination on the application has been made in accordance with this section, the alien—

(A) may not be removed; and

(B) shall be granted authorization to engage in employment in the United States and be provided an employment authorized endorsement or other appropriate work permit for such purpose.

SEC. 106. ADMINISTRATIVE AND JUDICIAL REVIEW.

(a) IN GENERAL.—There shall be no administrative or judicial review of a determination respecting an application for blue card status under section 101 or adjustment of status under section 103 except in accordance with this section.

(b) ADMINISTRATIVE REVIEW.—

(1) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Secretary shall establish an appellate authority to provide for a single level of administrative appellate review of such a determination.

(2) STANDARD FOR REVIEW.—Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination on the application and upon such additional or newly discovered evidence as may not have been available at the time of the determination.

(c) JUDICIAL REVIEW.—

(1) LIMITATION TO REVIEW OF REMOVAL.—There shall be judicial review of such a determination only in the judicial review of an order of removal under section 242 of the Immigration and Nationality Act (8 U.S.C. 1252).

(2) STANDARD FOR JUDICIAL REVIEW.—Such judicial review shall be based solely upon the administrative record established at the time of the review by the appellate authority and the findings of fact and determinations contained in such record shall be conclusive unless the applicant can establish abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record considered as a whole.

SEC. 107. USE OF INFORMATION.

Beginning not later than the first day of the application period described in section 101(a)(2), the Secretary, in cooperation with qualified designated entities (as that term is defined in section 104(b)), shall broadly disseminate information respecting the benefits that aliens may receive under this subtitle and the requirements that an alien is required to meet to receive such benefits.

SEC. 108. REGULATIONS, EFFECTIVE DATE, AUTHORIZATION OF APPROPRIATIONS.

(a) REGULATIONS.—The Secretary shall issue regulations to implement this subtitle not later than the first day of the seventh month that begins after the date of enactment of this Act.

(b) EFFECTIVE DATE.—This subtitle shall take effect on the date that regulations required by subsection (a) are issued, regardless of whether such regulations are issued on an interim basis or on any other basis.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to implement this subtitle, including any sums needed for costs associated with the initiation of such implementation, for fiscal years 2007 and 2008.

Subtitle B—Correction of Social Security Records

SEC. 111. CORRECTION OF SOCIAL SECURITY RECORDS.

(a) IN GENERAL.—Section 208(e)(1) of the Social Security Act (42 U.S.C. 408(e)(1)) is amended—

(1) in subparagraph (B)(ii), by striking ''or'' at the end;

(2) in subparagraph (C), by inserting ''or'' at the end;

(3) by inserting after subparagraph (C) the following:

''(D) who is granted blue card status under the Agricultural Job Opportunity, Benefits, and Security Act of 2007,''; and

(4) by striking ''1990.'' and inserting ''1990, or in the case of an alien described in subparagraph (D), if such conduct is alleged to have occurred before the date on which the alien was granted blue card status.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the seventh month that begins after the date of the enactment of this Act.

TITLE II—REFORM OF H–2A WORKER PROGRAM

SEC. 201. AMENDMENT TO THE IMMIGRATION AND NATIONALITY ACT.

(a) IN GENERAL.—Title II of the Immigration and Nationality Act (8 U.S.C. 1151 et seq.) is amended by striking section 218 and inserting the following:

''SEC. 218. H–2A EMPLOYER APPLICATIONS.

''(a) APPLICATIONS TO THE SECRETARY OF LABOR.—

''(1) IN GENERAL.—No alien may be admitted to the United States as an H–2A worker, or otherwise provided status as an H–2A worker, unless the employer has filed with the Secretary of Labor an application containing—

''(A) the assurances described in subsection (b);

''(B) a description of the nature and location of the work to be performed;

''(C) the anticipated period (expected beginning and ending dates) for which the workers will be needed; and

''(D) the number of job opportunities in which the employer seeks to employ the workers.

''(2) ACCOMPANIED BY JOB OFFER.—Each application filed under paragraph (1) shall be accompanied by a copy of the job offer describing the wages and other terms and conditions of employment and the bona fide occupational qualifications that shall be possessed by a worker to be employed in the job opportunity in question.

''(b) ASSURANCES FOR INCLUSION IN APPLICATIONS.—The assurances referred to in subsection (a)(1) are the following:

''(1) JOB OPPORTUNITIES COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—With respect to a job opportunity that is covered under a collective bargaining agreement:

''(A) UNION CONTRACT DESCRIBED.—The job opportunity is covered by a union contract which was negotiated at arm's length between a bona fide union and the employer.

''(B) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer is requesting an H–2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

''(C) NOTIFICATION OF BARGAINING REPRESENTATIVES.—The employer, at the time of filing the application, has provided notice of the filing under this paragraph to the bargaining representative of the employer's employees in the occupational classification at the place or places of employment for which aliens are sought.

''(D) TEMPORARY OR SEASONAL JOB OPPORTUNITIES.—The job opportunity is temporary or seasonal.

''(E) OFFERS TO UNITED STATES WORKERS.—The employer has offered or will offer the job to any eligible United States worker who applies and is equally or better qualified for the job for which the nonimmigrant is, or the nonimmigrants are, sought and who will be available at the time and place of need.

''(F) PROVISION OF INSURANCE.—If the job opportunity is not covered by the State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of, and in the course of, the worker's employment which will provide benefits at least equal to those provided under the State's workers' compensation law for comparable employment.

''(2) JOB OPPORTUNITIES NOT COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—With respect to a job opportunity that is not covered under a collective bargaining agreement:

''(A) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer has applied for an H–2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

''(B) TEMPORARY OR SEASONAL JOB OPPORTUNITIES.—The job opportunity is temporary or seasonal.

''(C) BENEFIT, WAGE, AND WORKING CONDITIONS.—The employer will provide, at a minimum, the benefits, wages, and working conditions required by section 218A to all workers employed in the job opportunities for which the employer has applied for an H–2A worker under subsection (a) and to all other workers in the same occupation at the place of employment.

''(D) NONDISPLACEMENT OF UNITED STATES WORKERS.—The employer did not displace and will not displace a United States worker employed by the employer during the period of employment and for a period of 30 days preceding the period of employment in the occupation at the place of employment for which the employer has applied for an H–2A worker.

''(E) REQUIREMENTS FOR PLACEMENT OF THE NONIMMIGRANT WITH OTHER EMPLOYERS.—The employer will not place the nonimmigrant with another employer unless—

''(i) the nonimmigrant performs duties in whole or in part at 1 or more worksites owned, operated, or controlled by such other employer;

''(ii) there are indicia of an employment relationship between the nonimmigrant and such other employer; and

''(iii) the employer has inquired of the other employer as to whether, and has no actual knowledge or notice that, during the period of employment and for a period of 30 days preceding the period of employment, the other employer has displaced or intends to displace a United States worker employed by the other employer in the occupation at the place of employment for which the employer seeks approval to employ H–2A workers.

''(F) STATEMENT OF LIABILITY.—The application form shall include a clear statement explaining the liability under subparagraph (E) of an employer if the other employer described in such subparagraph displaces a United States worker as described in such subparagraph.

''(G) PROVISION OF INSURANCE.—If the job opportunity is not covered by the State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment which will provide benefits at least equal to those provided under the State's workers' compensation law for comparable employment.

''(H) EMPLOYMENT OF UNITED STATES WORKERS.—

''(i) RECRUITMENT.—The employer has taken or will take the following steps to recruit United States workers for the job opportunities for which the H–2A nonimmigrant is, or H–2A nonimmigrants are, sought:

''(I) CONTACTING FORMER WORKERS.—The employer shall make reasonable efforts through the sending of a letter by United States Postal Service mail, or otherwise, to contact any United States worker the employer employed during the previous season in the occupation at the place of intended employment for which the employer is applying for workers and has made the availability of the employer's job opportunities in the occupation at the place of intended employment known to such previous workers, unless the worker was terminated from employment by the employer for a lawful job-related reason or abandoned the job before the worker completed the period of employment of the job opportunity for which the worker was hired.

''(II) FILING A JOB OFFER WITH THE LOCAL OFFICE OF THE STATE EMPLOYMENT SECURITY AGENCY.—Not later than 28 days before the date on which the employer desires to employ an H–2A worker in a temporary or seasonal agricultural job opportunity, the employer shall submit a copy of the job offer described in subsection (a)(2) to the local office of the State employment security agency which serves the area of intended employment and authorize the posting of the job opportunity on 'America's Job Bank' or other electronic job registry, except that nothing in this subclause shall require the employer to file an interstate job order under section 653 of title 20, Code of Federal Regulations.

''(III) ADVERTISING OF JOB OPPORTUNITIES.—Not later than 14 days before the date on which the employer desires to employ an H–2A worker in a temporary or seasonal agricultural job opportunity, the employer shall advertise the availability of the job opportunities for which the employer is seeking workers in a publication in the local labor market that is likely to be patronized by potential farm workers.

''(IV) EMERGENCY PROCEDURES.—The Secretary of Labor shall, by regulation, provide a procedure for acceptance and approval of applications in which the employer has not complied with the provisions of this subparagraph because the employer's need for H–2A workers could not reasonably have been foreseen.

''(ii) JOB OFFERS.—The employer has offered or will offer the job to any eligible United States worker who applies and is equally or better qualified for the job for which the nonimmigrant is, or nonimmigrants are, sought and who will be available at the time and place of need.

''(iii) PERIOD OF EMPLOYMENT.—The employer will provide employment to any qualified United States worker who applies to the employer during the period beginning on the date on which the H–2A worker departs for the employer's place of employment and ending on the date on which 50 percent of the period of employment for which the H–2A worker who is in the job was hired has elapsed, subject to the following requirements:

''(I) PROHIBITION.—No person or entity shall willfully and knowingly withhold United States workers before the arrival of H–2A workers in order to force the hiring of United States workers under this clause.

''(II) COMPLAINTS.—Upon receipt of a complaint by an employer that a violation of subclause (I) has occurred, the Secretary of Labor shall immediately investigate. The Secretary of Labor shall, within 36 hours of the receipt of the complaint, issue findings concerning the alleged violation. If the Secretary of Labor finds that a violation has occurred, the Secretary of Labor shall immediately suspend the application of this clause with respect to that certification for that date of need.

''(III) PLACEMENT OF UNITED STATES WORKERS.—Before referring a United States worker to an employer during the period described in the matter preceding subclause (I), the Secretary of Labor shall make all reasonable efforts to place the United States worker in an open job acceptable to the worker, if there are other job offers pending with the job service that offer similar job opportunities in the area of intended employment.

''(iv) STATUTORY CONSTRUCTION.—Nothing in this subparagraph shall be construed to prohibit an employer from using such legitimate selection criteria relevant to the type of job that are normal or customary to the type of job involved so long as such criteria are not applied in a discriminatory manner.

''(c) APPLICATIONS BY ASSOCIATIONS ON BEHALF OF EMPLOYER MEMBERS.—

''(1) IN GENERAL.—An agricultural association may file an application under subsection (a) on behalf of 1 or more of its employer members that the association certifies in its application has or have agreed in writing to comply with the requirements of this section and sections 218A, 218B, and 218C.

''(2) TREATMENT OF ASSOCIATIONS ACTING AS EMPLOYERS.—If an association filing an application under paragraph (1) is a joint or sole employer of the temporary or seasonal agricultural workers requested on the application, the certifications granted under subsection (e)(2)(B) to the association may be used for the certified job opportunities of any of its producer members named on the application, and such workers may be transferred among such producer members to perform the agricultural services of a temporary or seasonal nature for which the certifications were granted.

''(d) WITHDRAWAL OF APPLICATIONS.—

''(1) IN GENERAL.—An employer may withdraw an application filed pursuant to subsection (a), except that if the employer is an agricultural association, the association may withdraw an application filed pursuant to subsection (a) with respect to 1 or more of its members. To withdraw an application, the employer or association shall notify the Secretary of Labor in writing, and the Secretary of Labor shall acknowledge in writing the receipt of such withdrawal notice. An employer who withdraws an application under subsection (a), or on whose behalf an application is withdrawn, is relieved of the obligations undertaken in the application.

''(2) LIMITATION.—An application may not be withdrawn while any alien provided status under section 101(a)(15)(H)(ii)(a) pursuant to such application is employed by the employer.

''(3) OBLIGATIONS UNDER OTHER STATUTES.—Any obligation incurred by an employer under any other law or regulation as a result of the recruitment of United States workers or H–2A workers under an offer of terms and conditions of employment required as a result of making an application under subsection (a) is unaffected by withdrawal of such application.

''(e) REVIEW AND APPROVAL OF APPLICATIONS.—

''(1) RESPONSIBILITY OF EMPLOYERS.—The employer shall make available for public examination, within 1 working day after the date on which an application under subsection (a) is filed, at the employer's principal place of business or worksite, a copy of each such application (and such accompanying documents as are necessary).

''(2) RESPONSIBILITY OF THE SECRETARY OF LABOR.—

''(A) COMPILATION OF LIST.—The Secretary of Labor shall compile, on a current basis, a list (by employer and by occupational classification) of the applications filed under subsection (a). Such list shall include the wage rate, number of workers sought, period of intended employment, and date of need. The Secretary of Labor shall make such list available for examination in the District of Columbia.

''(B) REVIEW OF APPLICATIONS.—The Secretary of Labor shall review such an application only for completeness and obvious inaccuracies. Unless the Secretary of Labor finds that the application is incomplete or obviously inaccurate, the Secretary of Labor shall certify that the intending employer has filed with the Secretary of Labor an application as described in subsection (a). Such certification shall be provided within 7 days of the filing of the application.''

''SEC. 218A. H–2A EMPLOYMENT REQUIREMENTS.

''(a) PREFERENTIAL TREATMENT OF ALIENS PROHIBITED.—Employers seeking to hire United States workers shall offer the United States workers no less than the same benefits, wages, and working conditions that the employer is offering, intends to offer, or will provide to H–2A workers. Conversely, no job offer may impose on United States workers any restrictions or obligations which will not be imposed on the employer's H–2A workers.

''(b) MINIMUM BENEFITS, WAGES, AND WORKING CONDITIONS.—Except in cases where higher benefits, wages, or working conditions are required by the provisions of subsection (a), in order to protect similarly employed United States workers from adverse effects with respect to benefits, wages, and working conditions, every job offer which shall accompany an application under section 218(b)(2) shall include each of the following benefit, wage, and working condition provisions:

''(1) REQUIREMENT TO PROVIDE HOUSING OR A HOUSING ALLOWANCE.—

''(A) IN GENERAL.—An employer applying under section 218(a) for H–2A workers shall offer to provide housing at no cost to all workers in job opportunities for which the employer has applied under that section and to all other workers in the same occupation at the place of employment, whose place of residence is beyond normal commuting distance.

''(B) TYPE OF HOUSING.—In complying with subparagraph (A), an employer may, at the employer's election, provide housing that meets applicable Federal standards for temporary labor camps or secure housing that meets applicable local standards for rental or public accommodation housing or other substantially similar class of habitation, or in the absence of applicable local standards, State standards for rental or public accommodation housing or other substantially similar class of habitation. In the absence of applicable local or State standards, Federal temporary labor camp standards shall apply.

''(C) FAMILY HOUSING.—If it is the prevailing practice in the occupation and area of intended employment to provide family housing, family housing shall be provided to workers with families who request it.

''(D) WORKERS ENGAGED IN THE RANGE PRODUCTION OF LIVESTOCK.—The Secretary of Labor shall issue regulations that address the specific requirements for the provision of housing to workers engaged in the range production of livestock.

''(E) LIMITATION.—Nothing in this paragraph shall be construed to require an employer to provide or secure housing for persons who were not entitled to such housing under the temporary labor certification regulations in effect on June 1, 1986.

''(F) CHARGES FOR HOUSING.—

''(i) CHARGES FOR PUBLIC HOUSING.—If public housing provided for migrant agricultural workers under the auspices of a local, county, or State government is secured by an employer, and use of the public housing unit normally requires charges from migrant workers, such charges shall be paid by the employer directly to the appropriate individual or entity affiliated with the housing's management.

''(ii) DEPOSIT CHARGES.—Charges in the form of deposits for bedding or other similar incidentals related to housing shall not be levied upon workers by employers who provide housing for their workers. An employer may require a worker found to have been responsible for damage to such housing which is not the result of normal wear and tear related to habitation to reimburse the employer for the reasonable cost of repair of such damage.

''(G) HOUSING ALLOWANCE AS ALTERNATIVE.—

''(i) IN GENERAL.—If the requirement set out in clause (ii) is satisfied, the employer may provide a reasonable housing allowance instead of offering housing under subparagraph (A). Upon the request of a worker seeking assistance in locating housing, the employer shall make a good faith effort to assist the worker in identifying and locating housing in the area of intended employment. An employer who offers a housing allowance to a worker, or assists a worker in locating housing which the worker occupies, pursuant to this clause shall not be deemed a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) solely by virtue of providing such housing allowance. No housing allowance may be used for housing which is owned or controlled by the employer.

''(ii) CERTIFICATION.—The requirement of this clause is satisfied if the Governor of the State certifies to the Secretary of Labor that there is adequate housing available in the area of intended employment for migrant farm workers and H–2A workers who are seeking temporary housing while employed in agricultural work. Such certification shall expire after 3 years unless renewed by the Governor of the State.

''(iii) AMOUNT OF ALLOWANCE.—

''(I) NONMETROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this subparagraph is a nonmetropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for nonmetropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

''(II) METROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this paragraph is in a metropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for metropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

''(2) REIMBURSEMENT OF TRANSPORTATION.—

''(A) TO PLACE OF EMPLOYMENT.—A worker who completes 50 percent of the period of employment of the job opportunity for which the worker was hired shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place from which the worker came to work for the employer (or place of last employment, if the worker traveled from such place) to the place of employment.

''(B) FROM PLACE OF EMPLOYMENT.—A worker who completes the period of employment for the job opportunity involved shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place of employment to the place from which the worker, disregarding intervening employment, came to work for the employer, or to the place of next employment, if the worker has contracted with a subsequent employer who has not agreed to provide or pay for the worker's transportation and subsistence to such subsequent employer's place of employment.

''(C) LIMITATION.—

''(i) AMOUNT OF REIMBURSEMENT.—Except as provided in clause (ii), the amount of reimbursement provided under subparagraph (A) or (B) to a worker or alien shall not exceed the lesser of—

''(I) the actual cost to the worker or alien of the transportation and subsistence involved; or

''(II) the most economical and reasonable common carrier transportation charges and subsistence costs for the distance involved.

''(ii) DISTANCE TRAVELED.—No reimbursement under subparagraph (A) or (B) shall be required if the distance traveled is 100 miles or less, or the worker is not residing in employer-provided housing or housing secured through an allowance as provided in paragraph (1)(G).

''(D) EARLY TERMINATION.—If the worker is laid off or employment is terminated for contract impossibility (as described in paragraph (4)(D)) before the anticipated ending date of employment, the employer shall provide the transportation and subsistence required by subparagraph (B) and, notwithstanding whether the worker has completed 50 percent of the period of employment, shall provide the transportation reimbursement required by subparagraph (A).

''(E) TRANSPORTATION BETWEEN LIVING QUARTERS AND WORKSITE.—The employer shall provide transportation between the worker's living quarters and the employer's worksite without cost to the worker, and such transportation will be in accordance with applicable laws and regulations.

''(3) REQUIRED WAGES.—

''(A) IN GENERAL.—An employer applying for workers under section 218(a) shall offer to pay, and shall pay, all workers in the occupation for which the employer has applied for workers, not less (and is not required to pay more) than the greater of the prevailing wage in the occupation in the area of intended employment or the adverse effect wage rate. No worker shall be paid less than the greater of the hourly wage prescribed under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable State minimum wage.

''(B) LIMITATION.—Effective on the date of the enactment of the Agricultural Job Opportunities, Benefits, and Security Act of 2007 and continuing for 3 years thereafter, no adverse effect wage rate for a State may be more than the adverse effect wage rate for that State in effect on January 1, 2003, as established by section 655.107 of title 20, Code of Federal Regulations.

''(C) REQUIRED WAGES AFTER 3-YEAR FREEZE.—

''(i) FIRST ADJUSTMENT.—If Congress does not set a new wage standard applicable to this section before the first March 1 that is not less than 3 years after the date of enactment of this section, the adverse effect wage rate for each State beginning on such March 1 shall be the wage rate that would have resulted if the adverse effect wage rate in effect on January 1, 2003, had been annually adjusted, beginning on March 1, 2006, by the lesser of—

''(I) the 12-month percentage change in the Consumer Price Index for All Urban Consumers between December of the second preceding year and December of the preceding year; and

''(II) 4 percent.

''(ii) SUBSEQUENT ANNUAL ADJUSTMENTS.—Beginning on the first March 1 that is not less than 4 years after the date of enactment of this section, and each March 1 thereafter, the adverse effect wage rate then in effect for each State shall be adjusted by the lesser of—

''(I) the 12-month percentage change in the Consumer Price Index for All Urban Consumers between December of the second preceding year and December of the preceding year; and

''(II) 4 percent.

''(D) DEDUCTIONS.—The employer shall make only those deductions from the worker's wages that are authorized by law or are reasonable and customary in the occupation and area of employment. The job offer shall specify all deductions not required by law which the employer will make from the worker's wages.

''(E) FREQUENCY OF PAY.—The employer shall pay the worker not less frequently than twice monthly, or in accordance with the prevailing practice in the area of employment, whichever is more frequent.

''(F) HOURS AND EARNINGS STATEMENTS.—The employer shall furnish to the worker, on or before each payday, in 1 or more written statements—

''(i) the worker's total earnings for the pay period;

''(ii) the worker's hourly rate of pay, piece rate of pay, or both;

''(iii) the hours of employment which have been offered to the worker (broken out by hours offered in accordance with and over

and above the ¾ guarantee described in paragraph (4);

''(iv) the hours actually worked by the worker;

''(v) an itemization of the deductions made from the worker's wages; and

''(vi) if piece rates of pay are used, the units produced daily.

''(G) REPORT ON WAGE PROTECTIONS.—Not later than December 31, 2009, the Comptroller General of the United States shall prepare and transmit to the Secretary of Labor, the Committee on the Judiciary of the Senate, and Committee on the Judiciary of the House of Representatives, a report that addresses—

''(i) whether the employment of H–2A or unauthorized aliens in the United States agricultural workforce has depressed United States farm worker wages below the levels that would otherwise have prevailed if alien farm workers had not been employed in the United States;

''(ii) whether an adverse effect wage rate is necessary to prevent wages of United States farm workers in occupations in which H–2A workers are employed from falling below the wage levels that would have prevailed in the absence of the employment of H–2A workers in those occupations;

''(iii) whether alternative wage standards, such as a prevailing wage standard, would be sufficient to prevent wages in occupations in which H–2A workers are employed from falling below the wage level that would have prevailed in the absence of H–2A employment;

''(iv) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage; and

''(v) recommendations for future wage protection under this section.

''(H) COMMISSION ON WAGE STANDARDS.—

''(i) ESTABLISHMENT.—There is established the Commission on Agricultural Wage Standards under the H–2A program (in this subparagraph referred to as the 'Commission').

''(ii) COMPOSITION.—The Commission shall consist of 10 members as follows:

''(I) Four representatives of agricultural employers and 1 representative of the Department of Agriculture, each appointed by the Secretary of Agriculture.

''(II) Four representatives of agricultural workers and 1 representative of the Department of Labor, each appointed by the Secretary of Labor.

''(iii) FUNCTIONS.—The Commission shall conduct a study that shall address—

''(I) whether the employment of H–2A or unauthorized aliens in the United States agricultural workforce has depressed United States farm worker wages below the levels that would otherwise have prevailed if alien farm workers had not been employed in the United States;

''(II) whether an adverse effect wage rate is necessary to prevent wages of United States farm workers in occupations in which H–2A workers are employed from falling below the wage levels that would have prevailed in the absence of the employment of H–2A workers in those occupations;

''(III) whether alternative wage standards, such as a prevailing wage standard, would be sufficient to prevent wages in occupations in which H–2A workers are employed from falling below the wage level that would have prevailed in the absence of H–2A employment;

''(IV) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage rate; and

''(V) recommendations for future wage protection under this section.

''(iv) FINAL REPORT.—Not later than December 31, 2009, the Commission shall submit a report to the Congress setting forth the findings of the study conducted under clause (iii).

''(v) TERMINATION DATE.—The Commission shall terminate upon submitting its final report.

''(4) GUARANTEE OF EMPLOYMENT.—

''(A) OFFER TO WORKER.—The employer shall guarantee to offer the worker employment for the hourly equivalent of at least ¾ of the work days of the total period of employment, beginning with the first work day after the arrival of the worker at the place of employment and ending on the expiration date specified in the job offer. For purposes of this subparagraph, the hourly equivalent means the number of hours in the work days as stated in the job offer and shall exclude the worker's Sabbath and Federal holidays. If the employer affords the United States or H–2A worker less employment than that required under this paragraph, the employer shall pay such worker the amount which the worker would have earned had the worker, in fact, worked for the guaranteed number of hours.

''(B) FAILURE TO WORK.—Any hours which the worker fails to work, up to a maximum of the number of hours specified in the job offer for a work day, when the worker has been offered an opportunity to do so, and all hours of work actually performed (including voluntary work in excess of the number of hours specified in the job offer in a work day, on the worker's Sabbath, or on Federal holidays) may be counted by the employer in calculating whether the period of guaranteed employment has been met.

''(C) ABANDONMENT OF EMPLOYMENT, TERMINATION FOR CAUSE.—If the worker voluntarily abandons employment before the end of the contract period, or is terminated for cause, the worker is not entitled to the '¾ guarantee' described in subparagraph (A).

''(D) CONTRACT IMPOSSIBILITY.—If, before the expiration of the period of employment specified in the job offer, the services of the worker are no longer required for reasons beyond the control of the employer due to any form of natural disaster, including a flood, hurricane, freeze, earthquake, fire, drought, plant or animal disease or pest infestation, or regulatory drought, before the guarantee in subparagraph (A) is fulfilled, the employer may terminate the worker's employment. In the event of such termination, the employer shall fulfill the employment guarantee in subparagraph (A) for the work days that have elapsed from the first work day after the arrival of the worker to the termination of employment. In such cases, the employer will make efforts to transfer the United States worker to other comparable employment acceptable to the worker. If such transfer is not effected, the employer shall provide the return transportation required in paragraph (2)(D).

''(5) MOTOR VEHICLE SAFETY.—

''(A) MODE OF TRANSPORTATION SUBJECT TO COVERAGE.—

''(i) IN GENERAL.—Except as provided in clauses (iii) and (iv), this subsection applies to any H–2A employer that uses or causes to be used any vehicle to transport an H–2A worker within the United States.

''(ii) DEFINED TERM.—In this paragraph, the term 'uses or causes to be used'—

''(I) applies only to transportation provided by an H–2A employer to an H–2A worker, or by a farm labor contractor to an H–2A worker at the request or direction of an H–2A employer; and

''(II) does not apply to—

''(aa) transportation provided, or transportation arrangements made, by an H–2A worker, unless the employer specifically requested or arranged such transportation; or

''(bb) car pooling arrangements made by H–2A workers themselves, using 1 of the workers' own vehicles, unless specifically requested by the employer directly or through a farm labor contractor.

''(iii) CLARIFICATION.—Providing a job offer to an H–2A worker that causes the worker to travel to or from the place of employment, or the payment or reimbursement of the transportation costs of an H–2A worker by an H–2A employer, shall not constitute an arrangement of, or participation in, such transportation.

''(iv) AGRICULTURAL MACHINERY AND EQUIPMENT EXCLUDED.—This subsection does not apply to the transportation of an H–2A worker on a tractor, combine, harvester, picker, or other similar machinery or equipment while such worker is actually engaged in the planting, cultivating, or harvesting of agricultural commodities or the care of livestock or poultry or engaged in transportation incidental thereto.

''(v) COMMON CARRIERS EXCLUDED.—This subsection does not apply to common carrier motor vehicle transportation in which the provider holds itself out to the general public as engaging in the transportation of passengers for hire and holds a valid certification of authorization for such purposes from an appropriate Federal, State, or local agency.

''(B) APPLICABILITY OF STANDARDS, LICENSING, AND INSURANCE REQUIREMENTS.—

''(i) IN GENERAL.—When using, or causing to be used, any vehicle for the purpose of providing transportation to which this subparagraph applies, each employer shall—

''(I) ensure that each such vehicle conforms to the standards prescribed by the Secretary of Labor under section 401(b) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1841(b)) and other applicable Federal and State safety standards;

''(II) ensure that each driver has a valid and appropriate license, as provided by State law, to operate the vehicle; and

''(III) have an insurance policy or a liability bond that is in effect which insures the employer against liability for damage to persons or property arising from the ownership, operation, or causing to be operated, of any vehicle used to transport any H–2A worker.

''(ii) AMOUNT OF INSURANCE REQUIRED.—The level of insurance required shall be determined by the Secretary of Labor pursuant to regulations to be issued under this subsection.

''(iii) EFFECT OF WORKERS' COMPENSATION COVERAGE.—If the employer of any H–2A worker provides workers' compensation coverage for such worker in the case of bodily injury or death as provided by State law, the following adjustments in the requirements of subparagraph (B)(i)(III) relating to having an insurance policy or liability bond apply:

''(I) No insurance policy or liability bond shall be required of the employer, if such workers are transported only under circumstances for which there is coverage under such State law.

''(II) An insurance policy or liability bond shall be required of the employer for circumstances under which coverage for the transportation of such workers is not provided under such State law.

''(c) COMPLIANCE WITH LABOR LAWS.—An employer shall assure that, except as otherwise provided in this section, the employer will comply with all applicable Federal, State, and local labor laws, including laws affecting migrant and seasonal agricultural workers, with respect to all United States workers and alien workers employed by the

employer, except that a violation of this assurance shall not constitute a violation of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.).

''(d) COPY OF JOB OFFER.—The employer shall provide to the worker, not later than the day the work commences, a copy of the employer's application and job offer described in section 218(a), or, if the employer will require the worker to enter into a separate employment contract covering the employment in question, such separate employment contract.

''(e) RANGE PRODUCTION OF LIVESTOCK.—Nothing in this section, section 218, or section 218B shall preclude the Secretary of Labor and the Secretary from continuing to apply special procedures and requirements to the admission and employment of aliens in occupations involving the range production of livestock.

''SEC. 218B. PROCEDURE FOR ADMISSION AND EXTENSION OF STAY OF H–2A WORKERS.

''(a) PETITIONING FOR ADMISSION.—An employer, or an association acting as an agent or joint employer for its members, that seeks the admission into the United States of an H–2A worker may file a petition with the Secretary. The petition shall be accompanied by an accepted and currently valid certification provided by the Secretary of Labor under section 218(e)(2)(B) covering the petitioner.

''(b) EXPEDITED ADJUDICATION BY THE SECRETARY.—The Secretary shall establish a procedure for expedited adjudication of petitions filed under subsection (a) and within 7 working days shall, by fax, cable, or other means assuring expedited delivery, transmit a copy of notice of action on the petition to the petitioner and, in the case of approved petitions, to the appropriate immigration officer at the port of entry or United States consulate (as the case may be) where the petitioner has indicated that the alien beneficiary (or beneficiaries) will apply for a visa or admission to the United States.

''(c) CRITERIA FOR ADMISSIBILITY.—

''(1) IN GENERAL.—An H–2A worker shall be considered admissible to the United States if the alien is otherwise admissible under this section, section 218, and section 218A, and the alien is not ineligible under paragraph (2).

''(2) DISQUALIFICATION.—An alien shall be considered inadmissible to the United States and ineligible for nonimmigrant status under section 101(a)(15)(H)(ii)(a) if the alien has, at any time during the past 5 years—

''(A) violated a material provision of this section, including the requirement to promptly depart the United States when the alien's authorized period of admission under this section has expired; or

''(B) otherwise violated a term or condition of admission into the United States as a nonimmigrant, including overstaying the period of authorized admission as such a nonimmigrant.

''(3) WAIVER OF INELIGIBILITY FOR UNLAWFUL PRESENCE.—

''(A) IN GENERAL.—An alien who has not previously been admitted into the United States pursuant to this section, and who is otherwise eligible for admission in accordance with paragraphs (1) and (2), shall not be deemed inadmissible by virtue of section 212(a)(9)(B). If an alien described in the preceding sentence is present in the United States, the alien may apply from abroad for H–2A status, but may not be granted that status in the United States.

''(B) MAINTENANCE OF WAIVER.—An alien provided an initial waiver of ineligibility pursuant to subparagraph (A) shall remain eligible for such waiver unless the alien violates the terms of this section or again becomes ineligible under section 212(a)(9)(B) by virtue of unlawful presence in the United States after the date of the initial waiver of ineligibility pursuant to subparagraph (A).

''(d) PERIOD OF ADMISSION.—

''(1) IN GENERAL.—The alien shall be admitted for the period of employment in the application certified by the Secretary of Labor pursuant to section 218(e)(2)(B), not to exceed 10 months, supplemented by a period of not more than 1 week before the beginning of the period of employment for the purpose of travel to the worksite and a period of 14 days following the period of employment for the purpose of departure or extension based on a subsequent offer of employment, except that—

''(A) the alien is not authorized to be employed during such 14-day period except in the employment for which the alien was previously authorized; and

''(B) the total period of employment, including such 14-day period, may not exceed 10 months.

''(2) CONSTRUCTION.—Nothing in this subsection shall limit the authority of the Secretary to extend the stay of the alien under any other provision of this Act.

''(e) ABANDONMENT OF EMPLOYMENT.—

''(1) IN GENERAL.—An alien admitted or provided status under section 101(a)(15)(H)(ii)(a) who abandons the employment which was the basis for such admission or status shall be considered to have failed to maintain nonimmigrant status as an H–2A worker and shall depart the United States or be subject to removal under section 237(a)(1)(C)(i).

''(2) REPORT BY EMPLOYER.—The employer, or association acting as agent for the employer, shall notify the Secretary not later than 7 days after an H–2A worker prematurely abandons employment.

''(3) REMOVAL BY THE SECRETARY.—The Secretary shall promptly remove from the United States any H–2A worker who violates any term or condition of the worker's nonimmigrant status.

''(4) VOLUNTARY TERMINATION.—Notwithstanding paragraph (1), an alien may voluntarily terminate his or her employment if the alien promptly departs the United States upon termination of such employment.

''(f) REPLACEMENT OF ALIEN.—

''(1) IN GENERAL.—Upon presentation of the notice to the Secretary required by subsection (e)(2), the Secretary of State shall promptly issue a visa to, and the Secretary shall admit into the United States, an eligible alien designated by the employer to replace an H–2A worker—

''(A) who abandons or prematurely terminates employment; or

''(B) whose employment is terminated after a United States worker is employed pursuant to section 218(b)(2)(H)(iii), if the United States worker voluntarily departs before the end of the period of intended employment or if the employment termination is for a lawful job-related reason.

''(2) CONSTRUCTION.—Nothing in this subsection is intended to limit any preference required to be accorded United States workers under any other provision of this Act.

''(g) IDENTIFICATION DOCUMENT.—

''(1) IN GENERAL.—Each alien authorized to be admitted under section 101(a)(15)(H)(ii)(a) shall be provided an identification and employment eligibility document to verify eligibility for employment in the United States and verify the alien's identity.

''(2) REQUIREMENTS.—No identification and employment eligibility document may be issued which does not meet the following requirements:

''(A) The document shall be capable of reliably determining whether—

''(i) the individual with the identification and employment eligibility document whose eligibility is being verified is in fact eligible for employment;

''(ii) the individual whose eligibility is being verified is claiming the identity of another person; and

''(iii) the individual whose eligibility is being verified is authorized to be admitted into, and employed in, the United States as an H–2A worker.

''(B) The document shall be in a form that is resistant to counterfeiting and to tampering.

''(C) The document shall—

''(i) be compatible with other databases of the Secretary for the purpose of excluding aliens from benefits for which they are not eligible and determining whether the alien is unlawfully present in the United States; and

''(ii) be compatible with law enforcement databases to determine if the alien has been convicted of criminal offenses.

''(h) EXTENSION OF STAY OF H–2A ALIENS IN THE UNITED STATES.—

''(1) EXTENSION OF STAY.—If an employer seeks approval to employ an H–2A alien who is lawfully present in the United States, the petition filed by the employer or an association pursuant to subsection (a), shall request an extension of the alien's stay and a change in the alien's employment.

''(2) LIMITATION ON FILING A PETITION FOR EXTENSION OF STAY.—A petition may not be filed for an extension of an alien's stay—

''(A) for a period of more than 10 months; or

''(B) to a date that is more than 3 years after the date of the alien's last admission to the United States under this section.

''(3) WORK AUTHORIZATION UPON FILING A PETITION FOR EXTENSION OF STAY.—

''(A) IN GENERAL.—An alien who is lawfully present in the United States may commence the employment described in a petition under paragraph (1) on the date on which the petition is filed.

''(B) DEFINITION.—For purposes of subparagraph (A), the term 'file' means sending the petition by certified mail via the United States Postal Service, return receipt requested, or delivered by guaranteed commercial delivery which will provide the employer with a documented acknowledgment of the date of receipt of the petition.

''(C) HANDLING OF PETITION.—The employer shall provide a copy of the employer's petition to the alien, who shall keep the petition with the alien's identification and employment eligibility document as evidence that the petition has been filed and that the alien is authorized to work in the United States.

''(D) APPROVAL OF PETITION.—Upon approval of a petition for an extension of stay or change in the alien's authorized employment, the Secretary shall provide a new or updated employment eligibility document to the alien indicating the new validity date, after which the alien is not required to retain a copy of the petition.

''(4) LIMITATION ON EMPLOYMENT AUTHORIZATION OF ALIENS WITHOUT VALID IDENTIFICATION AND EMPLOYMENT ELIGIBILITY DOCUMENT.—An expired identification and employment eligibility document, together with a copy of a petition for extension of stay or change in the alien's authorized employment that complies with the requirements of paragraph (1), shall constitute a valid work authorization document for a period of not more than 60 days beginning on the date on which such petition is filed, after which time only a currently valid identification and employment eligibility document shall be acceptable.

''(5) LIMITATION ON AN INDIVIDUAL'S STAY IN STATUS.—

''(A) MAXIMUM PERIOD.—The maximum continuous period of authorized status as an H–2A worker (including any extensions) is 3 years.

''(B) REQUIREMENT TO REMAIN OUTSIDE THE UNITED STATES.—

''(i) IN GENERAL.—Subject to clause (ii), in the case of an alien outside the United States whose period of authorized status as an H–2A worker (including any extensions) has expired, the alien may not again apply for admission to the United States as an H–2A worker unless the alien has remained outside the United States for a continuous period equal to at least ⅓ the duration of the alien's previous period of authorized status as an H–2A worker (including any extensions).

''(ii) EXCEPTION.—Clause (i) shall not apply in the case of an alien if the alien's period of authorized status as an H–2A worker (including any extensions) was for a period of not more than 10 months and such alien has been outside the United States for at least 2 months during the 12 months preceding the date the alien again is applying for admission to the United States as an H–2A worker.

''(i) SPECIAL RULES FOR ALIENS EMPLOYED AS SHEEPHERDERS, GOAT HERDERS, OR DAIRY WORKERS.—Notwithstanding any provision of the Agricultural Job Opportunities, Benefits, and Security Act of 2007, an alien admitted under section 101(a)(15)(H)(ii)(a) for employment as a sheepherder, goat herder, or dairy worker—

''(1) may be admitted for an initial period of 12 months;

''(2) subject to subsection (j)(5), may have such initial period of admission extended for a period of up to 3 years; and

''(3) shall not be subject to the requirements of subsection (h)(5) (relating to periods of absence from the United States).

''(j) ADJUSTMENT TO LAWFUL PERMANENT RESIDENT STATUS FOR ALIENS EMPLOYED AS SHEEPHERDERS, GOAT HERDERS, OR DAIRY WORKERS.—

''(1) ELIGIBLE ALIEN.—For purposes of this subsection, the term 'eligible alien' means an alien—

''(A) having nonimmigrant status under section 101(a)(15)(H)(ii)(a) based on employment as a sheepherder, goat herder, or dairy worker;

''(B) who has maintained such nonimmigrant status in the United States for a cumulative total of 36 months (excluding any period of absence from the United States); and

''(C) who is seeking to receive an immigrant visa under section 203(b)(3)(A)(iii).

''(2) CLASSIFICATION PETITION.—In the case of an eligible alien, the petition under section 204 for classification under section 203(b)(3)(A)(iii) may be filed by—

''(A) the alien's employer on behalf of the eligible alien; or

''(B) the eligible alien.

''(3) NO LABOR CERTIFICATION REQUIRED.—Notwithstanding section 203(b)(3)(C), no determination under section 212(a)(5)(A) is required with respect to an immigrant visa described in paragraph (1)(C) for an eligible alien.

''(4) EFFECT OF PETITION.—The filing of a petition described in paragraph (2) or an application for adjustment of status based on the approval of such a petition shall not constitute evidence of an alien's ineligibility for nonimmigrant status under section 101(a)(15)(H)(ii)(a).

''(5) EXTENSION OF STAY.—The Secretary shall extend the stay of an eligible alien having a pending or approved classification petition described in paragraph (2) in 1-year increments until a final determination is made on the alien's eligibility for adjustment of status to that of an alien lawfully admitted for permanent residence.

''(6) CONSTRUCTION.—Nothing in this subsection shall be construed to prevent an eligible alien from seeking adjustment of status in accordance with any other provision of law.

''SEC. 218C. WORKER PROTECTIONS AND LABOR STANDARDS ENFORCEMENT.

''(a) ENFORCEMENT AUTHORITY.—

''(1) INVESTIGATION OF COMPLAINTS.—

''(A) AGGRIEVED PERSON OR THIRD-PARTY COMPLAINTS.—The Secretary of Labor shall establish a process for the receipt, investigation, and disposition of complaints respecting a petitioner's failure to meet a condition specified in section 218(b), or an employer's misrepresentation of material facts in an application under section 218(a). Complaints may be filed by any aggrieved person or organization (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure, or misrepresentation, respectively. The Secretary of Labor shall conduct an investigation under this subparagraph if there is reasonable cause to believe that such a failure or misrepresentation has occurred.

''(B) DETERMINATION ON COMPLAINT.—Under such process, the Secretary of Labor shall provide, within 30 days after the date such a complaint is filed, for a determination as to whether or not a reasonable basis exists to make a finding described in subparagraph (C), (D), (E), or (G). If the Secretary of Labor determines that such a reasonable basis exists, the Secretary of Labor shall provide for notice of such determination to the interested parties and an opportunity for a hearing on the complaint, in accordance with section 556 of title 5, United States Code, within 60 days after the date of the determination. If such a hearing is requested, the Secretary of Labor shall make a finding concerning the matter not later than 60 days after the date of the hearing. In the case of similar complaints respecting the same applicant, the Secretary of Labor may consolidate the hearings under this subparagraph on such complaints.

''(C) FAILURES TO MEET CONDITIONS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a failure to meet a condition of paragraph (1)(A), (1)(B), (1)(D), (1)(F), (2)(A), (2)(B), or (2)(G) of section 218(b), a substantial failure to meet a condition of paragraph (1)(C), (1)(E), (2)(C), (2)(D), (2)(E), or (2)(H) of section 218(b), or a material misrepresentation of fact in an application under section 218(a)—

''(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $1,000 per violation) as the Secretary of Labor determines to be appropriate; and

''(ii) the Secretary may disqualify the employer from the employment of aliens described in section 101(a)(15)(H)(ii)(a) for a period of 1 year.

''(D) WILLFUL FAILURES AND WILLFUL MISREPRESENTATIONS.—If the Secretary of Labor finds, after notice and opportunity for hearing, a willful failure to meet a condition of section 218(b), a willful misrepresentation of a material fact in an application under section 218(a), or a violation of subsection (d)(1)—

''(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $5,000 per violation) as the Secretary of Labor determines to be appropriate;

''(ii) the Secretary of Labor may seek appropriate legal or equitable relief to effectuate the purposes of subsection (d)(1); and

''(iii) the Secretary may disqualify the employer from the employment of H–2A workers for a period of 2 years.

''(E) DISPLACEMENT OF UNITED STATES WORKERS.—If the Secretary of Labor finds, after notice and opportunity for hearing, a willful failure to meet a condition of section 218(b) or a willful misrepresentation of a material fact in an application under section 218(a), in the course of which failure or misrepresentation the employer displaced a United States worker employed by the employer during the period of employment on the employer's application under section 218(a) or during the period of 30 days preceding such period of employment—

''(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $15,000 per violation) as the Secretary of Labor determines to be appropriate; and

''(ii) the Secretary may disqualify the employer from the employment of H–2A workers for a period of 3 years.

''(F) LIMITATIONS ON CIVIL MONEY PENALTIES.—The Secretary of Labor shall not impose total civil money penalties with respect to an application under section 218(a) in excess of $90,000.

''(G) FAILURES TO PAY WAGES OR REQUIRED BENEFITS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, that the employer has failed to pay the wages, or provide the housing allowance, transportation, subsistence reimbursement, or guarantee of employment, required under section 218A(b), the Secretary of Labor shall assess payment of back wages, or other required benefits, due any United States worker or H–2A worker employed by the employer in the specific employment in question. The back wages or other required benefits under section 218A(b) shall be equal to the difference between the amount that should have been paid and the amount that actually was paid to such worker.

''(2) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as limiting the authority of the Secretary of Labor to conduct any compliance investigation under any other labor law, including any law affecting migrant and seasonal agricultural workers, or, in the absence of a complaint under this section, under section 218 or 218A.

''(b) RIGHTS ENFORCEABLE BY PRIVATE RIGHT OF ACTION.—H–2A workers may enforce the following rights through the private right of action provided in subsection (c), and no other right of action shall exist under Federal or State law to enforce such rights:

''(1) The providing of housing or a housing allowance as required under section 218A(b)(1).

''(2) The reimbursement of transportation as required under section 218A(b)(2).

''(3) The payment of wages required under section 218A(b)(3) when due.

''(4) The benefits and material terms and conditions of employment expressly provided in the job offer described in section 218(a)(2), not including the assurance to comply with other Federal, State, and local labor laws described in section 218A(c), compliance with which shall be governed by the provisions of such laws.

''(5) The guarantee of employment required under section 218A(b)(4).

''(6) The motor vehicle safety requirements under section 218A(b)(5).

''(7) The prohibition of discrimination under subsection (d)(2).

''(c) PRIVATE RIGHT OF ACTION.—

''(1) MEDIATION.—Upon the filing of a complaint by an H–2A worker aggrieved by a violation of rights enforceable under subsection (b), and within 60 days of the filing of proof of service of the complaint, a party to the action may file a request with the Federal Mediation and Conciliation Service to assist the parties in reaching a satisfactory resolution of all issues involving all parties to the dispute. Upon a filing of such request and giving of notice to the parties, the parties shall attempt mediation within the period specified in subparagraph (B).

''(A) MEDIATION SERVICES.—The Federal Mediation and Conciliation Service shall be available to assist in resolving disputes arising under subsection (b) between H–2A workers and agricultural employers without charge to the parties.

''(B) 90-DAY LIMIT.—The Federal Mediation and Conciliation Service may conduct mediation or other nonbinding dispute resolution activities for a period not to exceed 90 days beginning on the date on which the Federal Mediation and Conciliation Service receives the request for assistance unless the parties agree to an extension of this period of time.

''(C) AUTHORIZATION.—

''(i) IN GENERAL.—Subject to clause (ii), there are authorized to be appropriated to the Federal Mediation and Conciliation Service $500,000 for each fiscal year to carry out this section.

''(ii) MEDIATION.—Notwithstanding any other provision of law, the Director of the Federal Mediation and Conciliation Service is authorized to conduct the mediation or other dispute resolution activities from any other appropriated funds available to the Director and to reimburse such appropriated funds when the funds are appropriated pursuant to this authorization, such reimbursement to be credited to appropriations currently available at the time of receipt.

''(2) MAINTENANCE OF CIVIL ACTION IN DISTRICT COURT BY AGGRIEVED PERSON.—An H–2A worker aggrieved by a violation of rights enforceable under subsection (b) by an agricultural employer or other person may file suit in any district court of the United States having jurisdiction over the parties, without regard to the amount in controversy, without regard to the citizenship of the parties, and without regard to the exhaustion of any alternative administrative remedies under this Act, not later than 3 years after the date the violation occurs.

''(3) ELECTION.—An H–2A worker who has filed an administrative complaint with the Secretary of Labor may not maintain a civil action under paragraph (2) unless a complaint based on the same violation filed with the Secretary of Labor under subsection (a)(1) is withdrawn before the filing of such action, in which case the rights and remedies available under this subsection shall be exclusive.

''(4) PREEMPTION OF STATE CONTRACT RIGHTS.—Nothing in this Act shall be construed to diminish the rights and remedies of an H–2A worker under any other Federal or State law or regulation or under any collective bargaining agreement, except that no court or administrative action shall be available under any State contract law to enforce the rights created by this Act.

''(5) WAIVER OF RIGHTS PROHIBITED.—Agreements by employees purporting to waive or modify their rights under this Act shall be void as contrary to public policy, except that a waiver or modification of the rights or obligations in favor of the Secretary of Labor shall be valid for purposes of the enforcement of this Act. The preceding sentence may not be construed to prohibit agreements to settle private disputes or litigation.

''(6) AWARD OF DAMAGES OR OTHER EQUITABLE RELIEF.—

''(A) If the court finds that the respondent has intentionally violated any of the rights enforceable under subsection (b), it shall award actual damages, if any, or equitable relief.

''(B) Any civil action brought under this section shall be subject to appeal as provided in chapter 83 of title 28, United States Code.

''(7) WORKERS' COMPENSATION BENEFITS; EXCLUSIVE REMEDY.—

''(A) Notwithstanding any other provision of this section, where a State's workers' compensation law is applicable and coverage is provided for an H–2A worker, the workers' compensation benefits shall be the exclusive remedy for the loss of such worker under this section in the case of bodily injury or death in accordance with such State's workers' compensation law.

''(B) The exclusive remedy prescribed in subparagraph (A) precludes the recovery under paragraph (6) of actual damages for loss from an injury or death but does not preclude other equitable relief, except that such relief shall not include back or front pay or in any manner, directly or indirectly, expand or otherwise alter or affect—

''(i) a recovery under a State workers' compensation law; or

''(ii) rights conferred under a State workers' compensation law.

''(8) TOLLING OF STATUTE OF LIMITATIONS.—If it is determined under a State workers' compensation law that the workers' compensation law is not applicable to a claim for bodily injury or death of an H–2A worker, the statute of limitations for bringing an action for actual damages for such injury or death under subsection (c) shall be tolled for the period during which the claim for such injury or death under such State workers' compensation law was pending. The statute of limitations for an action for actual damages or other equitable relief arising out of the same transaction or occurrence as the injury or death of the H–2A worker shall be tolled for the period during which the claim for such injury or death was pending under the State workers' compensation law.

''(9) PRECLUSIVE EFFECT.—Any settlement by an H–2A worker and an H–2A employer or any person reached through the mediation process required under subsection (c)(1) shall preclude any right of action arising out of the same facts between the parties in any Federal or State court or administrative proceeding, unless specifically provided otherwise in the settlement agreement.

''(10) SETTLEMENTS.—Any settlement by the Secretary of Labor with an H–2A employer on behalf of an H–2A worker of a complaint filed with the Secretary of Labor under this section or any finding by the Secretary of Labor under subsection (a)(1)(B) shall preclude any right of action arising out of the same facts between the parties under any Federal or State court or administrative proceeding, unless specifically provided otherwise in the settlement agreement.

''(d) DISCRIMINATION PROHIBITED.—

''(1) IN GENERAL.—It is a violation of this subsection for any person who has filed an application under section 218(a), to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any other manner discriminate against an employee (which term, for purposes of this subsection, includes a former employee and an applicant for employment) because the employee has disclosed information to the employer, or to any other person, that the employee reasonably believes evidences a violation of section 218 or 218A or any rule or regulation pertaining to section 218 or 218A, or because the employee cooperates or seeks to cooperate in an investigation or other proceeding concerning the employer's compliance with the requirements of section 218 or 218A or any rule or regulation pertaining to either of such sections.

''(2) DISCRIMINATION AGAINST H–2A WORKERS.—It is a violation of this subsection for any person who has filed an application under section 218(a), to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against an H–2A employee because such worker has, with just cause, filed a complaint with the Secretary of Labor regarding a denial of the rights enumerated and enforceable under subsection (b) or instituted, or caused to be instituted, a private right of action under subsection (c) regarding the denial of the rights enumerated under subsection (b), or has testified or is about to testify in any court proceeding brought under subsection (c).

''(e) AUTHORIZATION TO SEEK OTHER APPROPRIATE EMPLOYMENT.—The Secretary of Labor and the Secretary shall establish a process under which an H–2A worker who files a complaint regarding a violation of subsection (d) and is otherwise eligible to remain and work in the United States may be allowed to seek other appropriate employment in the United States for a period not to exceed the maximum period of stay authorized for such nonimmigrant classification.

''(f) ROLE OF ASSOCIATIONS.—

''(1) VIOLATION BY A MEMBER OF AN ASSOCIATION.—An employer on whose behalf an application is filed by an association acting as its agent is fully responsible for such application, and for complying with the terms and conditions of sections 218 and 218A, as though the employer had filed the application itself. If such an employer is determined, under this section, to have committed a violation, the penalty for such violation shall apply only to that member of the association unless the Secretary of Labor determines that the association or other member participated in, had knowledge, or reason to know, of the violation, in which case the penalty shall be invoked against the association or other association member as well.

''(2) VIOLATIONS BY AN ASSOCIATION ACTING AS AN EMPLOYER.—If an association filing an application as a sole or joint employer is determined to have committed a violation under this section, the penalty for such violation shall apply only to the association unless the Secretary of Labor determines that an association member or members participated in or had knowledge, or reason to know of the violation, in which case the penalty shall be invoked against the association member or members as well.

''SEC. 218D. DEFINITIONS.

''For purposes of this section and section 218, 218A, 218B, and 218C:

''(1) AGRICULTURAL EMPLOYMENT.—The term 'agricultural employment' means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 or the performance of agricultural labor or services described in section 101(a)(15)(H)(ii)(a).

''(2) BONA FIDE UNION.—The term 'bona fide union' means any organization in which employees participate and which exists for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other terms and conditions of work for agricultural employees. Such term does not include an organization formed, created, administered, supported, dominated, financed, or controlled by an employer or employer association or its agents or representatives.

''(3) DISPLACE.—The term 'displace', in the case of an application with respect to 1 or more H–2A workers by an employer, means laying off a United States worker from a job for which the H–2A worker or workers is or are sought.

''(4) ELIGIBLE.—The term 'eligible', when used with respect to an individual, means an individual who is not an unauthorized alien (as defined in section 274A).

''(5) EMPLOYER.—The term 'employer' means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

''(6) H–2A EMPLOYER.—The term 'H–2A employer' means an employer who seeks to hire 1 or more nonimmigrant aliens described in section 101(a)(15)(H)(ii)(a).

''(7) H–2A WORKER.—The term 'H–2A worker' means a nonimmigrant described in section 101(a)(15)(H)(ii)(a).

''(8) JOB OPPORTUNITY.—The term 'job opportunity' means a job opening for temporary or seasonal full-time employment at a place in the United States to which United States workers can be referred.

''(9) LAYING OFF.—

''(A) IN GENERAL.—The term 'laying off', with respect to a worker—

''(i) means to cause the worker's loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, contract impossibility (as described in section 218A(b)(4)(D)), or temporary suspension of employment due to weather, markets, or other temporary conditions; but

''(ii) does not include any situation in which the worker is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer (or, in the case of a placement of a worker with another employer under section 218(b)(2)(E), with either employer described in such section) at equivalent or higher compensation and benefits than the position from which the employee was discharged, regardless of whether or not the employee accepts the offer.

''(B) STATUTORY CONSTRUCTION.—Nothing in this paragraph is intended to limit an employee's rights under a collective bargaining agreement or other employment contract.

''(10) REGULATORY DROUGHT.—The term 'regulatory drought' means a decision subsequent to the filing of the application under section 218 by an entity not under the control of the employer making such filing which restricts the employer's access to water for irrigation purposes and reduces or limits the employer's ability to produce an agricultural commodity, thereby reducing the need for labor.

''(11) SEASONAL.—Labor is performed on a 'seasonal' basis if—

''(A) ordinarily, it pertains to or is of the kind exclusively performed at certain seasons or periods of the year; and

''(B) from its nature, it may not be continuous or carried on throughout the year.

''(12) SECRETARY.—Except as otherwise provided, the term 'Secretary' means the Secretary of Homeland Security.

''(13) TEMPORARY.—A worker is employed on a 'temporary' basis where the employment is intended not to exceed 10 months.

''(14) UNITED STATES WORKER.—The term 'United States worker' means any worker, whether a national of the United States, an alien lawfully admitted for permanent residence, or any other alien, who is authorized to work in the job opportunity within the United States, except an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a).''.

(b) TABLE OF CONTENTS.—The table of contents of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by striking the item relating to section 218 and inserting the following:

''Sec. 218. H–2A employer applications.
''Sec. 218A. H–2A employment requirements.
''Sec. 218B. Procedure for admission and extension of stay of H–2A workers.
''Sec. 218C. Worker protections and labor standards enforcement.
''Sec. 218D. Definitions.''.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. DETERMINATION AND USE OF USER FEES.

(a) SCHEDULE OF FEES.—The Secretary shall establish and periodically adjust a schedule of fees for the employment of aliens pursuant to the amendment made by section 201(a) of this Act and a collection process for such fees from employers. Such fees shall be the only fees chargeable to employers for services provided under such amendment.

(b) DETERMINATION OF SCHEDULE.—

(1) IN GENERAL.—The schedule under subsection (a) shall reflect a fee rate based on the number of job opportunities indicated in the employer's application under section 218 of the Immigration and Nationality Act, as amended by section 201 of this Act, and sufficient to provide for the direct costs of providing services related to an employer's authorization to employ aliens pursuant to the amendment made by section 201(a) of this Act, to include the certification of eligible employers, the issuance of documentation, and the admission of eligible aliens.

(2) PROCEDURE.—

(A) IN GENERAL.—In establishing and adjusting such a schedule, the Secretary shall comply with Federal cost accounting and fee setting standards.

(B) PUBLICATION AND COMMENT.—The Secretary shall publish in the Federal Register an initial fee schedule and associated collection process and the cost data or estimates upon which such fee schedule is based, and any subsequent amendments thereto, pursuant to which public comment shall be sought and a final rule issued.

(c) USE OF PROCEEDS.—Notwithstanding any other provision of law, all proceeds resulting from the payment of the fees pursuant to the amendment made by section 201(a) of this Act shall be available without further appropriation and shall remain available without fiscal year limitation to reimburse the Secretary, the Secretary of State, and the Secretary of Labor for the costs of carrying out sections 218 and 218B of the Immigration and Nationality Act, as amended and added, respectively, by section 201 of this Act, and the provisions of this Act.

SEC. 302. REGULATIONS.

(a) REQUIREMENT FOR THE SECRETARY TO CONSULT.—The Secretary shall consult with the Secretary of Labor and the Secretary of Agriculture during the promulgation of all regulations to implement the duties of the Secretary under this Act and the amendments made by this Act.

(b) REQUIREMENT FOR THE SECRETARY OF STATE TO CONSULT.—The Secretary of State shall consult with the Secretary, the Secretary of Labor, and the Secretary of Agriculture on all regulations to implement the duties of the Secretary of State under this Act and the amendments made by this Act.

(c) REQUIREMENT FOR THE SECRETARY OF LABOR TO CONSULT.—The Secretary of Labor shall consult with the Secretary of Agriculture and the Secretary on all regulations to implement the duties of the Secretary of Labor under this Act and the amendments made by this Act.

(d) DEADLINE FOR ISSUANCE OF REGULATIONS.—All regulations to implement the duties of the Secretary, the Secretary of State, and the Secretary of Labor created under sections 218, 218A, 218B, 218C, and 218D of the Immigration and Nationality Act, as amended or added by section 201 of this Act, shall take effect on the effective date of section 201 and shall be issued not later than 1 year after the date of enactment of this Act.

SEC. 303. REPORTS TO CONGRESS.

(a) ANNUAL REPORT.—Not later than September 30 of each year, the Secretary shall submit a report to Congress that identifies, for the previous year—

(1) the number of job opportunities approved for employment of aliens admitted under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)), and the number of workers actually admitted, disaggregated by State and by occupation;

(2) the number of such aliens reported to have abandoned employment pursuant to subsection 218B(e)(2) of such Act;

(3) the number of such aliens who departed the United States within the period specified in subsection 218B(d) of such Act;

(4) the number of aliens who applied for adjustment of status pursuant to section 101(a);

(5) the number of such aliens whose status was adjusted under section 101(a);

(6) the number of aliens who applied for permanent residence pursuant to section 103(c); and

(7) the number of such aliens who were approved for permanent residence pursuant section 103(c).

(b) IMPLEMENTATION REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall prepare and submit to Congress a report that describes the measures being taken and the progress made in implementing this Act.

SEC. 304. EFFECTIVE DATE.

Except as otherwise provided, sections 201 and 301 shall take effect 1 year after the date of the enactment of this Act.

Mr. KENNEDY. Mr. President, It's a privilege to join Senator FEINSTEIN and Senator CRAIG and my other colleagues today as we reintroduce the Agricultural Jobs, Opportunity, Benefits, and Security Act. I commend them and Representatives HOWARD BERMAN and CHRIS CANNON for their bipartisan leadership and I'm honored to be part of this landmark legislation.

The bill reflects a far-reaching and welcome agreement between the United Farm Workers and the agricultural industry on one of the most difficult immigration' challenges we face, and we in Congress should make the most of this unique opportunity for progress.

America has a proud tradition as a Nation of immigrants and a Nation of laws. But our current immigration laws fail us on both counts. Much of the Nation's economy today depends on the hard work and the many contributions of immigrants. The agricultural industry would grind to a halt without immigrant farm workers. Yet, the overwhelming majority of these workers lack legal status, and can be easily exploited by unscrupulous employers.

The legislation we are introducing, called the ''AgJOBS Act,'' is an opportunity to correct these long-festering problems. It will give farm workers and their families the dignity and justice they deserve, and it will give agricultural employers a legal workforce.

It is a realistic compromise that now has broad support in Congress, and from business and labor, civic and faith-based organizations, liberals and conservatives, trade associations and immigrant rights groups.

The Act is a needed reform in our immigration law to reflect current economic realities and meet our national security needs more effectively, and do so in a way that respects America's immigrant heritage. It provides a fair and reasonable means for illegal agricultural workers to earn legal status, and it also reforms the current visa program, so that employers unable to obtain American workers can hire needed foreign workers.

The AgJOBS Act is good for both labor and business. The Nation can no longer ignore the fact that more than half of our agricultural workers are undocumented. Growers need an immediate, reliable and legal workforce at harvest time. Farm workers need legal statues to improve their wages and working conditions. Everyone suffers when crops rot in the fields because of the lack of an adequate labor force.

The AgJOBS Act provides a fair and reasonable process for undocumented agricultural workers to earn legal status. Undocumented farm workers are clearly vulnerable to abuse by unscrupulous labor contractors and growers. Their illegal status deprives them of bargaining power and depresses the wages of all farm workers. Our bill provides fair solutions for undocumented workers who have been toiling in our fields and harvesting our fruits and vegetables.

This bill is not an amnesty. To earn the right to remain in this country, workers would not only have to demonstrate past work contributions to the U.S. economy, but also make a substantial future work commitment. These workers will be able to come forward, identify themselves, provide evidence that they have been employed in agriculture and will continue to work hard, and will play by the rules in the future.

This legislation will modify the current temporary foreign agricultural worker program, while preserving and enhancing key labor protections. It achieves a fair balance. It streamlines the H–2A visa application process by reducing paperwork for employers and accelerating processing. But individuals participating in the program receive strong labor protections.

Our legislation will unify families. When temporary residence is granted a farm worker's spouse and minor children will be able to remain legally in the U.S. but they will not be authorized to work. When the worker becomes a permanent resident, the spouse and minor children will also gain such status.

AgJOBS will also enhance national security and reduce illegal immigration. It will reduce the chaotic, illegal, and all-too-deadly flows of immigrants at our borders by providing safe and legal avenues for farm workers and their families. Future temporary workers will be carefully screened to meet security concerns. Enforcement resources will be more effectively focused on the highest risks. By bringing undocumented farm workers out of the shadows and requiring them to pass through security checks, it will enable officials to concentrate more effectively on terrorists and criminals.

Last year, Senators came together—Democrats and Republicans—to pass a far-reaching immigration reform bill that included the AgJOBS bill. The American people are calling on us to come together again. They know there is a crisis, and they want action now.

President Bush has been a leader on immigration reform, and I'm hopeful that he will renew his efforts with members of his party, so that we can continue action quickly this year on comprehensive reform legislation and end this festering crisis once and for all. The House of Representatives is now ready to be a genuine partner in this effort.

By heritage and history, America is a Nation of immigrants. Our legislation proposes necessary changes in the law while preserving this tradition. This bill will ensure that immigrant farm workers can live the American dream and contribute to our prosperity, our security, and our values, and I hope very much that it can be enacted as soon as possible in this new Congress.

By Mrs. FEINSTEIN (for herself, Mr. GREGG, Mr. SUNUNU, Mr. NELSON of Florida, and Mr. LEAHY):

S. 238. A bill to amend title 18, United States Code, to limit the misuse of Social Security numbers, to establish criminal penalties for such misuse, and for other purposes; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I rise to introduce legislation to protect one of Americans' most valuable but vulnerable assets: social security numbers.

The bill I propose is identical to legislation that I introduced last year. This is the fifth Congress in which I have proposed legislation to protect social security numbers. I stand before you again today because I believe that this issue is too important to ignore.

We all know that once a person's social security number is compromised, the path to identity theft is a short one. The Federal Trade Commission estimates that as many as 10 million Americans have their identities stolen each year.

The crime takes many forms. Thieves can obtain social security numbers through public records—marriage licenses, professional licenses, and countless other public documents—many of which are available on the internet.

These stolen social security numbers then act like virtual keys, allowing the thieves to unlock an individual's identity.

Thieves open credit cards and charge them to the max. Often, the victim does not even realize what has happened until they are denied credit in the future because of the unpaid debt on the fraudulent credit cards.

Thieves open bank accounts in the victim's name and write bad checks.

Thieves get driver's licenses or identification cards, and even apply for government benefits in the victim's name.

Identity theft is serious. A person whose identity is stolen can lose thousands of dollars and take months or even years to regain their good name and credit.

The damage, loss, and stress of identity theft are considerable.

Victims may lose job opportunities, or be denied loans for education, housing, or cars because of negative information on their credit reports. They may even be arrested for crimes they did not commit.

The ease with which social security numbers can be accessed is distressing, but also, unnecessary.

The Social Security Number Misuse Prevention Act would require government agencies and businesses to do more to protect Americans' social security numbers. The bill would: stop the sale or display of a person's social security number without his or her express consent; prevent Federal, State and local governments from displaying social security numbers on public records posted on the Internet; end the printing of social security numbers on government checks; prohibit the employing of inmates for tasks that give them access to the social security numbers of other individuals; limit the circumstances in which businesses could ask a customer for his or her social security number; commission a study of the current uses of social security numbers and the impact on privacy and data security; and institute criminal and civil penalties for misuse of social security numbers.

This legislation is simple and necessary to stop the growing epidemic of identity theft that has been plaguing America and its citizens.

As we move further into the information age and rely more on information sharing, this problem will only get worse, unless we take action. I urge my colleagues to support the Social Security Number Misuse Prevention Act.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD.

S. 238

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 ''Social Security Number Misuse Prevention Act''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The inappropriate display, sale, or purchase of Social Security numbers has contributed to a growing range of illegal activities, including fraud, identity theft, and, in some cases, stalking and other violent crimes.

(2) While financial institutions, health care providers, and other entities have often used Social Security numbers to confirm the identity of an individual, the general display to the public, sale, or purchase of these numbers has been used to commit crimes, and also can result in serious invasions of individual privacy.

(3) The Federal Government requires virtually every individual in the United States to obtain and maintain a Social Security number in order to pay taxes, to qualify for Social Security benefits, or to seek employment. An unintended consequence of these requirements is that Social Security numbers have become one of the tools that can be used to facilitate crime, fraud, and invasions of the privacy of the individuals to whom the numbers are assigned. Because the Federal Government created and maintains this system, and because the Federal Government does not permit individuals to exempt themselves from those requirements, it is appropriate for the Federal Government to take steps to stem the abuse of Social Security numbers.

(4) The display, sale, or purchase of Social Security numbers in no way facilitates uninhibited, robust, and wide-open public debate, and restrictions on such display, sale, or purchase would not affect public debate.

(5) No one should seek to profit from the display, sale, or purchase of Social Security numbers in circumstances that create a substantial risk of physical, emotional, or financial harm to the individuals to whom those numbers are assigned.

(6) Consequently, this Act provides each individual that has been assigned a Social Security number some degree of protection from the display, sale, and purchase of that number in any circumstance that might facilitate unlawful conduct.

SEC. 3. PROHIBITION OF THE DISPLAY, SALE, OR PURCHASE OF SOCIAL SECURITY NUMBERS.

(a) PROHIBITION.—

(1) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by inserting after section 1028A the following:

"§ 1028B. Prohibition of the display, sale, or purchase of Social Security numbers

''(a) DEFINITIONS.—In this section:

''(1) DISPLAY.—The term 'display' means to intentionally communicate or otherwise make available (on the Internet or in any other manner) to the general public an individual's Social Security number.

''(2) PERSON.—The term 'person' means any individual, partnership, corporation, trust, estate, cooperative, association, or any other entity.

''(3) PURCHASE.—The term 'purchase' means providing directly or indirectly, anything of value in exchange for a Social Security number.

''(4) SALE.—The term 'sale' means obtaining, directly or indirectly, anything of value in exchange for a Social Security number.

''(5) STATE.—The term 'State' means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, and any territory or possession of the United States.

''(b) LIMITATION ON DISPLAY.—Except as provided in section 1028C, no person may display any individual's Social Security number to the general public without the affirmatively expressed consent of the individual.

''(c) LIMITATION ON SALE OR PURCHASE.—Except as otherwise provided in this section, no person may sell or purchase any individual's Social Security number without the affirmatively expressed consent of the individual.

''(d) PREREQUISITES FOR CONSENT.—In order for consent to exist under subsection (b) or (c), the person displaying or seeking to display, selling or attempting to sell, or purchasing or attempting to purchase, an individual's Social Security number shall—

''(1) inform the individual of the general purpose for which the number will be used, the types of persons to whom the number may be available, and the scope of transactions permitted by the consent; and

''(2) obtain the affirmatively expressed consent (electronically or in writing) of the individual.

''(e) EXCEPTIONS.—Nothing in this section shall be construed to prohibit or limit the display, sale, or purchase of a Social Security number—

''(1) required, authorized, or excepted under any Federal law;

''(2) for a public health purpose, including the protection of the health or safety of an individual in an emergency situation;

''(3) for a national security purpose;

''(4) for a law enforcement purpose, including the investigation of fraud and the enforcement of a child support obligation;

''(5) if the display, sale, or purchase of the number is for a use occurring as a result of an interaction between businesses, governments, or business and government (regardless of which entity initiates the interaction), including, but not limited to—

''(A) the prevention of fraud (including fraud in protecting an employee's right to employment benefits);

''(B) the facilitation of credit checks or the facilitation of background checks of employees, prospective employees, or volunteers;

''(C) the retrieval of other information from other businesses, commercial enterprises, government entities, or private nonprofit organizations; or

''(D) when the transmission of the number is incidental to, and in the course of, the sale, lease, franchising, or merger of all, or a portion of, a business;

''(6) if the transfer of such a number is part of a data matching program involving a Federal, State, or local agency; or

''(7) if such number is required to be submitted as part of the process for applying for any type of Federal, State, or local government benefit or program;

except that, nothing in this subsection shall be construed as permitting a professional or commercial user to display or sell a Social Security number to the general public.

''(f) LIMITATION.—Nothing in this section shall prohibit or limit the display, sale, or purchase of Social Security numbers as permitted under title V of the Gramm-Leach-Bliley Act, or for the purpose of affiliate sharing as permitted under the Fair Credit Reporting Act, except that no entity regulated under such Acts may make Social Security numbers available to the general public, as may be determined by the appropriate regulators under such Acts. For purposes of this subsection, the general public shall not include affiliates or unaffiliated third-party business entities as may be defined by the appropriate regulators.''.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1028 the following:

''1028B. Prohibition of the display, sale, or purchase of Social Security numbers.''.

(b) STUDY; REPORT.—

(1) IN GENERAL.—The Attorney General shall conduct a study and prepare a report on all of the uses of Social Security numbers permitted, required, authorized, or excepted under any Federal law. The report shall include a detailed description of the uses allowed as of the date of enactment of this Act, the impact of such uses on privacy and data security, and shall evaluate whether such uses should be continued or discontinued by appropriate legislative action.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall report to Congress findings under this subsection. The report shall include such recommendations for legislation based on criteria the Attorney General determines to be appropriate.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 30 days after the date on which the final regulations promulgated under section 5 are published in the Federal Register.

SEC. 4. APPLICATION OF PROHIBITION OF THE DISPLAY, SALE, OR PURCHASE OF SOCIAL SECURITY NUMBERS TO PUBLIC RECORDS.

(a) PUBLIC RECORDS EXCEPTION.—

(1) IN GENERAL.—Chapter 47 of title 18, United States Code (as amended by section 3(a)(1)), is amended by inserting after section 1028B the following:

"§ 1028C. Display, sale, or purchase of public records containing Social Security numbers

''(a) DEFINITION.—In this section, the term 'public record' means any governmental record that is made available to the general public.

''(b) IN GENERAL.—Except as provided in subsections (c), (d), and (e), section 1028B shall not apply to a public record.

''(c) PUBLIC RECORDS ON THE INTERNET OR IN AN ELECTRONIC MEDIUM.—

''(1) IN GENERAL.—Section 1028B shall apply to any public record first posted onto the Internet or provided in an electronic medium by, or on behalf of a government entity after the date of enactment of this section, except as limited by the Attorney General in accordance with paragraph (2).

''(2) EXCEPTION FOR GOVERNMENT ENTITIES ALREADY PLACING PUBLIC RECORDS ON THE INTERNET OR IN ELECTRONIC FORM.—Not later than 60 days after the date of enactment of this section, the Attorney General shall issue regulations regarding the applicability of section 1028B to any record of a category of public records first posted onto the Internet or provided in an electronic medium by, or on behalf of a government entity prior to the date of enactment of this section. The regulations will determine which individual

records within categories of records of these government entities, if any, may continue to be posted on the Internet or in electronic form after the effective date of this section. In promulgating these regulations, the Attorney General may include in the regulations a set of procedures for implementing the regulations and shall consider the following:

''(A) The cost and availability of technology available to a governmental entity to redact Social Security numbers from public records first provided in electronic form after the effective date of this section.

''(B) The cost or burden to the general public, businesses, commercial enterprises, nonprofit organizations, and to Federal, State, and local governments of complying with section 1028B with respect to such records.

''(C) The benefit to the general public, businesses, commercial enterprises, nonprofit organizations, and to Federal, State, and local governments if the Attorney General were to determine that section 1028B should apply to such records.

Nothing in the regulation shall permit a public entity to post a category of public records on the Internet or in electronic form after the effective date of this section if such category had not been placed on the Internet or in electronic form prior to such effective date.

''(d) HARVESTED SOCIAL SECURITY NUMBERS.—Section 1028B shall apply to any public record of a government entity which contains Social Security numbers extracted from other public records for the purpose of displaying or selling such numbers to the general public.

''(e) ATTORNEY GENERAL RULEMAKING ON PAPER RECORDS.—

''(1) IN GENERAL.—Not later than 60 days after the date of enactment of this section, the Attorney General shall determine the feasibility and advisability of applying section 1028B to the records listed in paragraph (2) when they appear on paper or on another nonelectronic medium. If the Attorney General deems it appropriate, the Attorney General may issue regulations applying section 1028B to such records.

''(2) LIST OF PAPER AND OTHER NONELECTRONIC RECORDS.—The records listed in this paragraph are as follows:

''(A) Professional or occupational licenses.

''(B) Marriage licenses.

''(C) Birth certificates.

''(D) Death certificates.

''(E) Other short public documents that display a Social Security number in a routine and consistent manner on the face of the document.

''(3) CRITERIA FOR ATTORNEY GENERAL REVIEW.—In determining whether section 1028B should apply to the records listed in paragraph (2), the Attorney General shall consider the following:

''(A) The cost or burden to the general public, businesses, commercial enterprises, nonprofit organizations, and to Federal, State, and local governments of complying with section 1028B.

''(B) The benefit to the general public, businesses, commercial enterprises, nonprofit organizations, and to Federal, State, and local governments if the Attorney General were to determine that section 1028B should apply to such records.''.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 47 of title 18, United States Code (as amended by section 3(a)(2)), is amended by inserting after the item relating to section 1028B the following:

''1028C. Display, sale, or purchase of public records containing Social Security numbers.''.

(b) STUDY AND REPORT ON SOCIAL SECURITY NUMBERS IN PUBLIC RECORDS.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study and prepare a report on Social Security numbers in public records. In developing the report, the Comptroller General shall consult with the Administrative Office of the United States Courts, State and local governments that store, maintain, or disseminate public records, and other stakeholders, including members of the private sector who routinely use public records that contain Social Security numbers.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the study conducted under paragraph (1). The report shall include a detailed description of the activities and results of the study and recommendations for such legislative action as the Comptroller General considers appropriate. The report, at a minimum, shall include—

(A) a review of the uses of Social Security numbers in non-federal public records;

(B) a review of the manner in which public records are stored (with separate reviews for both paper records and electronic records);

(C) a review of the advantages or utility of public records that contain Social Security numbers, including the utility for law enforcement, and for the promotion of homeland security;

(D) a review of the disadvantages or drawbacks of public records that contain Social Security numbers, including criminal activity, compromised personal privacy, or threats to homeland security;

(E) the costs and benefits for State and local governments of removing Social Security numbers from public records, including a review of current technologies and procedures for removing Social Security numbers from public records; and

(F) an assessment of the benefits and costs to businesses, their customers, and the general public of prohibiting the display of Social Security numbers on public records (with separate assessments for both paper records and electronic records).

(c) EFFECTIVE DATE.—The prohibition with respect to electronic versions of new classes of public records under section 1028C(b) of title 18, United States Code (as added by subsection (a)(1)) shall not take effect until the date that is 60 days after the date of enactment of this Act.

SEC. 5. RULEMAKING AUTHORITY OF THE ATTORNEY GENERAL.

(a) IN GENERAL.—Except as provided in subsection (b), the Attorney General may prescribe such rules and regulations as the Attorney General deems necessary to carry out the provisions of section 1028B(e)(5) of title 18, United States Code (as added by section 3(a)(1)).

(b) DISPLAY, SALE, OR PURCHASE RULEMAKING WITH RESPECT TO INTERACTIONS BETWEEN BUSINESSES, GOVERNMENTS, OR BUSINESS AND GOVERNMENT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Attorney General, in consultation with the Commissioner of Social Security, the Chairman of the Federal Trade Commission, and such other heads of Federal agencies as the Attorney General determines appropriate, shall conduct such rulemaking procedures in accordance with subchapter II of chapter 5 of title 5, United States Code, as are necessary to promulgate regulations to implement and clarify the uses occurring as a result of an interaction between businesses, governments, or business and government (regardless of which entity initiates the interaction) permitted under section 1028B(e)(5) of title 18, United States Code (as added by section 3(a)(1)).

(2) FACTORS TO BE CONSIDERED.—In promulgating the regulations required under paragraph (1), the Attorney General shall, at a minimum, consider the following:

(A) The benefit to a particular business, to customers of the business, and to the general public of the display, sale, or purchase of an individual's Social Security number.

(B) The costs that businesses, customers of businesses, and the general public may incur as a result of prohibitions on the display, sale, or purchase of Social Security numbers.

(C) The risk that a particular business practice will promote the use of a Social Security number to commit fraud, deception, or crime.

(D) The presence of adequate safeguards, procedures, and technologies to prevent—

(i) misuse of Social Security numbers by employees within a business; and

(ii) misappropriation of Social Security numbers by the general public, while permitting internal business uses of such numbers.

(E) The presence of procedures to prevent identity thieves, stalkers, and other individuals with ill intent from posing as legitimate businesses to obtain Social Security numbers.

(F) The impact of such uses on privacy.

SEC. 6. TREATMENT OF SOCIAL SECURITY NUMBERS ON GOVERNMENT DOCUMENTS.

(a) PROHIBITION OF USE OF SOCIAL SECURITY ACCOUNT NUMBERS ON CHECKS ISSUED FOR PAYMENT BY GOVERNMENTAL AGENCIES.—

(1) IN GENERAL.—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) is amended by adding at the end the following:

''(x) No Federal, State, or local agency may display the Social Security account number of any individual, or any derivative of such number, on any check issued for any payment by the Federal, State, or local agency.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to violations of section 205(c)(2)(C)(x) of the Social Security Act (42 U.S.C. 405(c)(2)(C)(x)), as added by paragraph (1), occurring after the date that is 3 years after the date of enactment of this Act.

(b) PROHIBITION OF INMATE ACCESS TO SOCIAL SECURITY ACCOUNT NUMBERS.—

(1) IN GENERAL.—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) (as amended by subsection (b)) is amended by adding at the end the following:

''(xi) No Federal, State, or local agency may employ, or enter into a contract for the use or employment of, prisoners in any capacity that would allow such prisoners access to the Social Security account numbers of other individuals. For purposes of this clause, the term 'prisoner' means an individual confined in a jail, prison, or other penal institution or correctional facility pursuant to such individual's conviction of a criminal offense.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to employment of prisoners, or entry into contract with prisoners, after the date that is 1 year after the date of enactment of this Act.

SEC. 7. LIMITS ON PERSONAL DISCLOSURE OF A SOCIAL SECURITY NUMBER FOR CONSUMER TRANSACTIONS.

(a) IN GENERAL.—Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by adding at the end the following:

''SEC. 1150A. LIMITS ON PERSONAL DISCLOSURE OF A SOCIAL SECURITY NUMBER FOR CONSUMER TRANSACTIONS.

''(a) IN GENERAL.—A commercial entity may not require an individual to provide the individual's Social Security number when purchasing a commercial good or service or deny an individual the good or service for refusing to provide that number except—

''(1) for any purpose relating to—

''(A) obtaining a consumer report for any purpose permitted under the Fair Credit Reporting Act;

''(B) a background check of the individual conducted by a landlord, lessor, employer, voluntary service agency, or other entity as determined by the Attorney General;

''(C) law enforcement; or

''(D) a Federal, State, or local law requirement; or

''(2) if the Social Security number is necessary to verify the identity of the consumer to effect, administer, or enforce the specific transaction requested or authorized by the consumer, or to prevent fraud.

''(b) APPLICATION OF CIVIL MONEY PENALTIES.—A violation of this section shall be deemed to be a violation of section 1129(a)(3)(F).

''(c) APPLICATION OF CRIMINAL PENALTIES.—A violation of this section shall be deemed to be a violation of section 208(a)(8).

''(d) LIMITATION ON CLASS ACTIONS.—No class action alleging a violation of this section shall be maintained under this section by an individual or any private party in Federal or State court.

''(e) STATE ATTORNEY GENERAL ENFORCEMENT.—

''(1) IN GENERAL.—

''(A) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that is prohibited under this section, the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

''(i) enjoin that practice;

''(ii) enforce compliance with such section;

''(iii) obtain damages, restitution, or other compensation on behalf of residents of the State; or

''(iv) obtain such other relief as the court may consider appropriate.

''(B) NOTICE.—

''(i) IN GENERAL.—Before filing an action under subparagraph (A), the attorney general of the State involved shall provide to the Attorney General—

''(I) written notice of the action; and

''(II) a copy of the complaint for the action.

''(ii) EXEMPTION.—

''(I) IN GENERAL.—Clause (i) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the State attorney general determines that it is not feasible to provide the notice described in such subparagraph before the filing of the action.

''(II) NOTIFICATION.—With respect to an action described in subclause (I), the attorney general of a State shall provide notice and a copy of the complaint to the Attorney General at the same time as the State attorney general files the action.

''(2) INTERVENTION.—

''(A) IN GENERAL.—On receiving notice under paragraph (1)(B), the Attorney General shall have the right to intervene in the action that is the subject of the notice.

''(B) EFFECT OF INTERVENTION.—If the Attorney General intervenes in the action under paragraph (1), the Attorney General shall have the right to be heard with respect to any matter that arises in that action.

''(3) CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1), nothing in this section shall be construed to prevent an attorney general of a State from exercising the powers conferred on such attorney general by the laws of that State to—

''(A) conduct investigations;

''(B) administer oaths or affirmations; or

''(C) compel the attendance of witnesses or the production of documentary and other evidence.

''(4) ACTIONS BY THE ATTORNEY GENERAL OF THE UNITED STATES.—In any case in which an action is instituted by or on behalf of the Attorney General for violation of a practice that is prohibited under this section, no State may, during the pendency of that action, institute an action under paragraph (1) against any defendant named in the complaint in that action for violation of that practice.

''(5) VENUE; SERVICE OF PROCESS.—

''(A) VENUE.—Any action brought under paragraph (1) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

''(B) SERVICE OF PROCESS.—In an action brought under paragraph (1), process may be served in any district in which the defendant—

''(i) is an inhabitant; or

''(ii) may be found.

''(f) SUNSET.—This section shall not apply on or after the date that is 6 years after the effective date of this section.''.

(b) EVALUATION AND REPORT.—Not later than the date that is 6 years and 6 months after the date of enactment of this Act, the Attorney General, in consultation with the chairman of the Federal Trade Commission, shall issue a report evaluating the effectiveness and efficiency of section 1150A of the Social Security Act (as added by subsection (a)) and shall make recommendations to Congress as to any legislative action determined to be necessary or advisable with respect to such section, including a recommendation regarding whether to reauthorize such section.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to requests to provide a Social Security number occurring after the date that is 1 year after the date of enactment of this Act.

SEC. 8. EXTENSION OF CIVIL MONETARY PENALTIES FOR MISUSE OF A SOCIAL SECURITY NUMBER.

(a) TREATMENT OF WITHHOLDING OF MATERIAL FACTS.—

(1) CIVIL PENALTIES.—The first sentence of section 1129(a)(1) of the Social Security Act (42 U.S.C. 1320a–8(a)(1)) is amended—

(A) by striking ''who'' and inserting ''who—'';

(B) by striking ''makes'' and all that follows through ''shall be subject to'' and inserting the following:

''(A) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, that the person knows or should know is false or misleading;

''(B) makes such a statement or representation for such use with knowing disregard for the truth; or

''(C) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the individual knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI and the individual knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading, shall be subject to'';

(C) by inserting ''or each receipt of such benefits while withholding disclosure of such fact'' after ''each such statement or representation'';

(D) by inserting ''or because of such withholding of disclosure of a material fact'' after ''because of such statement or representation''; and

(E) by inserting ''or such a withholding of disclosure'' after ''such a statement or representation''.

(2) ADMINISTRATIVE PROCEDURE FOR IMPOSING PENALTIES.—The first sentence of section 1129A(a) of the Social Security Act (42 U.S.C. 1320a–8a(a)) is amended—

(A) by striking ''who'' and inserting ''who—''; and

(B) by striking ''makes'' and all that follows through ''shall be subject to'' and inserting the following:

''(1) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, that the person knows or should know is false or misleading;

''(2) makes such a statement or representation for such use with knowing disregard for the truth; or

''(3) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the individual knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI and the individual knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading, shall be subject to''.

(b) APPLICATION OF CIVIL MONEY PENALTIES TO ELEMENTS OF CRIMINAL VIOLATIONS.—Section 1129(a) of the Social Security Act (42 U.S.C. 1320a–8(a)), as amended by subsection (a)(1), is amended—

(1) by redesignating paragraph (2) as paragraph (4);

(2) by redesignating the last sentence of paragraph (1) as paragraph (2) and inserting such paragraph after paragraph (1); and

(3) by inserting after paragraph (2) (as so redesignated) the following:

''(3) Any person (including an organization, agency, or other entity) who—

''(A) uses a Social Security account number that such person knows or should know has been assigned by the Commissioner of Social Security (in an exercise of authority under section 205(c)(2) to establish and maintain records) on the basis of false information furnished to the Commissioner by any person;

''(B) falsely represents a number to be the Social Security account number assigned by the Commissioner of Social Security to any individual, when such person knows or should know that such number is not the Social Security account number assigned by the Commissioner to such individual;

''(C) knowingly alters a Social Security card issued by the Commissioner of Social Security, or possesses such a card with intent to alter it;

''(D) knowingly displays, sells, or purchases a card that is, or purports to be, a card issued by the Commissioner of Social Security, or possesses such a card with intent to display, purchase, or sell it;

''(E) counterfeits a Social Security card, or possesses a counterfeit Social Security card with intent to display, sell, or purchase it;

''(F) discloses, uses, compels the disclosure of, or knowingly displays, sells, or purchases the Social Security account number of any person in violation of the laws of the United States;

''(G) with intent to deceive the Commissioner of Social Security as to such person's true identity (or the true identity of any

other person) furnishes or causes to be furnished false information to the Commissioner with respect to any information required by the Commissioner in connection with the establishment and maintenance of the records provided for in section 205(c)(2);

''(H) offers, for a fee, to acquire for any individual, or to assist in acquiring for any individual, an additional Social Security account number or a number which purports to be a Social Security account number; or

''(I) being an officer or employee of a Federal, State, or local agency in possession of any individual's Social Security account number, willfully acts or fails to act so as to cause a violation by such agency of clause (vi)(II) or (x) of section 205(c)(2)(C), shall be subject to, in addition to any other penalties that may be prescribed by law, a civil money penalty of not more than $5,000 for each violation. Such person shall also be subject to an assessment, in lieu of damages sustained by the United States resulting from such violation, of not more than twice the amount of any benefits or payments paid as a result of such violation.''.

(c) CLARIFICATION OF TREATMENT OF RECOVERED AMOUNTS.—Section 1129(e)(2)(B) of the Social Security Act (42 U.S.C. 1320a–8(e)(2)(B)) is amended by striking ''In the case of amounts recovered arising out of a determination relating to title VIII or XVI,'' and inserting ''In the case of any other amounts recovered under this section,''.

(d) CONFORMING AMENDMENTS.—

(1) Section 1129(b)(3)(A) of the Social Security Act (42 U.S.C. 1320a–8(b)(3)(A)) is amended by striking ''charging fraud or false statements''.

(2) Section 1129(c)(1) of the Social Security Act (42 U.S.C. 1320a–8(c)(1)) is amended by striking ''and representations'' and inserting '', representations, or actions''.

(3) Section 1129(e)(1)(A) of the Social Security Act (42 U.S.C. 1320a–8(e)(1)(A)) is amended by striking ''statement or representation referred to in subsection (a) was made'' and inserting ''violation occurred''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to violations of sections 1129 and 1129A of the Social Security Act (42 U.S.C. 1320–8 and 1320a–8a), as amended by this section, committed after the date of enactment of this Act.

(2) VIOLATIONS BY GOVERNMENT AGENTS IN POSSESSION OF SOCIAL SECURITY NUMBERS.—Section 1129(a)(3)(I) of the Social Security Act (42 U.S.C. 1320a–8(a)(3)(I)), as added by subsection (b), shall apply with respect to violations of that section occurring on or after the effective date described in section 3(c).

(f) REPEAL.—Section 201 of the Social Security Protection Act of 2004 is repealed.

SEC. 9. CRIMINAL PENALTIES FOR THE MISUSE OF A SOCIAL SECURITY NUMBER.

(a) PROHIBITION OF WRONGFUL USE AS PERSONAL IDENTIFICATION NUMBER.—No person may obtain any individual's Social Security number for purposes of locating or identifying an individual with the intent to physically injure, harm, or use the identity of the individual for any illegal purpose.

(b) CRIMINAL SANCTIONS.—Section 208(a) of the Social Security Act (42 U.S.C. 408(a)) is amended—

(1) in paragraph (8), by inserting ''or'' after the semicolon; and

(2) by inserting after paragraph (8) the following:

''(9) except as provided in subsections (e) and (f) of section 1028B of title 18, United States Code, knowingly and willfully displays, sells, or purchases (as those terms are defined in section 1028B(a) of title 18, United States Code) any individual's Social Security account number without having met the prerequisites for consent under section 1028B(d) of title 18, United States Code; or

''(10) obtains any individual's Social Security number for the purpose of locating or identifying the individual with the intent to injure or to harm that individual, or to use the identity of that individual for an illegal purpose;''.

SEC. 10. CIVIL ACTIONS AND CIVIL PENALTIES.

(a) CIVIL ACTION IN STATE COURTS.—

(1) IN GENERAL.—Any individual aggrieved by an act of any person in violation of this Act or any amendments made by this Act may, if otherwise permitted by the laws or rules of the court of a State, bring in an appropriate court of that State—

(A) an action to enjoin such violation;

(B) an action to recover for actual monetary loss from such a violation, or to receive up to $500 in damages for each such violation, whichever is greater; or

(C) both such actions.

It shall be an affirmative defense in any action brought under this paragraph that the defendant has established and implemented, with due care, reasonable practices and procedures to effectively prevent violations of the regulations prescribed under this Act. If the court finds that the defendant willfully or knowingly violated the regulations prescribed under this subsection, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under subparagraph (B).

(2) STATUTE OF LIMITATIONS.—An action may be commenced under this subsection not later than the earlier of—

(A) 5 years after the date on which the alleged violation occurred; or

(B) 3 years after the date on which the alleged violation was or should have been reasonably discovered by the aggrieved individual.

(3) NONEXCLUSIVE REMEDY.—The remedy provided under this subsection shall be in addition to any other remedies available to the individual.

(b) CIVIL PENALTIES.—

(1) IN GENERAL.—Any person who the Attorney General determines has violated any section of this Act or of any amendments made by this Act shall be subject, in addition to any other penalties that may be prescribed by law—

(A) to a civil penalty of not more than $5,000 for each such violation; and

(B) to a civil penalty of not more than $50,000, if the violations have occurred with such frequency as to constitute a general business practice.

(2) DETERMINATION OF VIOLATIONS.—Any willful violation committed contemporaneously with respect to the Social Security numbers of 2 or more individuals by means of mail, telecommunication, or otherwise, shall be treated as a separate violation with respect to each such individual.

(3) ENFORCEMENT PROCEDURES.—The provisions of section 1128A of the Social Security Act (42 U.S.C. 1320a–7a), other than subsections (a), (b), (f), (h), (i), (j), (m), and (n) and the first sentence of subsection (c) of such section, and the provisions of subsections (d) and (e) of section 205 of such Act (42 U.S.C. 405) shall apply to a civil penalty action under this subsection in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a) of such Act (42 U.S.C. 1320a–7a(a)), except that, for purposes of this paragraph, any reference in section 1128A of such Act (42 U.S.C. 1320a–7a) to the Secretary shall be deemed to be a reference to the Attorney General.

SEC. 11. FEDERAL INJUNCTIVE AUTHORITY.

In addition to any other enforcement authority conferred under this Act or the amendments made by this Act, the Federal Government shall have injunctive authority with respect to any violation by a public entity of any provision of this Act or of any amendments made by this Act.

By Mrs. FEINSTEIN:

S. 239. A bill to require Federal agencies, and persons engaged in interstate commerce, in possession of data containing sensitive personally identifiable information, to disclose any breach of such information; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I rise to introduce the Notification of Risk to Personal Data Act.

It is vitally important that Congress take immediate action to ensure that individuals are notified when companies, Federal agencies, and other institutions suffer security breaches that could jeopardize their personal information.

The Notification of Risk to Personal Data Act is a simple, straightforward bill that would require that notice be sent to individuals in the event of a data breach which compromises their personal information.

Providing individuals with knowledge that their personal information has been accessed by a hacker will allow them to take action to prevent or limit the damage caused by these security breaches.

The need for such legislation is, unfortunately, self-evident given the spate of data breaches we have all read and heard about. Unfortunately, almost every week we learn of a new breach.

For example, there have been major data breaches in just the last few months at Boeing, UCLA, the Colorado Department of Human Services, Starbucks, the Chicago Voters' Database, and Akron Children's Hospital.

Given this ongoing problem, it is not surprising that Americans have made it clear that they want Congress to act. A September 2005 CBS News/New York Times national poll on privacy and identity theft found that 89 percent of Americans are ''concerned'' about the theft of their personal identity information and 68 percent of Americans feel that Congress should do more to regulate personal data and its collection.

According to the Federal Trade Commission identity theft affects approximately 10 million Americans each year. In 2004, there were 635,173 identity theft and fraud complaints made to the Federal Trade Commission's Consumer Sentinel. In 2004, identity fraud cost Americans $52.6 billion dollars. Over the past 2 years, approximately 18 million individuals in this country have been exposed or affected by identity theft.

Data breaches threaten individual's economic and emotional well being. A person whose identity is stolen can lose thousands of dollars and it can take months or even years for a person to regain their good name and credit. So when a data breach occurs, people have a right to find out as soon as possible.

That is why I have introduced and tried to pass legislation that would: require that the Federal Government and business entities notify individuals when there has been a security breach involving their personal data; ensure that the notice is provided without unreasonable delay; create very limited exceptions to notification for national security and law enforcement purposes, as well as instances in which law enforcement certifies that there is no threat of harm to the individual; provide civil remedies against those who do not notify individuals and the provisions of the bill would be enforced by State attorney generals; and pre-empt all state laws so that there is a single, nationwide notification requirement.

I strongly believe that individuals have a right to be notified when their most sensitive information is compromised—because it is truly their information.

The instant legislation will give all Americans more control and confidence about the safety of their sensitive personal information. They will know when their data has been compromised so that they take the appropriate steps to protect themselves.

In November 2005, the Judiciary Committee approved the Personal Data Privacy and Security Act. That bill included similar notification legislation. Unfortunately, the Senate took no further action and the bill expired at the end of the 109th Congress.

Since then, the problem of identity theft has worsened—there have been numerous large scale data security breaches involving companies, federal agencies, and universities.

We cannot afford to keep waiting to act. I urge the Senate to pass the Notification of Risk to Personal Data Act to give Americans the information they need to protect themselves from identity theft.

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. 239

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 ''Notification of Risk to Personal Data Act of 2007''.

SEC. 2. NOTICE TO INDIVIDUALS.

(a) IN GENERAL.—Any agency, or business entity engaged in interstate commerce, that uses, accesses, transmits, stores, disposes of or collects sensitive personally identifiable information shall, following the discovery of a security breach of such information notify any resident of the United States whose sensitive personally identifiable information has been, or is reasonably believed to have been, accessed, or acquired.

(b) OBLIGATION OF OWNER OR LICENSEE.—

(1) NOTICE TO OWNER OR LICENSEE.—Any agency, or business entity engaged in interstate commerce, that uses, accesses, transmits, stores, disposes of, or collects sensitive personally identifiable information that the agency or business entity does not own or license shall notify the owner or licensee of the information following the discovery of a security breach involving such information.

(2) NOTICE BY OWNER, LICENSEE OR OTHER DESIGNATED THIRD PARTY.—Nothing in this Act shall prevent or abrogate an agreement between an agency or business entity required to give notice under this section and a designated third party, including an owner or licensee of the sensitive personally identifiable information subject to the security breach, to provide the notifications required under subsection (a).

(3) BUSINESS ENTITY RELIEVED FROM GIVING NOTICE.—A business entity obligated to give notice under subsection (a) shall be relieved of such obligation if an owner or licensee of the sensitive personally identifiable information subject to the security breach, or other designated third party, provides such notification.

(c) TIMELINESS OF NOTIFICATION.—

(1) IN GENERAL.—All notifications required under this section shall be made without unreasonable delay following the discovery by the agency or business entity of a security breach.

(2) REASONABLE DELAY.—Reasonable delay under this subsection may include any time necessary to determine the scope of the security breach, prevent further disclosures, and restore the reasonable integrity of the data system and provide notice to law enforcement when required.

(3) BURDEN OF PROOF.—The agency, business entity, owner, or licensee required to provide notification under this section shall have the burden of demonstrating that all notifications were made as required under this Act, including evidence demonstrating the necessity of any delay.

(d) DELAY OF NOTIFICATION AUTHORIZED FOR LAW ENFORCEMENT PURPOSES.—

(1) IN GENERAL.—If a Federal law enforcement agency determines that the notification required under this section would impede a criminal investigation, such notification shall be delayed upon written notice from such Federal law enforcement agency to the agency or business entity that experienced the breach.

(2) EXTENDED DELAY OF NOTIFICATION.—If the notification required under subsection (a) is delayed pursuant to paragraph (1), an agency or business entity shall give notice 30 days after the day such law enforcement delay was invoked unless a Federal law enforcement agency provides written notification that further delay is necessary.

(3) LAW ENFORCEMENT IMMUNITY.—No cause of action shall lie in any court against any law enforcement agency for acts relating to the delay of notification for law enforcement purposes under this Act.

SEC. 3. EXEMPTIONS.

(a) EXEMPTION FOR NATIONAL SECURITY AND LAW ENFORCEMENT.—

(1) IN GENERAL.—Section 2 shall not apply to an agency if the agency certifies, in writing, that notification of the security breach as required by section 2 reasonably could be expected to—

(A) cause damage to the national security; or

(B) hinder a law enforcement investigation or the ability of the agency to conduct law enforcement investigations.

(2) LIMITS ON CERTIFICATIONS.—An agency may not execute a certification under paragraph (1) to—

(A) conceal violations of law, inefficiency, or administrative error;

(B) prevent embarrassment to a business entity, organization, or agency; or

(C) restrain competition.

(3) NOTICE.—In every case in which an agency issues a certification under paragraph (1), the certification, accompanied by a description of the factual basis for the certification, shall be immediately provided to the United States Secret Service.

(b) SAFE HARBOR.—An agency or business entity will be exempt from the notice requirements under section 2, if—

(1) a risk assessment concludes that there is no significant risk that the security breach has resulted in, or will result in, harm to the individuals whose sensitive personally identifiable information was subject to the security breach;

(2) without unreasonable delay, but not later than 45 days after the discovery of a security breach, unless extended by the United States Secret Service, the agency or business entity notifies the United States Secret Service, in writing, of—

(A) the results of the risk assessment; and

(B) its decision to invoke the risk assessment exemption; and

(3) the United States Secret Service does not indicate, in writing, within 10 days from receipt of the decision, that notice should be given.

(c) FINANCIAL FRAUD PREVENTION EXEMPTION.—

(1) IN GENERAL.—A business entity will be exempt from the notice requirement under section 2 if the business entity utilizes or participates in a security program that—

(A) is designed to block the use of the sensitive personally identifiable information to initiate unauthorized financial transactions before they are charged to the account of the individual; and

(B) provides for notice to affected individuals after a security breach that has resulted in fraud or unauthorized transactions.

(2) LIMITATION.—The exemption by this subsection does not apply if the information subject to the security breach includes sensitive personally identifiable information in addition to the sensitive personally identifiable information identified in section 13.

SEC. 4. METHODS OF NOTICE.

An agency, or business entity shall be in compliance with section 2 if it provides both:

(1) INDIVIDUAL NOTICE.—

(A) Written notification to the last known home mailing address of the individual in the records of the agency or business entity;

(B) Telephone notice to the individual personally; or

(C) E-mail notice, if the individual has consented to receive such notice and the notice is consistent with the provisions permitting electronic transmission of notices under section 101 of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7001).

(2) MEDIA NOTICE.—Notice to major media outlets serving a State or jurisdiction, if the number of residents of such State whose sensitive personally identifiable information was, or is reasonably believed to have been, acquired by an unauthorized person exceeds 5,000.

SEC. 5. CONTENT OF NOTIFICATION.

(a) IN GENERAL.—Regardless of the method by which notice is provided to individuals under section 4, such notice shall include, to the extent possible—

(1) a description of the categories of sensitive personally identifiable information that was, or is reasonably believed to have been, acquired by an unauthorized person;

(2) a toll-free number—

(A) that the individual may use to contact the agency or business entity, or the agent of the agency or business entity; and

(B) from which the individual may learn what types of sensitive personally identifiable information the agency or business entity maintained about that individual; and

(3) the toll-free contact telephone numbers and addresses for the major credit reporting agencies.

(b) ADDITIONAL CONTENT.—Notwithstanding section 10, a State may require that a notice under subsection (a) shall also include information regarding victim protection assistance provided for by that State.

SEC. 6. COORDINATION OF NOTIFICATION WITH CREDIT REPORTING AGENCIES.

If an agency or business entity is required to provide notification to more than 1,000 individuals under section 2(a), the agency or business entity shall also notify, without unreasonable delay, all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis (as defined in section 603(p) of the Fair Credit Reporting Act (15 U.S.C. 1681a(p)) of the timing and distribution of the notices.

SEC. 7. NOTICE TO LAW ENFORCEMENT.

(a) SECRET SERVICE.—Any business entity or agency shall give notice of a security breach to the United States Secret Service if—

(1) the number of individuals whose sensitive personally identifying information was, or is reasonably believed to have been acquired by an unauthorized person exceeds 10,000;

(2) the security breach involves a database, networked or integrated databases, or other data system containing the sensitive personally identifiable information of more than 1,000,000 individuals nationwide;

(3) the security breach involves databases owned by the Federal Government; or

(4) the security breach involves primarily sensitive personally identifiable information of employees and contractors of the Federal Government involved in national security or law enforcement.

(b) NOTICE TO OTHER LAW ENFORCEMENT AGENCIES.—The United States Secret Service shall be responsible for notifying—

(1) the Federal Bureau of Investigation, if the security breach involves espionage, foreign counterintelligence, information protected against unauthorized disclosure for reasons of national defense or foreign relations, or Restricted Data (as that term is defined in section 11y of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)), except for offenses affecting the duties of the United States Secret Service under section 3056(a) of title 18, United States Code;

(2) the United States Postal Inspection Service, if the security breach involves mail fraud; and

(3) the attorney general of each State affected by the security breach.

(c) 14-DAY RULE.—The notices to Federal law enforcement and the attorney general of each State affected by a security breach required under this section shall be delivered as promptly as possible, but not later than 14 days after discovery of the events requiring notice.

SEC. 8. ENFORCEMENT.

(a) CIVIL ACTIONS BY THE ATTORNEY GENERAL.—The Attorney General may bring a civil action in the appropriate United States district court against any business entity that engages in conduct constituting a violation of this Act and, upon proof of such conduct by a preponderance of the evidence, such business entity shall be subject to a civil penalty of not more than $1,000 per day per individual whose sensitive personally identifiable information was, or is reasonably believed to have been, accessed or acquired by an unauthorized person, up to a maximum of $50,000 per person.

(b) INJUNCTIVE ACTIONS BY THE ATTORNEY GENERAL.—

(1) IN GENERAL.—If it appears that a business entity has engaged, or is engaged, in any act or practice constituting a violation of this Act, the Attorney General may petition an appropriate district court of the United States for an order—

(A) enjoining such act or practice; or

(B) enforcing compliance with this Act.

(2) ISSUANCE OF ORDER.—A court may issue an order under paragraph (1), if the court finds that the conduct in question constitutes a violation of this Act.

(c) OTHER RIGHTS AND REMEDIES.—The rights and remedies available under this Act are cumulative and shall not affect any other rights and remedies available under law.

(d) FRAUD ALERT.—Section 605A(b)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681c–1(b)(1)) is amended by inserting ‘‘, or evidence that the consumer has received notice that the consumer’s financial information has or may have been compromised,’’ after ‘‘identity theft report’’.

SEC. 9. ENFORCEMENT BY STATE ATTORNEYS GENERAL.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State or any State or local law enforcement agency authorized by the State attorney general or by State statute to prosecute violations of consumer protection law, has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of a business entity in a practice that is prohibited under this Act, the State or the State or local law enforcement agency on behalf of the residents of the agency’s jurisdiction, may bring a civil action on behalf of the residents of the State or jurisdiction in a district court of the United States of appropriate jurisdiction or any other court of competent jurisdiction, including a State court, to—

(A) enjoin that practice;

(B) enforce compliance with this Act; or

(C) civil penalties of not more than $1,000 per day per individual whose sensitive personally identifiable information was, or is reasonably believed to have been, accessed or acquired by an unauthorized person, up to a maximum of $50,000 per day.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Attorney General of the United States—

(i) written notice of the action; and

(ii) a copy of the complaint for the action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this Act, if the State attorney general determines that it is not feasible to provide the notice described in such subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Attorney General at the time the State attorney general files the action.

(b) FEDERAL PROCEEDINGS.—Upon receiving notice under subsection (a)(2), the Attorney General shall have the right to—

(1) move to stay the action, pending the final disposition of a pending Federal proceeding or action;

(2) initiate an action in the appropriate United States district court under section 8 and move to consolidate all pending actions, including State actions, in such court;

(3) intervene in an action brought under subsection (a)(2); and

(4) file petitions for appeal.

(c) PENDING PROCEEDINGS.—If the Attorney General has instituted a proceeding or action for a violation of this Act or any regulations thereunder, no attorney general of a State may, during the pendency of such proceeding or action, bring an action under this Act against any defendant named in such criminal proceeding or civil action for any violation that is alleged in that proceeding or action.

(d) RULE OF CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this Act regarding notification shall be construed to prevent an attorney general of a State from exercising the powers conferred on such attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in—

(A) the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code; or

(B) another court of competent jurisdiction.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

(f) NO PRIVATE CAUSE OF ACTION.—Nothing in this Act establishes a private cause of action against a business entity for violation of any provision of this Act.

SEC. 10. EFFECT ON FEDERAL AND STATE LAW.

The provisions of this Act shall supersede any other provision of Federal law or any provision of law of any State relating to notification of a security breach, except as provided in section 5(b).

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to cover the costs incurred by the United States Secret Service to carry out investigations and risk assessments of security breaches as required under this Act.

SEC. 12. REPORTING ON RISK ASSESSMENT EXEMPTIONS.

The United States Secret Service shall report to Congress not later than 18 months after the date of enactment of this Act, and upon the request by Congress thereafter, on—

(1) the number and nature of the security breaches described in the notices filed by those business entities invoking the risk assessment exemption under section 3(b) of this Act and the response of the United States Secret Service to such notices; and

(2) the number and nature of security breaches subject to the national security and law enforcement exemptions under section 3(a) of this Act.

SEC. 13. DEFINITIONS.

In this Act, the following definitions shall apply:

(1) AGENCY.—The term ‘‘agency’’ has the same meaning given such term in section 551 of title 5, United States Code.

(2) AFFILIATE.—The term ‘‘affiliate’’ means persons related by common ownership or by corporate control.

(3) BUSINESS ENTITY.—The term ‘‘business entity’’ means any organization, corporation, trust, partnership, sole proprietorship, unincorporated association, venture established to make a profit, or nonprofit, and any contractor, subcontractor, affiliate, or licensee thereof engaged in interstate commerce.

(4) PERSONALLY IDENTIFIABLE INFORMATION.—The term ''personally identifiable information'' means any information, or compilation of information, in electronic or digital form serving as a means of identification, as defined by section 1028(d)(7) of title 18, United State Code.

(5) SECURITY BREACH.—

(A) IN GENERAL.—The term ''security breach'' means compromise of the security, confidentiality, or integrity of computerized data through misrepresentation or actions that result in, or there is a reasonable basis to conclude has resulted in, acquisition of or access to sensitive personally identifiable information that is unauthorized or in excess of authorization.

(B) EXCLUSION.—The term ''security breach'' does not include—

(i) a good faith acquisition of sensitive personally identifiable information by a business entity or agency, or an employee or agent of a business entity or agency, if the sensitive personally identifiable information is not subject to further unauthorized disclosure; or

(ii) the release of a public record not otherwise subject to confidentiality or nondisclosure requirements.

(6) SENSITIVE PERSONALLY IDENTIFIABLE INFORMATION.—The term ''sensitive personally identifiable information'' means any information or compilation of information, in electronic or digital form that includes—

(A) an individual's first and last name or first initial and last name in combination with any 1 of the following data elements:

(i) A non-truncated social security number, driver's license number, passport number, or alien registration number.

(ii) Any 2 of the following:

(I) Home address or telephone number.

(II) Mother's maiden name, if identified as such.

(III) Month, day, and year of birth.

(iii) Unique biometric data such as a finger print, voice print, a retina or iris image, or any other unique physical representation.

(iv) A unique account identifier, electronic identification number, user name, or routing code in combination with any associated security code, access code, or password that is required for an individual to obtain money, goods, services or any other thing of value; or

(B) a financial account number or credit or debit card number in combination with any security code, access code or password that is required for an individual to obtain money, goods, services or any other thing of value.

SEC. 14. EFFECTIVE DATE.

This Act shall take effect on the expiration of the date which is 90 days after the date of enactment of this Act.

By Mr. CRAIG (for himself, Mr. DOMENICI, Mr. BINGAMAN, Mr. ENZI, Mr. STEVENS, Mr. BENNETT, Ms. MURKOWSKI, and Mr. BUNNING):

S. 240. A bill to reauthorize and amend the National Geologic Mapping Act of 1992; to the Committee on Energy and Natural Resources.

Mr. CRAIG. Mr. President, I am today introducing, along with Senators DOMENICI, BINGAMAN, ENZI, STEVENS, BENNETT, MURKOWSKI, and BUNNING, the National Geologic Maping Reauthorization Act of 2007. This is an act that has been very beneficial to the Nation and deserves to be reauthorized.

The National Geologic Mapping Act was originally signed into law in 1992, creating the National Cooperative Geologic Mapping Program (NCGMP). This program exists as a partnership between the USGS and the State geological surveys, whose purpose is to provide the Nation with urgently-needed geologic maps that can be and are used by a diverse clientele. These maps are vital to understanding groundwater regimes, mineral resources, geologic hazards such as landslides and earthquakes, and geology essential for all types of land use planning; as well as providing basic scientific data. The NCGMP contains three parts; FedMap—the U.S. Geological Survey's geologic mapping program, StateMap—the State geological survey's part of the act, and EdMap—a program to encourage the training of future geologic mappers at our colleges and universities. All three components are reviewed annually by a Federal Advisory Committee to ensure program effectiveness and to provide future guidance.

FedMap geologic mapping priorities are determined by the needs of Federal land-management agencies, regional customer forums, and cooperatively with the State geological surveys. FedMap also coordinates national geologic mapping standards. StateMap is a competitive program wherein the States submit proposals for geologic mapping that are critiqued by a peer review panel. A requirement of this section of the legislation is that each Federal dollar be matched one-for-one with State funds. Each participating State has a State Advisory Committee to ensure that its proposal addresses priority areas and needs as determined in the NGMA. The success of this program ensured reauthorization of similar legislation in 1997 and in 1999 with widespread bipartisan support in both the House and Senate.

To date, millions of dollars been awarded to State geological surveys through StateMap, and these Federal dollars have been more than matched by State dollars. The high quality geologic maps produced will be used by a very broad base of customers including geotechnical consultants, Federal, State and local land managers, and mineral and energy exploration companies. Information on how to obtain all of these maps is provided on the Internet by the National Geologic Map Database, allowing ease of access for all users.

EdMap has trained over 550 university students at 118 universities across the Nation. The best testament to the quality of this training are its beneficiaries—an unusually high percentage of these students go on to careers in Earth Science, becoming university professors, energy company exploration scientists, or mapping specialists themselves. Their EdMap program experience provides them with a remarkable self-confidence, having completed a difficult and independent field mapping experience.

The National Geologic Mapping Reauthorization Act benefits numerous citizens every day by assuring there is accurate, usable geologic information available to communities and individuals so that safe, educated resource use decisions can be made. I encourage my colleagues to support this legislation and am committed to its timely consideration.

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. 240

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 ''National Geologic Mapping Reauthorization Act of 2007''.

SEC. 2. FINDINGS.

Section 2(a) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31a(a)) is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) although significant progress has been made in the production of geologic maps since the establishment of the national cooperative geologic mapping program in 1992, no modern, digital, geologic map exists for approximately 75 percent of the United States;''; and

(2) in paragraph (2)—

(A) in subparagraph (C), by inserting ''homeland and'' after ''planning for'';

(B) in subparagraph (E), by striking ''predicting'' and inserting ''identifying'';

(C) in subparagraph (I), by striking ''and'' after the semicolon at the end;

(D) by redesignating subparagraph (J) as subparagraph (K); and

(E) by inserting after subparagraph (I) the following:

''(J) recreation and public awareness; and''; and

(3) in paragraph (9), by striking ''important'' and inserting ''available''.

SEC. 3. PURPOSE.

Section 2(b) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31a(b)) is amended by inserting ''and management'' before the period at the end.

SEC. 4. DEADLINES FOR ACTIONS BY THE UNITED STATES GEOLOGICAL SURVEY.

Section 4(b)(1) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31c(b)(1)) is amended in the second sentence—

(1) in subparagraph (A), by striking ''not later than'' and all that follows through the semicolon and inserting ''not later than 1 year after the date of enactment of the National Geologic Mapping Reauthorization Act of 2007;'';

(2) in subparagraph (B), by striking ''not later than'' and all that follows through ''in accordance'' and inserting ''not later than 1 year after the date of enactment of the National Geologic Mapping Reauthorization Act of 2007 in accordance''; and

(3) in the matter preceding clause (i) of subparagraph (C), by striking ''not later than'' and all that follows through ''submit'' and inserting ''submit biennially''.

SEC. 5. GEOLOGIC MAPPING PROGRAM OBJECTIVES.

Section 4(c)(2) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31c(c)(2)) is amended—

(1) by striking ''geophysical-map data base, geochemical-map data base, and a''; and

(2) by striking ''provide'' and inserting ''provides''.

SEC. 6. GEOLOGIC MAPPING PROGRAM COMPONENTS.

Section 4(d)(1)(B)(ii) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31c(d)(1)(B)(ii)) is amended—

(1) in subclause (I), by striking ''and'' after the semicolon at the end;

(2) in subclause (II), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(III) the needs of land management agencies of the Department of the Interior.''.

SEC. 7. GEOLOGIC MAPPING ADVISORY COMMITTEE.

(a) MEMBERSHIP.—Section 5(a) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31d(a)) is amended—

(1) in paragraph (2)—

(A) by inserting ''the Secretary of the Interior or a designee from a land management agency of the Department of the Interior,'' after ''Administrator of the Environmental Protection Agency or a designee,'';

(B) by inserting ''and'' after ''Energy or a designee,''; and

(C) by striking '', and the Assistant to the President for Science and Technology or a designee''; and

(2) in paragraph (3)—

(A) by striking ''Not later than'' and all that follows through ''consultation'' and inserting ''In consultation'';

(B) by striking ''Chief Geologist, as Chairman'' and inserting ''Associate Director for Geology, as Chair''; and

(C) by striking ''one representative from the private sector'' and inserting ''2 representatives from the private sector''.

(b) DUTIES.—Section 5(b) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31d(b)) is amended—

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

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by inserting after paragraph (2) the following:

''(3) provide a scientific overview of geologic maps (including maps of geologic-based hazards) used or disseminated by Federal agencies for regulation or land-use planning; and''.

(c) CONFORMING AMENDMENT.—Section 5(a)(1) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31d(a)(1)) is amended by striking ''10-member'' and inserting ''11-member''.

SEC. 8. FUNCTIONS OF NATIONAL GEOLOGIC-MAP DATABASE.

Section 7(a) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31f(a)) is amended—

(1) in paragraph (1), by striking ''geologic map'' and inserting ''geologic-map''; and

(2) in paragraph (2), by striking subparagraph (A) and inserting the following:

''(A) all maps developed with funding provided by the National Cooperative Geologic Mapping Program, including under the Federal, State, and education components;''.

SEC. 9. BIENNIAL REPORT.

Section 8 of the National Geologic Mapping Act of 1992 (43 U.S.C. 31g) is amended by striking ''Not later'' and all that follows through ''biennially'' and inserting ''Not later than 3 years after the date of enactment of the National Geologic Mapping Reauthorization Act of 2007 and biennially''.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS; ALLOCATION.

Section 9 of the National Geologic Mapping Act of 1992 (43 U.S.C. 31h) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) IN GENERAL.—There is authorized to be appropriated to carry out this Act $64,000,000 for each of fiscal years 2007 through 2016.''; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking ''2000'' and inserting ''2005'';

(B) in paragraph (1), by striking ''48'' and inserting ''50''; and

(C) in paragraph (2), by striking 2 and inserting ''4''.

By Mr. WYDEN (for himself and Mr. AKAKA):

S. 241. A bill to authorize the Secretary of the Interior to enter into cooperative agreements to protect natural resources of units of the National Park System through collaborative efforts on land inside and outside of units of the National Park System; to the Committee on Energy and Natural Resources.

Mr. WYDEN. Mr. President, today I introduce legislation to authorize the Secretary of the Interior to enter into cooperative agreements to protect National Parks through collaborative efforts on lands inside and outside of National Park System units. My bill passed the Senate in the 109th Congress, but unfortunately did not have an opportunity to pass in the House before the end of the Congress. Today, I reintroduce the bill hoping that it can expeditiously pass again in the Senate and continue on to pass in the House.

This legislation is based on very successful watershed protection legislation enacted for the Forest Service and the Bureau of Land Management, now commonly referred to as the Wyden amendment. The Wyden amendment, first enacted in 1998 for Fiscal Year 1999, has resulted in countless Forest Service and Bureau of Land Management cooperative agreements with neighboring state and local land owners to accomplish high priority restoration, protection and enhancement work on public and private lands. It has not required additional funding, but has allowed the agencies to leverage their scarce restoration dollars thereby allowing the Federal dollars to stretch farther.

The legislation I introduce today will allow the Park Service to use a similar authority to attack natural threats to National Parks, such as invasive weeds, before they cross onto Parks' land. The National Park Service tells me that if they have to wait until the weeds hit the Parks before treating them the costs for treatment rise exponentially and the probability of beating the weeds back drops exponentially.

Examples of projects the National Park Service would pursue with this authority, as well as the groups with which they would partner, are attached. I am pleased that Senator AKAKA is joining me as an original cosponsor of this legislation and I hope my other colleagues will join me as cosponsors of this legislation and in ensuring its swift passage. I ask unanimous consent that the text of the bill and a list of projects be printed in the RECORD.

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

S. 241

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 ''Natural Resource Protection Cooperative Agreement Act''.

SEC. 2. COOPERATIVE AGREEMENTS FOR NATIONAL PARK NATURAL RESOURCE PROTECTION.

(a) IN GENERAL.—The Secretary of the Interior (referred to in this Act as the ''Secretary'') may enter into cooperative agreements with State, local, or tribal governments, other Federal agencies, other public entities, educational institutions, private nonprofit organizations, or willing private landowners to protect natural resources of units of the National Park System through collaborative efforts on land inside and outside of National Park System units.

(b) TERMS AND CONDITIONS.—A cooperative agreement entered into under subsection (a) shall—

(1) provide for—

(A) clear and direct benefits to natural resources of a unit of the National Park System;

(B) the preservation, conservation, and restoration of coastal and riparian systems, watersheds, and wetlands;

(C) preventing, controlling or eradicating invasive exotic species that occupy land within a unit of the National Park System or adjacent to a unit of the National Park System; or

(D) restoration of natural resources, including native wildlife habitat;

(2) include a statement of purpose demonstrating how the agreement will—

(A) enhance science-based natural resource stewardship at the unit of the National Park System; and

(B) benefit the parties to the agreement;

(3) specify any staff required and technical assistance to be provided by the Secretary or other parties to the agreement in support of activities inside and outside the unit of the National Park System that will—

(A) protect natural resources of the unit; and

(B) benefit the parties to the agreement;

(4) identify any materials, supplies, or equipment that will be contributed by the parties to the agreement or by other Federal agencies;

(5) describe any financial assistance to be provided by the Secretary or the partners to implement the agreement;

(6) ensure that any expenditure by the Secretary pursuant to the agreement is determined by the Secretary to support the purposes of natural resource stewardship at a unit of the National Park System; and

(7) shall include such terms and conditions that are agreed to by the Secretary and the other parties to the agreement.

(c) LIMITATIONS.—The Secretary shall not use any amounts associated with an agreement entered into under subsection (a) for the purposes of land acquisition, regulatory activity, or the development, maintenance, or operation of infrastructure, except for ancillary support facilities that the Secretary determines to be necessary for the completion of projects or activities identified in the agreement.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this Act.

POTENTIAL COOPERATIVE PROJECTS ADJACENT TO OR NEARBY NPS LANDS:

STATE: ALABAMA

Exotic Plants

Park Unit: Russell Cave National Monument. Partner: Alabama Department of Game and Fish. Projects/Pest: Autumn olive.

STATE: ALASKA

Exotic Plants

Park Unit: Denali National Park and Preserve. Partner: Private landowner and Alaska Department of Transportation. Projects/Pest: Remove multiple species from an isolated location in Kantishna. White sweet clover along the Park's Highway.

Park Unit: Gates of the Arctic National Park and Preserve. Partner: Alaska Department of Transportation, Bureau of Land Management. Projects/Pest: Multiple species moving up the Dalton Highway towards the park.

Park Unit: Glacier Bay National Park and Preserve. Partner: Town of Gustavus. Projects/Pest: Remove multiple species from isolated locations.

Park Unit: Kenai Fjords National Park. Partner: U.S. Forest Service. Projects/Pest: Yellow sweetclover on Exit Glacier Road.

Park Unit: Klondike Gold Rush Historical Park. Partner: Town of Skagway. Projects/Pest: White sweetclover, Butter-and-eggs.

Park Unit: Sitka National Historical Park. Partner: City of Sitka. Projects/Pest: Japanese knotweed.

Park Unit: Wrangell-St. Elias National Park and Preserve. Partner: Town of McCarthy and Alaska Department of Transportation, Bureau of Land Management. Projects/Pest: Remove multiple species from isolated locations and White sweetclver on area roadways.

STATE: ARIZONA

Exotic Plants

Park Unit: Canyon de Chelly National Monument. Partner: Navajo Indian Reservation Project/Pest: Tamarisk and Russian olive.

Park Unit: Grand Canyon National Park. Partner: Hualapai Indian Reservation. Project/Pest: Remove Tamarisk from shared drainages.

Park Unit: Hubbell Trading Post National Historic Site. Partner: Navajo Indian Reservation. Project/Pest: Pueblo Colorado Wash tamarisk and Russian olive.

STATE: CALIFORNIA

Exotic Plants

Park Unit: Death Valley National Park. Partners: Private lands (Shoshone, CA), Bureau of Land Management, State Fish and Game. Projects/Pest: Amargosa River tamarisk control Saline Valley tamarisk.

Park Unit: Golden Gate National Recreation Area. Partners: Private land. Projects/Pest: Remove Pampas grass serving as a seed source re-infesting NPS lands.

Park Unit: Golden Gate National Recreation Area. Partner: State and Private lands. Projects/Pest: Jubata grass.

Park Unit: Mojave National Preserve. Partners: Private and State land. Project/Pest: Tamarisk near I–15 corridor, scattered in-holdings and mine sites.

Aquatic Resources

Park Unit: Golden Gate National Recreation Area. Partners: Private and Public lands. Projects/Pest: Work with City/College and others to facilitate movement of listed butterfly between two separated NPS parcels.

Park Unit: Point Reyes National Seashore. Partners: Private lands. Project/Pest: Restore eroded stream channels benefiting the salmonid fishery in the park.

Park Unit: Santa Monica Mountains National Recreation Area. Partners: Private lands, City and County government, NGO's. Project/Pest: Numerous projects to stabilize, mitigate or restore land disturbances affecting runoff and erosion processes.

Geologic Resources

Park Unit: Redwood National Park. Partners: Private lands. Project/Pest: Work collaboratively to implement erosion control measures from roads associated with timber harvest.

STATE: COLORADO

Exotic Plants

Park Unit: Dinosaur National Monument. Partner: Utah State land. Project/Pest: Jones Hole Creek, spotted knapweed and tamarisk.

Park Unit: Mesa Verde National Park Partner: Ute Mountain Indian Reservation. Project/Pest: Mancos River tamarisk.

STATE: DISTRICT OF COLUMBIA

Exotic Plants

Park Unit: National Capitol Area East. Partners: Private landowners. Project/Pest: Asian Spiderwort (Murdannia keisak).

STATE: GEORGIA

Exotic Plants

Park Unit: Chickamauga and Chattanooga National Military Park, Partners: Lookout Land Trust and Private business, Project/Pest: Kudzu.

STATE: HAWAII

Exotic Plants

Park Unit: Haleakala National Park. Partners: State, Private landowners, Private industry, NGO's, General public Project/Pest: Miconia Fountain Grass, Bocconia, Pampas Grass.

Park Unit: Hawaii Volcanoes National Park. Partners: State, Private landowners, NGO's, Private industry. Project/Pest: Miconia Fountain Grass, Bocconia, Pampas Grass.

Park Unit: Kaluapapa National Historical Park Partners: State, Private landowners, NGO's, Private industry Project/Pest: Miconia Fountain Grass, Bocconia, Pampas Grass.

STATE: IDAHO

Geologic Resources

Park Unit: Hagerman Fossil Beds National Monument. Partners: Private lands. Project/Pest: Prevent irrigation canal seepage causing slumpage/wasting of fossil resources and impacts to Snake River.

STATE: KENTUCKY

Exotic Plants

Park Unit: Mammoth Cave National Park. Partners: Private landowner and State University. Project/Pest: Garlic mustard.

STATE: MARYLAND

Exotic Plants

Park Unit: Antietam National Battlefield. Partners: State and County Department of Transportation. Project/Pest: Tree of Heaven.

Park Unit: Assateague Island National Seashore. Partners: State agency. Projects/Pest: Eragrostis curvula (weeping lovegrass) coming into park from state lands.

Park Unit: Catoctin Mounain Park. Partners: State roads, Railroad right-of-way. Project/Pest: Mile-a-minute.

STATE: MASSACHUSETTS

Exotic Plants

Park Unit: Minute Man National Historical Park. Partners: Local municipalities. Projects/Pest: Variety of exotic plants along boundaries of park.

Wetlands

Park Unit: Cape Cod National Seashore. Partners: Town of Well fleet, MA. Projects/Pest: CACO has three large wetlands that are impaired due to salt marsh diking that has restricted tidal flow to the systems, some impacted for more than 100 years. Having the ability to access and utilize funds to alter and improve the water control structures ultimately is all that is needed to restore thousands of acres of wetlands within the park boundary.

STATE: MISSOURI

Geologic Resources

Park Unit: Ozark National Scenic Riverways. Partners: Private lands, Federal agencies. Project/Pest: Develop understanding of and extent of karst environment in and around the park.

STATE: MONTANA

Exotic Plants

Park Unit: Glacier National Park. Partners: Blackfeet tribe. Project/Pest: Numerous exotic plant species.

Native Species

Park Unit: Glacier National Park. Partners: Montana Fish, Wildlife and Parks, U.S. Forest Service, BNSF Railroad and others. Project/Pest: Fencing along boundaries, white and limber pine restoration and wetland surveys.

STATE: NEVADA

Exotic Plants

Park Unit: Great Basin National Park. Partners: Private, State and U.S. Forest Service. Project/Pest: Scattered spotted knapweed and thistle in shared drainages with the park.

Park Unit: Lake Mead National Recreation Area. Partners: County, State, Private, Bureau of Land Management. Project/Pest: Virgin River, Las Vegas Wash, Muddy River, tall whitetop, Russian knapweed, camelthorn and tamarisk.

STATE: NEW JERSEY

Aquatic Resources

Park Unit: Morristown National Historical Park. Partners: Private landowners. Project/Pest: Develop and implement in concert with private landowners best management practices to reduce pesticide and storm water runoff into Primrose Creek which contains a genetically pure stock of native brook trout.

STATE: NEW MEXICO

Exotic Plants

Park Unit: Pecos National Historical Park. Partner: Private landowners, U.S. Forest Service, and State agencies. Projects/Pest: tamarisk.

STATE: NEW YORK

Exotic Plants

Park Unit: Delaware Water Gap National Recreation Area. Partners: State agencies, Local municipalities, watershed associations. Projects/Pest: Variety of exotic plants along park boundaries.

Park Unit: Gateway National Recreation Area. Partners: State agency. Projects/Pest: Oriental bittersweet invading from park into state lands.

STATE: NORTH CAROLINA

Exotic Plants

Park Unit: Blue Ridge Parkway. Partner: The Nature Conservancy, U.S. Forest Service. Projects/Pest: Oriental Bittersweet

Park Unit: Carl Sandburg Home National Historic Site. Partner: Adjacent Homeowner Association Projects/Pest: English Ivy.

Park Unit: Guilford Courthouse National Military Park. Partner: Guilford County Parks and Recreation. Projects/Pest: Wild yam and Privet.

STATE: OKLAHOMA

Exotic Plants

Park Unit: Washita Battlefield National Historic Site. Partner: Private landowners,

U.S. Forest Service. Projects/Pest: Scotch thistle.

STATE: OREGON

Exotic Plants

Park Unit: John Day Fossil Beds National Monument. Partner: Private Landowners, County Weed Districts and Watershed Councils. Projects/Pest: Medusa head, Tarweed, Russian Knapweed Yellow Start thistle, Whitetop and other weeds.

Park Unit: Lewis and Clark National Historical Park (formerly Fort Clatsop National Memorial). Partner: Private Timber lands, Private Agriculture lands and Oregon State Parks. Projects/Pest: Scotch Broom, Reed Canary Grass, English Holly, and other invasive plants.

STATE: PENNSYLVANIA

Exotic Plants

Park Unit: Upper Delaware Scenic and Recreational River. Partners: Local municipalities, Private landowners. Projects/Pest: Mainly Japanese knotweed along Delaware River and tributaries.

Aquatic Resources

Park Unit: Valley Forge National Historical Park. Partners: Private landowners, County/State governments, non-profit groups. Project/Pest: Implement Valley Creek Restoration Plan and EA which identifies management strategies and restoration opportunities within the watershed and outside the park including the retrofitting of 24 detention basins, creation of 30 ground water infiltration sites, re-vegetation of miles of eroding stream banks, and planting of riparian buffers throughout the watershed.

STATE: TENNESSEE

Exotic Plants

Park Unit: Big South Fork National River and Recreation Area. Partners: Tennessee Division of Forestry and Tennessee State Parks. Project/Pest: Multi-flora rose and Privet.

Park Unit: Cumberland Gap National Historical Park. Partners: City of Middlesboro. Project/Pest: Privet.

Park Unit: Obed Wild and Scenic River. Partners: Tennessee Wildlife Resources Agency. Project/Pest: Multi-flora rose and Privet.

STATE: TEXAS

Exotic Plants

Park Unit: Big Bend National Park. Partners: State and Local government, Private landowners and Country of Mexico. Project/Pest: Tamarisk along Rio Grande River Drainage.

STATE: UTAH

Exotic Plants

Park Unit: Arches National Park. Partners: State and Bureau of Land Management. Project/Pest: Courthouse Wash and Salt Creek tamarisk.

Park Unit: Canyonlands National Park. Partners: Private and The Nature Conservancy. Project/Pest: Dugout Ranch area, tamarisk and knapweed.

Park Unit: Capitol Reef National Park. Partners: Private and U.S. Forest Service. Projects/Pest: Sulphur Creek and Upper Fremont River, tamarisk.

Park Unit: Zion National Park. Partners: Private and State lands. Projects/Pest: Upper and Lower Virgin River, tamarisk.

STATE: VIRGINIA

Exotic Plants

Park Unit: Colonial National Historical Park. Partners: NGO (Colonial Williamsburg Foundation). Projects/Pest: kudzu, English ivy, and tree of heaven straddling common boundary.

Park Unit: Shenandoah National Park. Partners: Private lands (east boundary and west boundary). Projects/Pest: Kudzu straddling east boundary; bamboo straddling west boundary.

Park Unit: Wolf Trap National Park for the Performing Arts. Partners: County and private lands. Project/Pest: Lesser Celandine.

STATE: WASHINGTON

Exotic Plants

Park Unit: Ebey's Landing National Historical Reserve. Partner: Washington State Parks, The Nature Conservancy of Washington, Island County, Ebey's Landing Trust Board, Washington State Department of Transportation. Projects/Pest: Poison Hemlock.

Park Unit: Lake Roosevelt National Recreation Area. Partner: U.S. Forest Service, State, Tribal, and Private lands. Projects/Pest: Eurasian watermilfoil.

Park Unit: Olympic National Park. Partner: U.S. Forest Service, State, Tribal, and Private (including timber company) lands. Projects/Pest: Several species of knotweed.

Aquatic Resources

Park Unit: Olympic National Park. Partners: Private lands, State lands and U.S. Fish and Wildlife Service lands. Project/Pest: Cooperatively characterize aquifer parameters such as storage and transmission coefficients, monitor ground water levels, spring flow river flow install new monitoring wells to determine response of aquifer to water withdrawals.

STATE: WEST VIRGINIA

Exotic Plants

Park Unit: Appalachian National Scenic Trail. Partners: Non-NPS owners of trail lands. Projects/Pest: Variety of exotic plants coming into easements along the trail—major problem throughout the length of this linear park.

STATE: WYOMING

Aquatic Resources

Park Unit: Yellowstone National Park. Partners: State of Montana. Project/Pest: Initiate groundwater studies in the Yellowstone Groundwater Area north of the park.

By Mr. DORGAN (for himself, Ms. SNOWE, Mr. GRASSLEY, Mr. KENNEDY, Mr. MCCAIN, Ms. STABENOW, Mr. SPECTER, Mr. BINGAMAN, Ms. COLLINS, Mrs. FEINSTEIN, Mr. DURBIN, Mr. NELSON of Florida, Mr. PRYOR, Mr. KOHL, Mr. LEVIN, Mr. SCHUMER, Mr. LEAHY, Mr. OBAMA, Mr. WYDEN, Mr. SANDERS, Mr. KERRY, Mr. BROWN, Mr. FEINGOLD, Mr. INOUYE, Mrs. LINCOLN, Mr. SALAZAR, Mrs. CLINTON, Mrs. BOXER, AND Mr. TESTER):

S. 242. A bill to amend the Federal food, Drug, and Cosmetic Act with respect to the importation of prescription drugs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DORGAN. Mr. President, I have come to the floor for just a couple of minutes to describe a piece of legislation that I and Senator OLYMPIA SNOWE have introduced today with 30 of our colleagues in the Senate dealing with the issue of drug reimportation.

Mr. President, I ask unanimous consent to show on the floor of the Senate a couple of bottles.

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

Mr. DORGAN. I would like to show two bottles that contained Lipitor, a drug that most of us know is a cholesterol-lowering drug. Lipitor is made by a company in a plant—in this case in Ireland—and in Ireland they put Lipitor in these two bottles, and they send the Lipitor in this bottle to Canada, and they send the Lipitor in this bottle to the United States.

The difference? Well, there is no difference. It is the same pill, put in the same bottle, made by the same company, an FDA-approved drug. The difference is the United States consumer pays 65 percent more for this drug than the consumer in Canada.

But it is not just Lipitor. And it is not just a plant in Ireland by this company that produces it and sends it to here and then to Canada, and charges the American consumer the highest prices. It is virtually all of the brand drugs. And in virtually every case, the American consumer is paying the highest prices for prescription drugs—the highest prices in the world.

My colleague, Senator SNOWE and I and many others in this Chamber—Senator STABENOW, Senator KENNEDY, Senator MCCAIN, and so many others—30 Senators have introduced this legislation that allows the reimportation of FDA-approved drugs—produced in FDA-inspected plants—allows the reimportation of those lower priced prescription drugs into this country. It allows American consumers to take advantage of the global economy by buying that FDA-approved drug where it is sold for a fraction of the price.

One day, some while ago, on a beautiful summer day, outside of Oakes, ND, I was meeting with a group of farmers. At this farmyard, we were sitting on bales of straw and having a long discussion, and there was one older fellow there in his eighties, early eighties. He said to me: My wife has been suffering from breast cancer for 3 years. She is an elderly woman battling breast cancer now for 3 years. For 3 years, we have driven from the southern part of North Dakota into Canada to buy Tamoxifen for my wife to treat this breast cancer. She needs this medicine to fight the breast cancer, and the only way we can afford it is for us to get in the car and drive to Canada and buy Tamoxifen at 20 percent of the price we would have to pay in this country.

American consumers should not have to do that. They ought to be allowed to reimport prescription drugs that are made in FDA-approved plants and are FDA-approved drugs.

The legislation we have introduced today is necessary. I do not want American consumers to have to purchase prescription drugs elsewhere. I want them to be able to purchase them in this country at a fair price. The problem is, we are now paying the highest prices in the world. If we allow the reimportation, it will put downward pressure on prices in this country. That is our real goal.

Now the Congressional Budget Office has done a study. They tell us that brandname drugs cost 35 to 55 percent less in most other countries than they do in the United States. The AARP, American Association of Retired Persons, has done a study showing the drugs most frequently used by senior citizens in our country have increased by a 6.3-percent price increase from June 2005 to June 2006—double the rate of inflation.

The Congressional Budget Office estimates that if we pas the legislation we have now introduced today, there will be a savings of about $50 billion in direct savings over the next decade for American consumers, with $6.1 billion of that savings to the Federal budget.

So we believe this is important. We have been blocked from getting this legislation through the Congress for some long while. The leadership of this institution supports it. The legislation is bipartisan—broadly bipartisan.

Now let me say one other thing. Some people say, and particularly the pharmaceutical industry says, this cannot be done safely, it will jeopardize safety for American consumers. Well, let me say that the consumers in the European countries have been doing this for 20, 25 years. There is something called parallel trading. They have been doing it for 20, 25 years without any issues of safety. If you want to buy a drug in Spain, and you live in France, no problem. If you want to buy a drug in Italy, and you live in Germany, no problem. They have been doing that—called parallel trading—for 25 years. Surely, we can accomplish that in this country as well.

Let me show a couple of charts, briefly.

First, Americans are charged the highest prices in the world. This one chart compares it to Canada: Lipitor, Prevacid, Zocor, Zoloft, Celebrex. I will not go through the entire list.

Dr. Peter Rost, vice president of marketing for Pfizer, came to Washington, and here is what he said:

> The biggest argument against reimportation is safety. What everyone has conveniently forgotten to tell you is that in Europe reimportation of drugs has been in place for 20 years.

He went on to say there is not any issue of safety.

And, finally, the American Association of Retired Persons endorses the legislation we have introduced today. I will not read all of that.

But the final chart shows what is happening with respect to spending on prescription drugs, and where it is heading, and why we ought to do something to give consumers the opportunity to see fair prices on prescription drugs.

Miracle drugs offer no miracles to those who cannot afford to buy them. I have no brief against the pharmaceutical industry. I want them to keep producing lifesaving, miracle drugs for this country. In fact, we produce a great deal of public spending in the NIH and elsewhere that gives them the research base for which a good number of those drugs is produced.

But let me also say that the pharmaceutical industry owes the American consumer a fair deal. We should not be paying the highest prices in the world for prescription drugs. It is not fair. And if the pharmaceutical industry is going to use a global economy in order to move its commodities and its various ingredients for prescription drugs around the world to produce in Ireland or to produce here or in Puerto Rico, then the American people ought to be able to use the global economy to get a better price on FDA-approved drugs.

We have waited a long while. I have worked on this I guess 6 or 8 years. We have been blocked repeatedly from getting a vote in the Congress, both in the House and the Senate. Now we have introduced, with broad, bipartisan support, an identical piece of legislation in the House and in the Senate.

I believe we will get a vote in both bodies and pass legislation and send it to the President of the United States. It will save $50 billion over the next decade on prescription drug bills for the American people, save the Federal Government $5 billion or $6 billion in spending, and give a fair deal to the American people that they will be able to buy prescription drugs at a fair price.

Mr. President, I look forward to consideration of this measure in the Senate. I am pleased on behalf of my colleague Senator SNOWE and myself and a broad group of Republicans and Democrats in the Senate to push this legislation.

I see Senator SANDERS is here, and I know she has worked on this issue for a long while as well. We have a broad, bipartisan group. We are going to push this and get this done in this session of Congress.

By Ms. SNOWE (for herself, Mr. KERRY, Mr. ENZI, and Ms. LANDRIEU):

S. 246. A bill to enhance compliance assistance for small business; to the Committee on Small Business and Entrepreneurship.

Ms. SNOWE. Mr. President, I have long worked to reduce the burden that Federal regulations bear on small businesses. Over the past twenty years, the number and complexity of Federal regulations have multiplied at an alarming rate. These regulations impose a much more significant impact on small businesses than larger businesses. A recent report prepared for the Small Business Administration's Office of Advocacy found that in 2004, the per-employee cost of Federal regulations for firms with fewer than 20 employees was $7,647. That was 44.8 percent more than the $5,282 per-employee cost faced by businesses with 500 or more workers.

That is why today, I rise with Senators KERRY, ENZI, and LANDRIEU to introduce the Small Business Compliance Assistance Enhancement Act of 2007. Our bill would clarify requirements that exist under Federal law to ensure that agencies produce useful small business compliance guides that explain, in a readable format, the compliance requirements of complex rules. This ''small,'' targeted reform, which would not create any new rules or requirements, would have a major benefit for small businesses across the country.

In 1996, the Senate passed without opposition the Small Business Regulatory Enforcement Fairness Act (SBREFA) to make the Regulatory Flexibility Act more effective in curtailing the impact of regulations on small businesses. One of the most important provisions of SBREFA is a requirement that agencies produce compliance assistance materials to help small businesses satisfy regulatory obligations. Unfortunately, over the years, agencies have done a poor job of meeting this requirement. The Government Accountability Office (GAO) has found that agencies have ignored this requirement or failed miserably in their attempts to satisfy it. The GAO has also found that the language of SBREFA is unclear in some places about what is actually required. Consequently, small businesses have been forced to figure out on their own how to comply with these regulations. This makes compliance that much more difficult to achieve, and therefore reduces the effectiveness of the regulation.

The Small Business Compliance Assistance Enhancement Act of 2007 would close those loopholes and requires agencies to produce quality compliance assistance materials for small businesses. Our bill is drawn directly from the GAO's recommendations and is intended only to clarify an already existing requirement. Similarly, the compliance guides that the agencies will produce are merely suggestions about how to satisfy a regulation's requirements without imposing further requirements or additional enforcement measures. Nor does this bill, in any way, interfere or undercut an agency's ability to enforce its regulations to the full extent they currently enjoy. Furthermore, our bill was included as part of the Small Business Reauthorization and Improvements Act that was unanimously reported out of the Senate Small Business Committee in the 109th Congress.

All too often, small businesses do not maintain the staff, or possess the financial resources to comply with complex Federal regulations. This puts them at a disadvantage compared to larger businesses, and reduces the effectiveness of the agency's regulations. If an agency cannot describe how to comply with its regulation, how can we expect a small business to figure it out? This was the reason the requirement to provide compliance assistance was originally included in SBREFA, and this rationale is just as valid today as it was in 1996.

Specifically, our bill would clarify that a small business compliance guide

is required whenever an agency determines that a rule will have ''a significant economic impact on a substantial number of small entities''. This would avoid confusion about whether the agency should produce a compliance guide.

Second, our bill would also clarify how a guide shall be designated. Under current law, agencies must ''designate'' the publications prepared under the section as small business compliance guides. However, the form in which those designations should occur is unclear. This term would be changed to ''entitle.'' Consistent use of the phrase ''Small Entity Compliance Guide'' in the title could make it easier for small entities to locate the guides that the agencies develop. This would also aid in using on line searches—a technology that was not widely used when SBREFA was passed. Thus, agencies would be directed to publish guides entitled ''Small Entity Compliance Guide.''

Third, our bill would clarify how a guide shall be published. SBREFA currently requires that agencies ''shall publish'' the guides, but it does not indicate where or how they should be published. At least one agency has published the guides as part of the preamble to the subject rule, thereby requiring affected small entities to read the Federal Register to obtain the guides. Under our bill, agencies would be directed, at a minimum, to make their compliance guides easily accessible and available through their websites. In addition, agencies would be directed to forward their compliance guides to known industry contacts such as small businesses or associations with small business members that will be affected by the regulation.

Fourth, our bill also clarifies when a guide shall be published. Section 212 of SBREFA currently does not indicate when compliance guides should be published. This means that even if an agency was required to produce a compliance guide, the agency may claim that they have not violated that requirement since there is no deadline established for when they had to produce that guide. Under our bill, agencies would be instructed to publish the compliance guides coincident with, or as soon as possible after, the final rule is published, provided that the guides must be published no later than the effective date of the rule's compliance requirements.

Finally, our bill would clarify the phrase ''compliance requirements.'' At a minimum, this term means what a small business has to do to satisfy the regulation, and when they will know they have met the requirements. This should include a description of the procedures a small business might employ. If, as is the case with many OSHA and EPA regulations, testing is required, the agency should explain how that testing should be conducted. Our bill makes clear that the procedural description should be merely suggestive—an agency would not be able to enforce this procedure if a small business was able to satisfy the requirements through a different approach.

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. 246

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 ''Small Business Compliance Assistance Enhancement Act of 2007''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) Small businesses represent 99.7 percent of all employers, employ half of all private sector employees, and pay 44.3 percent of total United States private payroll.

(2) Small businesses generated 60 to 80 percent of net new jobs annually over the last decade.

(3) Very small firms with fewer than 20 employees spend nearly 50 percent more per employee than larger firms to comply with Federal regulations. Small firms spend twice as much on tax compliance as their larger counterparts. Based on an analysis in 2004, firms employing fewer than 20 employees face an annual regulatory burden of $7,647 per employee, compared to a burden of $5,282 per employee for a firm with over 500 employees.

(4) Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) requires agencies to produce small entity compliance guides for each rule or group of rules for which an agency is required to prepare a final regulatory flexibility analysis under section 604 of title 5, United States Code.

(5) The Government Accountability Office has found that agencies have rarely attempted to comply with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note). When agencies did try to comply with that requirement, they generally did not produce adequate compliance assistance materials.

(6) The Government Accountability Office also found that section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) and other sections of that Act need clarification to be effective.

(b) PURPOSES.—The purposes of this Act are the following:

(1) To clarify the requirement contained in section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) for agencies to produce small entity compliance guides.

(2) To clarify other terms relating to the requirement in section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note).

(3) To ensure that agencies produce adequate and useful compliance assistance materials to help small businesses meet the obligations imposed by regulations affecting such small businesses, and to increase compliance with these regulations.

SEC. 3. ENHANCED COMPLIANCE ASSISTANCE FOR SMALL BUSINESSES.

(a) IN GENERAL.—Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) is amended by striking subsection (a) and inserting the following:

''(a) COMPLIANCE GUIDE.—

''(1) IN GENERAL.—For each rule or group of related rules for which an agency is required to prepare a final regulatory flexibility analysis under section 605(b) of title 5, United States Code, the agency shall publish 1 or more guides to assist small entities in complying with the rule and shall entitle such publications 'small entity compliance guides'.

''(2) PUBLICATION OF GUIDES.—The publication of each guide under this subsection shall include—

''(A) the posting of the guide in an easily identified location on the website of the agency; and

''(B) distribution of the guide to known industry contacts, such as small entities, associations, or industry leaders affected by the rule.

''(3) PUBLICATION DATE.—An agency shall publish each guide (including the posting and distribution of the guide as described under paragraph (2))—

''(A) on the same date as the date of publication of the final rule (or as soon as possible after that date); and

''(B) not later than the date on which the requirements of that rule become effective.

''(4) COMPLIANCE ACTIONS.—

''(A) IN GENERAL.—Each guide shall explain the actions a small entity is required to take to comply with a rule.

''(B) EXPLANATION.—The explanation under subparagraph (A)—

''(i) shall include a description of actions needed to meet the requirements of a rule, to enable a small entity to know when such requirements are met; and

''(ii) if determined appropriate by the agency, may include a description of possible procedures, such as conducting tests, that may assist a small entity in meeting such requirements.

''(C) PROCEDURES.—Procedures described under subparagraph (B)(ii)—

''(i) shall be suggestions to assist small entities; and

''(ii) shall not be additional requirements relating to the rule.

''(5) AGENCY PREPARATION OF GUIDES.—The agency shall, in its sole discretion, taking into account the subject matter of the rule and the language of relevant statutes, ensure that the guide is written using sufficiently plain language likely to be understood by affected small entities. Agencies may prepare separate guides covering groups or classes of similarly affected small entities and may cooperate with associations of small entities to develop and distribute such guides. An agency may prepare guides and apply this section with respect to a rule or a group of related rules.

''(6) REPORTING.—Not later than 1 year after the date of enactment of the Small Business Compliance Assistance Enhancement Act of 2007, and annually thereafter, the head of each agency shall submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives describing the status of the agency's compliance with paragraphs (1) through (5).''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 211(3) of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) is amended by inserting ''and entitled'' after ''designated''.

By Mr. BOND:

S. 247. A bill to designate the United States courthouse located at 555 Independence Street, Cape Girardeau, Missouri, as the ''Rush Hudson Limbaugh, Sr. United States Courthouse''; to the

Committee on Environment and Public Works.

Mr. BOND. Mr. President, I rise today to introduce legislation designating the new Federal Courthouse in Cape Girardeau, MO. as the Rush Hudson Limbaugh, Sr. United States Courthouse.

When people talk about the American Dream, the ''Spirit of America'' and the people who helped make this country great, all one really has to do is mention the name of the late Rush Hudson Limbaugh Sr.

Mr. Limbaugh led an extraordinary life in which he practiced law for almost 80 years until his death at age 104 in 1996. At the time of his death, Mr. Limbaugh was the Nation's oldest practicing lawyer and still came into work about twice a week at the law firm he founded over 50 years before in Cape Girardeau, MO.

Known by his peers as a superb trial lawyer with impeccable character and integrity, he was a beloved icon of the Missouri legal community, especially in Southeast Missouri where he lived all his life.

Born in 1891, on a small farm in rural Bollinger County, he was the youngest of eight children and attended school in a one room primary school house. It is said that a passion for the law first developed in Rush as a 10-year-old boy when a Daniel Webster Oration that he memorized inspired him to become a lawyer. Fourteen years later, he began a legal career that lasted eight decades. Throughout those 80 years, his interest in the law and his dedication to his clients never wavered.

Rush paid his way through college at the University of Missouri at Columbia by working on the university farm and doing odd jobs such as carpentry, firing up furnaces, caring for animals and waiting tables. While in college, his oratory skills won him awards which he later utilized with great success in the courtroom.

In 1914, he entered law school, and after two years, he skipped the third year and passed the Missouri Bar examination. In 1916, he was admitted into the Missouri Bar and his long distinguished legal career began in Cape Girardeau.

Over his career, Rush argued more than 60 cases in front of the Missouri Supreme Court along with many prominent civil cases. He was a specialist in probate law and helped draft the 1955 Probate Code of Missouri. He also tried cases before the Interstate Commerce Commission, the U.S. Labor Board and the Internal Revenue Appellate Division.

From 1955 through 1956, he was President of the Missouri Bar and later served as President of the State Historical Society of Missouri. In addition to this, Mr. Limbaugh was a leading member of numerous legal and civic organizations including the American Bar Association, the Missouri Bar Foundation, the Missouri Human Rights Commission, the Cape Girardeau Board of Education and the Salvation Army Advisory Board

However, Rush's contributions were not just limited to Missouri. In the late 1950's, Rush served as a U.S. State Department special envoy to India where he promoted American jurisprudence and constitutional government among lawyers, judges and university students in that newly formed country. And in the 1960's, he served as Chairman of the American Bar Association's special committee on the Bill of Rights.

Rush was truly an inspiration and mentor to many aspiring lawyers, especially the ones in his own family. His two sons, Rush Jr. and Steven, both practiced law with him for many years. His son, Steven N. Limbaugh, currently serves as a Senior Federal Judge in St. Louis. Four of his grandsons followed in his footsteps and pursued legal careers including his grandson Steven Jr. who is now a Missouri Supreme Court Justice.

Perhaps the best measure of Rush Hudson Limbaugh' legacy as a lawyer and as a human being comes from the praise and admiration of his peers in the legal community. ''A top notch all-around lawyer; the epitome of what a lawyer ought to be said one colleague. ''A legend in his time,'' said another.

However, his grandson Steven may have offered the best possible description of this great citizen: ''He was an extraordinary man, exemplary in every way, yet very humble. He was a lawyer's lawyer, a community servant and a gentle and kind man whose family was the very center of his life.''

It is only fitting that the new Federal courthouse in Cape Girardeau, Missouri be named after this great hero of American Jurisprudence.

I ask unanimous consent that the text of this 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. 247

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

SECTION 1. RUSH HUDSON LIMBAUGH, SR. UNITED STATES COURTHOUSE.

(a) DESIGNATION.—The United States courthouse located at 555 Independence Street, Cape Girardeau, Missouri, shall be known and designated as the ''Rush Hudson Limbaugh, Sr. United States Courthouse''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in subsection (a) shall be deemed to be a reference to the ''Rush Hudson Limbaugh, Sr. United States Courthouse''.

By Mr. BAUCUS (for himself and Ms. SNOWE):

S. 248. A bill to amend the Internal Revenue Code of 1986 to permanently extend and modify the work opportunity credit, and for other purposes; to the Committee on Finance.

Mr. BAUCUS. President, I am pleased to join my Colleague, Senator SNOWE, in introducing legislation to improve and permanently extend the Work Opportunity and the Welfare-to-Work tax credits. Last year, I was pleased to help enact legislation that consolidated, streamlined, and extended these credits through the end of 2007. Now it is time to make these tax credits permanent.

The current extension expires at the end of this year. So immediate action is needed to make these credits permanent and make several improvements to the programs to improve their effectiveness. Recurring lapses and extensions make administration of this credit burdensome both for the taxpaying employer, who cannot keep track of who is or is not qualified, and for the IRS, which needs to ensure that taxpayers are complying with the ever-shifting law. Last year, the program lapsed until late December, when Congress finally passed a retroactive extension.

Over the past decade, the Work Opportunity Tax Credit, WOTC, and the Welfare-to-Work credits have helped more than 2.2 million public assistance dependent individuals to enter the workforce. These hiring tax incentives have demonstrated their effectiveness. They help to level the job selection playing field for low-skilled individuals. They provide employers with additional resources to help recruit, select, train and retain individuals with significant barriers to work. Many vulnerable individuals still need a boost in finding employment. And this is particularly important during periods of high unemployment. Without an extension of these programs, the task of transitioning from welfare-to-work will become even harder for individuals who reach their welfare eligibility ceiling.

Because of the costs involved in setting up and administering a WOTC and Welfare-to-Work program, employers have established massive outreach programs to maximize the number of eligible persons in their hiring pool. The States, in turn, have steadily improved the programs through improved administration. WOTC has become an example of a true public-private partnership design to assist the most needy applicants. Without the additional resources provided by these hiring tax incentives, few employers would actively seek out this hard-to-employ population.

The new combined WOTC and Welfare-to-Work credits provide employers with a graduated tax credit equal to 25 percent of the first $6,000 in wages for eligible individuals working between 120 hours and 399 hours and a 40-percent tax credit on the first $6,000 in wages for those working more than 400 hours. In the category of longterm welfare recipients, employers receive a maximum credit of $4,000, or 40 percent of qualified first year wages up to $10,000. Employers receive a maximum credit of $5,000, or 50 percent of qualified wages up to $10,000, for retaining for a second year individuals in the long-term welfare assistance category.

In my home State of Montana, many businesses take advantage of this program, including large multinational firms and smaller family-owned businesses. Those who truly benefit from the WOTC and Welfare-to-Work program, however, are low-income families under the Food Stamp Program, the Aid to Families with Dependent Children, AFDC, and Temporary Assistance for Needy Families, TANF, programs, and also low income U.S. Veterans. In Montana, more than 1,000 people were certified as eligible under the WOTC program during an 18-month period, October 2001 through March 2003, including 476 Food Stamp recipients, 475 AFDC or TANF recipients, and 52 U.S. veterans.

The bill that we are introducing today provides for a permanent program extension of the combined credits. After a decade of experience with WOTC and Welfare-to- Work, we know that employers do respond to these important hiring tax incentives. Permanent extension would provide these programs with greater stability, thereby encouraging more employers to participate, make investments in expanding outreach to identify potential workers from the targeted groups, and avoid the wasteful disruption of termination and renewal. A permanent extension would also encourage the state job services to invest the resources needed to make the certification process more efficient and employer-friendly.

Finally, there are other changes in the bill that would extend these benefits to more people and help them find work. One change would increase the age of eligibility for those individuals seeking work who reside in enterprise zones or empowerment communities. Another change would include referrals from the Ticket to Work program in the Vocational Rehabilitation category. These two changes are modest improvements to the program.

Further, this bill adds a new subcategory with an enhanced credit for employers who hire veterans with service-connected disabilities occurring on or after September 11, 2001. As of July 2006, nearly 20,000 members of our Armed Forces were wounded in action in Operation Iraqi Freedom and Operation Enduring Freedom. Many of these veterans are now permanently disabled. Of these brave men and women who have been wounded, nearly 5,000 are members of the National Guard and Reserves. Our National Guard and Reserves are carrying a huge burden in our current conflicts abroad.

Many of these wounded veterans come from rural States such as my home State of Montana. In Montana, we have the highest proportion of veterans per capita of any state. According to the most recent census, veterans account for nearly one out of every six people in Montana. And veterans and families of veterans constitute a significant portion of the population in rural states throughout the country.

When not deployed, many National Guardsmen and reservists in Montana support their families with second and even third jobs. At any time, they can be deployed overseas, to our borders, or even to aid with national disasters such as hurricanes or forest fires. If they are injured or disabled, however, many become unable to perform the jobs that they did before deployment. They will need to transition into a new job or career. It is our duty to provide the proper means for veterans to make that transition. It is our duty to help them to live as independent citizens.

Since August 2002, the share of veterans collecting unemployment insurance has nearly doubled. During any given year, half a million veterans across the Nation experience homelessness. We are not providing enough resources for veterans looking for work. We are too often failing our injured and our disabled veterans.

Many seriously injured and disabled veterans simply do not know what they are going to do once they return home. We need to help these young men and women. And a modest tax incentive to get them back into the workforce is one place to start.

I look forward to working with Senator SNOWE to get a permanent work incentive for these individuals. And I encourage our Colleagues to join us in this effort.

By Mrs. FEINSTEIN:

S. 249. A bill to permit the National Football League to restrict the movement of its franchises, and for other purposes; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, last November, John York, the owner of the San Francisco 49ers, announced his intention to move the team to Santa Clara.

The 49ers have been an integral part of San Francisco for the past 60 years. The team was founded in 1946 as part of the All-American Football Conference and joined the National Football League in 1950, when the two leagues merged.

The team's name is derived from the city's history, celebrating the miners who rushed to San Francisco in search of gold in 1849 and helped build the city.

The team has been a part of San Francisco for so long, and is such a central part of its culture, that the prospect of the team leaving concerns many of the people of San Francisco.

In response, I am introducing the Football Fairness Act that provides a new and limited antitrust exemption that is designed to slow the frequent movement of National Football League teams and prevent communities from suffering the financial and intangible costs of these moves.

As Mayor of San Francisco, I had the pleasure of witnessing several 49ers' Super Bowl victory parades.

What I remember most about those victories is the way the team's success brought the city together. I've also seen other cities unite in celebration of their teams' championships.

Our football teams are more than just businesses. They are a common denominator that cut across class, race, and gender to bond the people of a city. They are a key component of a city's culture and identity.

There are instances where a city cannot support a team, but it is disheartening when a city that can—and does—support a team is nevertheless abandoned and the loyalty of the fans discarded.

In 1985, then 49ers owner Eddie DeBartolo explored the possibility of moving the team to San Jose. As Mayor of San Francisco, I worked with the 49ers and we were able to reach an agreement to keep the team in San Francisco.

Today, I remain hopeful that an agreement to keep the team will be reached that will benefit the people of San Francisco and the 49ers' organization.

However, this situation highlights a broader trend of NFL teams abandoning cities after those communities invested substantial funds and good will into a team.

This persistent movement is bad for our cities.

In the last 25 years, National Football League teams have moved 7 times: Oakland Raiders to Los Angeles in 1982, Baltimore Colts to Indianapolis in 1984, St. Louis Cardinals to Tempe in 1988, Los Angeles Rams to St. Louis in 1994, Los Angeles Raiders to Oakland in 1994, Cleveland Browns to Baltimore in 1996, and Houston Oilers to Nashville in 1997.

However, during that same time period only 1 Major League Baseball franchise moved. In 2004, with the approval of Major League Baseball, the Montreal Expos became the Washington Nationals.

Why has there been stability in baseball, while National Football League teams have moved so frequently?

Unlike the NFL, Major League Baseball has an antitrust exemption which gives the league and its owners control over the movement of its teams.

When the Oakland Raiders sought to relocate to Los Angeles in 1982, the National Football League's owners voted to prevent the move. However, the courts found that the NFL's intervention was a violation of antitrust laws, and the League could do nothing to prevent the Raiders from moving.

Just 12 years later, the Raiders left Los Angeles to return to the same city and stadium it had abandoned.

If a city is incapable of supporting a team, it is understandable that a franchise would move. However, of the six cities that have seen National Football League teams leave in the last 25 years, five of those cities later received another NFL franchise.

It is clear that NFL teams are not moving because cities cannot support teams.

To address the real costs imposed on communities by the persistent and unnecessary franchise movement that we

have witnessed, I am introducing the Football Fairness Act.

The Football Fairness Act is straightforward and it is limited.

It would permit the National Football League to review and restrict its teams' movement. This should help keep the fans who support the NFL from being left out of the equation.

The Act is targeted. It limits the exemption from antitrust laws solely to the National Football League's ability to prevent the movement of its franchises. Consequently, the Act will not diminish competition.

I urge my colleague to support the Football Fairness Act and help prevent the damage done to fans and communities by frequent NFL franchise movement.

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. 249

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 ''Football Fairness Act of 2007''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) National Football League teams foster a strong local identity with the people of the cities and regions in which they are located, providing a source of civic pride for their supporters;

(2) National Football League teams provide employment opportunities, revenues, and a valuable form of entertainment for the cities and regions in which they are located;

(3) there are significant public investments associated with National Football League facilities;

(4) it is in the public interest to encourage the National Football League to operate under policies that promote stability among its member teams and to promote the equitable resolution of disputes arising from the proposed relocation of National Football League teams; and

(5) National Football League teams travel in interstate to compete and utilize materials shipped in interstate commerce, and National Football League games are broadcast nationally.

SEC. 3. CLARIFICATION OF ANTITRUST LAWS RELATED TO RELOCATION.

It shall not be unlawful by reason of any provision of the antitrust laws for the National Football League to enforce rules authorizing the membership of the league to decide that a member club of such league shall not be relocated.

SEC. 4. INAPPLICABILITY TO CERTAIN MATTERS.

(a) IN GENERAL.—Nothing contained in this Act shall—

(1) alter, determine, or otherwise affect the applicability or inapplicability of the antitrust laws, the labor laws, or any other provision of law relating to the wages, hours, or other terms and conditions of employment of players in the National Football League, to any employment matter regarding players in the National Football League, or to any collective bargaining rights and privilege of any player union in the National Football League;

(2) alter or affect the applicability or inapplicability of the antitrust laws or any applicable Federal or State law relating to broadcasting or telecasting, including section 1 of Public Law 87–331 (15 U.S.C. 1291), any agreement between the National Football League or its member teams, and any person not affiliated with the National Football League for the broadcasting or telecasting of the games of the National Football League or its member teams on any form of television;

(3) affect any contract, or provision of a contract, relating to the use of a stadium or arena between a member team and the owner or operator of any stadium or arena or any other person;

(4) exempt from the antitrust laws any agreement to fix the prices of admission to National Football League games;

(5) exempt from the antitrust laws any predatory practice or other conduct with respect to competing sports leagues that would otherwise be unlawful under the antitrust laws; or

(6) except as provided in this Act, alter, determine, or otherwise affect the applicability or inapplicability of the antitrust laws to any act, contract, agreement, rule, course of conduct, or other activity by, between, or among persons engaging in, conducting, or participating in professional football.

(b) ANTITRUST LAWS.—As used in this section, the term ''antitrust laws'' has the meaning given to such term in the first section of the Clayton Act (15 U.S.C. 12) and in the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

By Ms. SNOWE (for herself and Mr. WYDEN):

S. 250. A bill to reduce the costs of prescription drugs for Medicare beneficiaries and to guarantee access to comprehensive prescription drug coverage under part D of the Medicare program, and for other purposes; to the Committee on Finance.

Mrs. SNOWE. Mr. President, today I join with my colleague and friend Senator RON WYDEN, to introduce legislation which we have sponsored since 2004 to ensure the sound fiscal management of our Medicare prescription drug benefit. Together we both supported the enactment of the Medicare Modernization Act in 2003 (MMA), and we remain committed to seeing our seniors able to rely on a high quality, affordable benefit.

Today millions of American seniors are at last receiving assistance with the high cost of prescription drugs. For so many, that will make a difference between choosing whether to take needed medications and the other necessities of life. We have indeed come a very long way. We look forward to realizing all the incredible benefits of this coverage as we see the results of more affordable access to prescription drugs—better health for our seniors, and substantial health care savings.

This new benefit marks a milestone for Medicare. And that is an apt analogy because today Part D represents a landmark, not a destination. There is no doubt that this benefit is not all it could or should be, but it is a giant step forward in helping millions of seniors to afford medications which are so essential to health care today. For modem drugs not only treat disease, but actually can prevent its development.

While we have seen this landmark progress, it has not come without difficulty. Yet today seniors are saving substantially on their prescription drugs and we see reports that four of five enrollees are pleased with the assistance they are receiving.

It is undoubtedly the help they are getting which has resulted in such satisfaction. Because the confusion, the complexity, and often a lack of oversight on the plans has created some serious consumer issues which we will continue to address. But today the first issue before us is the cost of prescription drugs in the plans.

Over 3 years ago the Congress was given a price tag for this benefit that was simply unrealistic. Recognizing an absence of cost management, I joined with Senator WYDEN to address the escalating cost projections we were seeing. Today, some say all is well, as we hear that the estimated cost of the benefit declined somewhat from a peak estimate of about $720 billion over 10 years. Yet I must note that some of the reasons for that reduction are too quickly glossed over. Enrollment is lower than it was estimated to be as more Americans chose to stay in private coverage. We also saw this past year that we failed to reach many of those low income seniors who most needed help. Today as seniors enter their first full year of coverage, we will see a more realistic year—particularly in terms of more beneficiaries facing the donut hole.

We have heard estimates that the average senior is saving an average of $1,000 per year, but we should ask how that savings is being achieved. The discovery by many seniors—when they reached the donut hole—that their cost of medications was the same or even higher than what they paid prior to enrolling in Part D—that should be a red flag that we may not be seeing the purchasing power of seniors harnessed for the savings they deserve.

Back in 2005 the Medicare Actuary had estimated that drug plans would negotiate a discount of about 15 percent off undiscounted retail prices. So last year we were curious—just how were they doing in Maine? My staff compared prices for the top 24 medications used by seniors and found that our plan prices for those medications averaged less than 12 percent below the price any senior could already obtain, by simply walking into a retail pharmacy. That is not even using membership or association discounts, or using an on-line pharmacy like Drugstore.com—where seniors could obtain better prices. That result—finding a single senior could do better than a plan—is certainly disappointing.

That points to a system that is working well in terms of subsidy, but certainly needs to improve in terms of negotiating substantial discounts. But we are told that the cost of the benefit is lower, and that premiums were stable this year. Yet if you ask what standalone drug coverage actually costs this

year, CMS will tell you that those premiums have gone up about 10 percent. Not unlike increases in the deductible, the size of the donut hole, and out-of-pocket expense. As Senator WYDEN and I learned from GAO reports we have received, the prices of drugs used by seniors have inexorably increased since 2000 at two to three times the inflation rate.

So the costs of this program will remain a concern. Most of us envisioned that not only would the taxpayer contribute to helping seniors with drug expenses, but we would realize substantial savings from lower prices on prescription drugs.

That is why Senator WYDEN and I proposed to achieve some balance in the public private partnership which is Part D today, and it is why today we are again introducing the Medicare Enhancements for Needed Drugs Act—the MEND Act. In this drug benefit the HHS Secretary should have a proper role in negotiation. Negotiation, not price setting.

It is clear that what the Congress intended to do was to create a true public-private partnership, utilizing competitive forces to bring more choices to seniors—in drugs, benefit plan designs, pharmacies, and more. So seniors can vote with their pocketbooks, and we can see their choices in the market influence the kind of benefit they receive. That is not the same as a system in which the government sets prices, and that is why our legislation specifically bans such a practice. Under our legislation, the Federal Government cannot set either prices or formularies—that is absolutely clear.

What I believe most of us desire to do is give the present system the best tools to achieve success. That means that the Secretary must have an oversight role. He should be examining performance and pointing out where plans need to improve. But today if he noticed a product on which poor discounts were being achieved, and he attempted to discuss that publicly, he would likely be accused of interference. Further, if a plan reported intransigence in trying to negotiate with a manufacturer, the Secretary could not respond. That makes no sense. It is a disservice taxpayers, beneficiaries, and the plans as well.

Our legislation rescinds the ''non-interference'' clause and directs the Secretary to negotiate for any necessary fallback plan, and in addition, to respond to requests for help from plans which cannot obtain reasonable negotiation.

We have also added two additional areas in which the Secretary must negotiate. First, as the CBO has stated that negotiation of single-source drugs could yield savings, our legislation directs the Secretary to engage in negotiation regarding those unique products. We also know that some drugs exist because the taxpayer provides substantial support to see them developed. The public deserves a fair price on those products it made possible, so the Secretary should weigh in those cases.

Finally, our bill protects beneficiaries by assuring that seniors will have access to a comprehensive coverage option—at least one plan in each region must provide the option to avoid the coverage gap, dreaded ''donut hole''. Today seniors in 11 States simply cannot obtain such coverage and they must at least have the option of protecting themselves.

These are reasonable ways to help plans succeed, and to protect both beneficiaries and taxpayers within the public-private partnership on which this benefit rests.

I call on my colleagues to join us in this effort, so that we may improve the partnership between private enterprise and the Federal Government in serving our seniors.

I ask consent that the bill's text be printed in the CONGRESSIONAL RECORD.

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

S. 250

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Medicare Enhancements for Needed Drugs Act of 2007''.

SEC. 2. GAO STUDIES AND REPORTS ON PRICES OF PRESCRIPTION DRUGS.

(a) REVIEW AND REPORTS ON RETAIL PRICES OF PRESCRIPTION DRUGS.—

(1) INITIAL REVIEW.—The Comptroller General of the United States shall conduct a review of the retail cost of prescription drugs in the United States during 2000 through 2006, with an emphasis on the prescription drugs most utilized for individuals age 65 or older.

(2) SUBSEQUENT REVIEW.—After conducting the review under paragraph (1), the Comptroller General shall continuously review the retail cost of such drugs through December 31, 2010, to determine the changes in such costs.

(3) REPORTS.—

(A) INITIAL REVIEW.—Not later than 90 days after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the initial review conducted under paragraph (1).

(B) SUBSEQUENT REVIEW.—Not later than April 1 of 2008, 2009, 2010, and 2011, the Comptroller General shall submit to Congress a report on the subsequent review conducted under paragraph (2).

(b) ANNUAL GAO STUDY AND REPORT ON RETAIL AND ACQUISITION PRICES OF CERTAIN PRESCRIPTION DRUGS.—

(1) ONGOING STUDY.—The Comptroller General of the United States shall conduct an ongoing study that compares the average retail cost in the United States for each of the 20 most utilized prescription drugs for individuals age 65 or older with—

(A) the average price at which private health plans acquire each such drug;

(B) the average price at which the Department of Defense under the Defense Health Program acquires each such drug;

(C) the average price at which the Department of Veterans Affairs under the laws administered by the Secretary of Veterans Affairs acquires each such drug; and

(D) the average negotiated price for each such drug that eligible beneficiaries enrolled in a prescription drug plan under part D of title XVIII of the Social Security Act that provides only basic prescription drug coverage have access to under such plans.

(2) ANNUAL REPORT.—Not later than October 1, 2007, and annually thereafter, the Comptroller General shall submit to Congress a report on the study conducted under paragraph (1), together with such recommendations as the Comptroller General determines appropriate.

SEC. 3. INCLUSION OF AVERAGE AGGREGATE BENEFICIARY COSTS AND SAVINGS IN COMPARATIVE INFORMATION FOR BASIC MEDICARE PRESCRIPTION DRUG PLANS.

Section 1860D–1(c)(3) of the Social Security Act (42 U.S.C. 1395w–101(c)(3)) is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking ''subparagraph (B)'' and inserting ''subparagraphs (B) and (C)''; and

(B) by adding at the end the following new clause:

''(vi) AVERAGE AGGREGATE BENEFICIARY COSTS AND SAVINGS.—With respect to plan years beginning on or after January 1, 2008, the average aggregate costs, including deductibles and other cost-sharing, that a beneficiary will incur for covered part D drugs in the year under the plan compared to the average aggregate costs that an eligible beneficiary with no prescription drug coverage will incur for covered part D drugs in the year.''; and

(2) by adding at the end the following new subparagraph:

''(C) AVERAGE AGGREGATE BENEFICIARY COSTS AND SAVINGS INFORMATION ONLY FOR BASIC PRESCRIPTION DRUG PLANS.—The Secretary shall not provide comparative information under subparagraph (A)(vi) with respect to—

''(i) a prescription drug plan that provides supplemental prescription drug coverage; or

''(ii) a Medicare Advantage plan.''.

SEC. 4. NEGOTIATING FAIR PRICES FOR MEDICARE PRESCRIPTION DRUGS.

(a) IN GENERAL.—Section 1860D–11 of the Social Security Act (42 U.S.C. 1395w–111) is amended by striking subsection (i) (relating to noninterference) and by inserting the following:

''(i) AUTHORITY TO NEGOTIATE PRICES WITH MANUFACTURERS.—

''(1) IN GENERAL.—In order to ensure that beneficiaries enrolled under prescription drug plans and MA–PD plans pay the lowest possible price, the Secretary shall have authority similar to that of other Federal entities that purchase prescription drugs in bulk to negotiate contracts with manufacturers of covered part D drugs, consistent with the requirements and in furtherance of the goals of providing quality care and containing costs under this part.

''(2) MANDATORY RESPONSIBILITIES.—The Secretary shall be required to—

''(A) negotiate contracts with manufacturers of covered part D drugs when the drug is a single source drug without a therapeutic equivalent;

''(B) participate in the negotiation of contracts with respect to any covered part D drug upon the request of an approved prescription drug plan or MA–PD plan;

''(C) participate in the negotiation of contracts for any covered part D drugs for which there is a substantial amount of Federal research funding in the development of the drug; and

''(D) negotiate contracts with manufacturers of covered part D drugs for each standard fallback prescription drug plan under subsection (g) and each comprehensive fallback prescription drug plan under subsection (k).

''(3) RULE OF CONSTRUCTION.—Nothing in paragraph (2) shall be construed to limit the

authority of the Secretary under paragraph (1) to the mandatory responsibilities under paragraph (2).

''(4) NO PARTICULAR FORMULARY OR PRICE STRUCTURE.—In order to promote competition under this part and in carrying out this part, the Secretary may not require a particular formulary or institute a price structure for the reimbursement of covered part D drugs.

''(5) USE OF SAVINGS.—The savings to the Medicare Prescription Drug Account through the use of the authority provided under this subsection (including the mandatory responsibilities under paragraph (2)) shall be used to strengthen the program under this part and to reduce the Federal deficit.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of enactment of this Act.

SEC. 5. ACCESS TO A COMPREHENSIVE MEDICARE PRESCRIPTION DRUG PLAN.

(a) REQUIREMENT FOR ACCESS.—Section 1860D–3(a) of the Social Security Act (42 U.S.C. 1395w–103(a)) is amended—

(1) in paragraph (1)—

(A) by striking ''CHOICE OF AT LEAST TWO PLANS IN EACH AREA.—The Secretary'' and inserting ''CHOICE

''(A) CHOICE OF AT LEAST TWO PLANS IN EACH AREA.—The Secretary''; and

(B) by adding at the end the following new subparagraph:

''(B) CHOICE OF A COMPREHENSIVE PRESCRIPTION DRUG PLAN.—In addition to the requirement under subparagraph (A), the Secretary shall ensure that each part D eligible individual has available a choice of enrollment in a comprehensive prescription drug plan (as defined in paragraph (4)) in the area in which the individual resides. In any such case in which such a plan is not available, the part D eligible individual shall be given the opportunity to enroll in a comprehensive fallback prescription drug plan.''; and

(2) by adding at the end the following new paragraph:

''(4) COMPREHENSIVE PRESCRIPTION DRUG PLAN.—For purposes of this section, the term 'comprehensive prescription drug plan' means a prescription drug plan that provides coverage of covered part D drugs after an individual has reached the initial coverage limit under paragraph (3) of section 1860D–2(b) but has not reached the annual out-of-pocket threshold under paragraph (4)(B) of such section that is the same as the coverage for such drugs that is provided under the plan after the individual has met the deductible under paragraph (1) of such section but has not reached such initial coverage limit.''.

(b) COMPREHENSIVE FALLBACK PRESCRIPTION DRUG PLAN.—Section 1860D–11 of the Social Security Act (42 U.S.C. 1395w–111) is amended by adding at the end the following new subsection:

''(k) GUARANTEEING ACCESS TO COMPREHENSIVE COVERAGE.—

''(1) SOLICITATION OF BIDS.—Separate from the bidding process under subsections (b) and (g), the Secretary shall provide for a process for the solicitation of bids from eligible comprehensive fallback entities (as defined in paragraph (2)) for the offering in all comprehensive fallback service areas (as defined in paragraph (3)) in one or more PDP regions of a comprehensive fallback prescription drug plan (as defined in paragraph (4)) during the contract period specified in subsection (g)(5) (as made applicable to this subsection under paragraph (6)).

''(2) ELIGIBLE COMPREHENSIVE FALLBACK ENTITY.—For purposes of this section, the term 'eligible comprehensive fallback entity' means, with respect to all comprehensive fallback service areas in a PDP region for a contract period, an entity that—

''(A) meets the requirements to be a PDP sponsor (or would meet such requirements but for the fact that the entity is not a risk-bearing entity); and

''(B) does not submit a bid under section 1860D–11(b) for any prescription drug plan for any PDP region for the first year of such contract period.

For purposes of subparagraph (B), an entity shall be treated as submitting a bid with respect to a prescription drug plan if the entity is acting as a subcontractor of a PDP sponsor that is offering such a plan. The previous sentence shall not apply to entities that are subcontractors of an MA organization except insofar as such organization is acting as a PDP sponsor with respect to a prescription drug plan.

''(3) FALLBACK SERVICE AREA.—For purposes of this subsection, the term 'comprehensive fallback service area' means, for a PDP region with respect to a year, any area within such region for which the Secretary determines before the beginning of the year that the access requirements of the first sentence of section 1860D–3(a)(1)(B) will not be met for part D eligible individuals residing in the area for the year.

''(4) COMPREHENSIVE FALLBACK PRESCRIPTION DRUG PLAN.—For purposes of this part, the term 'comprehensive fallback prescription drug plan' means a prescription drug plan that—

''(A) offers the standard prescription drug coverage and access to negotiated prices described in section 1860D–2(a)(1)(A);

''(B) offers coverage of covered part D drugs after an individual has reached the initial coverage limit under paragraph (3) of section 1860D–2(b) but has not reached the annual out-of-pocket threshold under paragraph (4)(B) of such section that is the same as the coverage for such drugs that is offered after the individual has met the deductible under paragraph (1) of such section but has not reached such initial coverage limit; and

''(C) meets such other requirements as the Secretary may specify.

''(5) MONTHLY BENEFICIARY PREMIUM.—Except as provided in section 1860D–13(b) (relating to late enrollment penalty) and subject to section 1860D–14 (relating to low-income assistance), the monthly beneficiary premium to be charged under a comprehensive fallback prescription drug plan offered in all comprehensive fallback service areas in a PDP region shall be uniform and shall be an amount equal to—

''(A) 25.5 percent of an amount equal to the Secretary's estimate of the average monthly per capita actuarial cost, including administrative expenses, under the comprehensive fallback prescription drug plan of providing the coverage described in paragraph (4)(A) in the region, as calculated by the Chief Actuary of the Centers for Medicare & Medicaid Services; and

''(B) 100 percent of an amount equal to the Secretary's estimate of the average monthly per capita actuarial cost, including administrative expenses, under the comprehensive fallback prescription drug plan of providing the coverage described in paragraph (4)(B) in the region, as calculated by the Chief Actuary of the Centers for Medicare & Medicaid Services.

In calculating such administrative expenses, the Chief Actuary shall use a factor that is based on similar expenses of prescription drug plans that are not standard or comprehensive fallback prescription drug plans.

''(6) INCORPORATION OF STANDARD FALLBACK PRESCRIPTION DRUG PLAN PROVISIONS.—The provisions of paragraphs (1)(B), (5), and (7) of subsection (g) shall apply to comprehensive fallback prescription drug plans and entities offering such plans in the same manner as such provisions apply to standard fallback prescription drug plans and entities offering such plans.

''(7) SAME ENTITY MAY OFFER BOTH FALLBACK PRESCRIPTION DRUG PLANS IN AN AREA.—The Secretary may award a contract to an entity under this subsection with respect to an area and period and a contract under subsection (g) with respect to the same area and period.''.

(c) CONFORMING AMENDMENTS.—

(1) ACCESS.—Section 1860D–3 of the Social Security Act (42 U.S.C. 1395w–103) is amended—

(A) in subsection (a)—

(i) in paragraph (1)(A) of subsection (a), as redesignated by subsection (a), by inserting ''standard'' before ''fallback'';

(ii) in paragraph (2), by striking ''paragraph (1)'' and inserting ''paragraph (1)(A)''; and

(B) in subsection (b)(2), by striking ''fallback prescription drug plan for that area under section 1860D–11(g)'' and inserting ''standard or comprehensive fallback prescription drug plan for that area under subsections (g) and (k) of section 1860D–11, as applicable''.

(2) LIMITED RISK PLANS.—Section 1860D–11(f) of the Social Security Act (42 U.S.C. 1395w–111(f)) is amended—

(A) in paragraph (1)—

(i) by striking ''1860D–3(a)'' and inserting ''1860D–3(a)(1)(A)''; and

(ii) by inserting ''standard'' before ''fallback''; and

(B) in paragraph (2)(A), by striking ''1860D–3(a)'' and inserting ''1860D–3(a)(1)(A)''; and

(C) in each of subparagraphs (A) and (B) of paragraph (4), by striking ''a fallback'' and inserting ''a standard or comprehensive fallback''.

(3) STANDARD FALLBACK PRESCRIPTION DRUG PLAN.—Section 1860D–11(g) of the Social Security Act (42 U.S.C. 1395w–111(g)) is amended—

(A) in the heading, by inserting ''STANDARD PRESCRIPTION DRUG'' after ''ACCESS TO'';

(B) by inserting ''STANDARD'' before ''FALLBACK'' each place it appears;

(C) by striking ''FALLBACK'' each place it appears and inserting ''STANDARD FALLBACK'';

(D) by inserting ''standard'' before ''fallback'' each place it appears; and

(E) in paragraph (3), by striking ''1860D–3(a)'' and inserting ''1860D–3(a)(1)(A)''.

(4) ANNUAL REPORT.—Section 1860D–11(h) of the Social Security Act (42 U.S.C. 1395w–111(h)) is amended by striking ''(f) and (g)'' and inserting ''(f), (g), and (k)''.

(5) LIMITATION ON ENTITIES OFFERING FALLBACK PRESCRIPTION DRUG PLANS.—Section 1860D–12(b)(2) of the Social Security Act (42 U.S.C. 1395w–112(b)(2)) is amended—

(A) in the matter preceding subparagraph (A), by striking ''a fallback'' and inserting ''a standard or comprehensive fallback'';

(B) in subparagraph (A)—

(i) by striking ''section 1860D–11(g)'' and inserting ''subsection (g) or (k) of section 1860D–11'';

(ii) by striking ''such section'' and inserting ''such subsections, as applicable''; and

(iii) by striking ''a fallback'' and inserting ''a standard or comprehensive fallback'';

(C) in subparagraph (B), by striking ''a fallback'' and inserting ''a standard or comprehensive fallback'';

(D) in subparagraph (C), by striking ''a fallback'' and inserting ''a standard or comprehensive fallback'' and

(E) in the flush matter following subparagraph (C), by striking ''a fallback'' and inserting ''a standard or comprehensive fallback''.

(6) COLLECTION OF PREMIUM.—Section 1860D–13(c)(3) of the Social Security Act (42

U.S.C. 1395w–113(c)(3)) is amended by striking ''a fallback'' and inserting ''a standard or comprehensive fallback''.

(7) PAYMENT.—Section 1860D–15(g) of the Social Security Act (42 U.S.C. 1395w–115(g)) is amended by striking ''offering'' and all that follows and inserting the following: ''offering.—

''(1) a standard prescription drug plan (as defined in paragraph (4) of section 1860D–11(g)), the amount payable shall be the amounts determined under the contract for such plan pursuant to paragraph (5) of such section; and

''(2) a comprehensive prescription drug plan (as defined in paragraph (4) of section 1860D–11(k)), the amount payable shall be the amounts determined under the contract for such plan pursuant to such paragraph (5) (as made applicable to section 1860D–11(k) under paragraph (6) of such section).''.

(8) PAYMENT FROM ACCOUNT.—Section 1860D–16(b)(1)(B) of the Social Security Act (42 U.S.C. 1395w–116(b)(1)(B)) is amended by inserting ''standard and comprehensive'' before ''fallback''.

(9) DEFINITION.—Section 1860D–41(a)(5) of the Social Security Act (42 U.S.C. 1395w–151(a)(5)) is amended to read as follows:

''(5) STANDARD FALLBACK PRESCRIPTION DRUG PLAN; COMPREHENSIVE FALLBACK PRESCRIPTION DRUG PLAN.—The terms 'standard fallback prescription drug plan' and 'comprehensive fallback prescription drug plan' have the meaning given those terms in subsection (g)(4) and (k)(4), respectively, of section 1860D–11.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2008.

Mr. WYDEN. Mr. President, Senator SNOWE and I said we would work to improve the Medicare Part D benefit ever since we voted for its passage. Senator SNOWE and I think one of the most egregious errors in the Medicare drug benefit was to write into law that the Secretary cannot have bargaining power under any circumstances. That is why today we are introducing the Medicare Enhancements for Needed Drugs Act of 2007. This legislation lifts the prohibition on bargaining power and requires the Secretary to negotiate on behalf of seniors.

We believed that one of the most important things missing from the Part D benefit was cost containment—and allowing Medicare to negotiate for drug prices would be an important cost containment measure. Our legislation clearly prohibits price setting or the creation of a uniform formulary. What our legislation allows Medicare to do is to be a smart shopper—just as any consumer would be—by allowing Medicare to go in the market and use its clout just like any other big purchaser.

Under our proposal, the Secretary could negotiate in any circumstance, but must negotiate in several instances: for single source drugs for which there is no therapeutic equivalent; drugs for which taxpayer funding was substantial in its research and development; and for any fallback plan the Secretary must provide. In addition, our legislation requires the Secretary to provide a fallback plan if there is not comprehensive coverage, including coverage for the so-called donut hole, available in a region.

The Congressional Budget Office has stated there might be savings achieved if the Secretary could negotiate for single source drugs for which there is no therapeutic equivalent. To be good stewards of taxpayer dollars, to be able to strengthen the program and to help seniors truly save, we must look toward using every logical tool to lower costs. Not to try to achieve lower prices in areas identified as potentially saving the program, taxpayers and seniors would be foolish.

I don't know of a single private entity, whether it's a timber company in my home State of Oregon, or a big auto company, who when they're buying something in bulk doesn't say, hey pal, how about a discount? So why shouldn't Medicare, if it needs to negotiate, have that authority just in case? Why wouldn't we want to assure that Medicare can be a smart shopper?

I look forward to working with my colleagues as the Senate Finance Committee works on this issue.

By Mr. FEINGOLD:

S. 252. A bill to repeal the provision of law that provides automatic pay adjustments for Members of Congress; to the Committee on Homeland Security and Governmental Affairs.

Mr. FEINGOLD. Mr. President, I am pleased to reintroduce legislation that would put an end to automatic pay raises for Members of Congress.

As I have noted when I raised this issue in past years, Congress has the authority to raise its own pay, something that most of our constituents cannot do. Because this is such a singular power, Congress ought to exercise it openly, and subject to regular procedures including debate, amendment, and a vote on the record.

But current law allows Congress to avoid that public debate and vote. All that is necessary for Congress to get a pay raise is that nothing be done to stop it. The annual pay raise takes effect unless Congress acts.

This stealth pay raise mechanism began with a change Congress enacted in the Ethics Reform Act of 1989. In section 704 of that Act, Members of Congress voted to make themselves entitled to an annual raise equal to half a percentage point less than the employment cost index, one measure of inflation.

On occasion, Congress has voted to deny itself the raise, and the traditional vehicle for the pay raise vote is the Treasury appropriations bill. But that vehicle is not always made available to those who want a public debate and vote on the matter. Just last year, for example, the Senate did not consider the Treasury appropriations bill. Instead, we passed a series of continuing resolutions to fund government operations usually addressed in that bill and other appropriations bills that were not taken up. Because of that, Senators were effectively prevented from offering an amendment to force an up or down vote on the annual pay raise. And that situation was not unique.

As I have noted in the past, getting a vote on the annual congressional pay raise is a haphazard affair at best, and it should not be that way. The burden should not be on those who seek a public debate and recorded vote on the Member pay raise. On the contrary, Congress should have to act if it decides to award itself a hike in pay. This process of pay raises without accountability must end.

This issue is not a new question. It was something that our Founders considered from the beginning of our Nation. In August of 1789, as part of the package of 12 amendments advocated by James Madison that included what has become our Bill of Rights, the House of Representatives passed an amendment to the Constitution providing that Congress could not raise its pay without an intervening election. On September 9, 1789, the Senate passed that amendment. In late September of 1789, Congress submitted the amendments to the States.

Although the amendment on pay raises languished for two centuries, in the 1980s, a campaign began to ratify it. While I was a member of the Wisconsin State Senate, I was proud to help ratify the amendment. Its approval by the Michigan legislature on May 7, 1992, gave it the needed approval by three-fourths of the States.

The 27th Amendment to the Constitution now states: ''No law, varying the compensation for the services of the senators and representatives, shall take effect, until an election of representatives shall have intervened.''

I honor that limitation. Throughout my 6-year term, I accept only the rate of pay that Senators receive on the date on which I was sworn in as a Senator. And I return to the Treasury any additional income Senators get, whether from a cost-of-living adjustment or a pay raise we vote for ourselves. I don't take a raise until my bosses, the people of Wisconsin, give me one at the ballot box. That is the spirit of the 27th Amendment. The stealth pay raises like the one that Congress allowed for 2006 certainly violate the spirit of that amendment at the very least.

This practice must end and this bill will end it. Senators and Congressmen should have to vote up-or-down to raise Congressional pay, and my bill would require just that. We owe our constituents nothing less.

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. 252

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

SECTION 1. ELIMINATION OF AUTOMATIC PAY ADJUSTMENTS FOR MEMBERS OF CONGRESS.

(a) IN GENERAL.—Paragraph (2) of section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) is repealed.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 601(a)(1) of such Act is amended—

(1) by striking ''(a)(1)'' and inserting ''(a)'';

(2) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively; and

(3) by striking ''as adjusted by paragraph (2) of this subsection'' and inserting ''adjusted as provided by law''.

(c) EFFECTIVE DATE.—This section shall take effect on February 1, 2009.

By Ms. LANDRIEU:

S. 253. A bill to permit the cancellation of certain loans under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Ms. LANDRIEU. Mr. President, it gives me great pleasure to introduce the Disaster Loan Fairness Act of 2007. This legislation strikes provisions contained in the Community Disaster Loan Act of 2005 and the Emergency Supplemental spending bill for hurricane relief, which prohibited forgiveness of Special Community Disaster Loans authorized in those measures.

Section 417 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act requires forgiveness of a loan if an independent audit determines that its recipient cannot sustain its repayment obligations after a 3-year grace period. The statute recognizes the very real possibility that hard-hit communities may need to be excused from repayment. For the first time in the history of the program though, forgiveness was specifically prohibited by the Community Disaster Loan Act of 2005. These were the strictest terms ever required. Clamping down in the wake of the worst disaster in history did not make sense at the time, and it does not make sense now.

In the last Congress, I introduced S. 1872, which eliminated this provision governing the first round of loans authorized in October of 2005. Louisiana applicants received about $739 million in this first round. This bill accomplishes that same objective, and also strikes forgiveness restrictions attached to a second round of loans authorized in June of 2006, through which Louisianans received about $261 million in Orleans, St. Bernard, and St. Tammany Parishes. These recipients in the second round included sheriffs, fire districts, levee districts, school boards, sewage and water boards, port harbor and terminal authorities, regional transit authorities and parish governments.

Essential operational expenditures must be made to facilitate recovery in the wake of a disaster, including services like police, fire protection, transit and sanitation. One of the great ironies of the Community Disaster Loan Program is the fact that it exists largely to supplement shortcomings in the Stafford Act. Between 1970 and 1974, the program was administered as a grant program before the Stafford Act converted it to a loan program. FEMA will not reimburse emergency responders for their straight-time salaries, and a large portion of these loans were needed for payroll expenses to essential employees.

This bill does not necessarily forgive all loans made to hurricane-affected communities. Communities must apply for cancellation, and forgiveness is only permitted when an independent review of a city's fiscal health finds justification to cancel the debt. Even then, communities must still repay loan funds used for capital improvements, debt servicing, assessments, intragovernmental services, cost-sharing and otherwise reimbursable activities. It is also important to remember that the size of the loans has been limited to a proportion of the community's operating budget since these programs were first authorized.

The majority of disaster loans have been repaid, and the program is used only by areas that have suffered a major disaster. In 29 years, the program has only received 64 applications associated with 21 disasters. Compared to 1,104 disasters declared in total, that is a very small proportion. There were no loans issued under this authority for 6 years prior to FY 2005. These figures indicate that this program has not been abused by jurisdictions that could do without the funds. Program administrators and independent auditors have found cause to cancel 93 percent of loan funding distributed to hard-hit areas over the years, but this represents the inevitable fact that disasters can be catastrophic, and areas requiring significant help are less likely to be whole again after only 3 years.

The City of New Orleans was forced to lay off 3,000 people—over 80 percent of its workforce. Let us act now to ensure that other cities are not forced to follow, by giving a break to disaster loan recipients who prove unable to repay their debt. They will still have 3 years to try, and some may succeed, but we must adjust to the reality of the situation. It is time we relieve Gulf Coast communities of the burdens they were forced to shoulder in order to keep police cars, fire trucks and sanitation trucks rolling, reopen schools and bring cities back to life by getting things working.

I ask unanimous consent 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. 253

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 ''Disaster Loan Fairness Act of 2007''.

SEC. 2. CANCELLATION OF LOANS.

(a) IN GENERAL.—Section 2(a) of the Community Disaster Loan Act of 2005 (Public Law 109–88; 119 Stat. 2061) is amended by striking ''*Provided further*, That notwithstanding section 417(c)(1) of the Stafford Act, such loans may not be canceled:''.

(b) DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT.—Chapter 4 of title II of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109-234; 120 Stat. 471) is amended under the heading ''DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT'' under the heading ''FEDERAL EMERGENCY MANAGEMENT AGENCY'' under the heading ''DEPARTMENT OF HOMELAND SECURITY'', by striking ''*Provided further*, That notwithstanding section 417(c)(1) of such Act, such loans may not be canceled:''.

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall be effective on the date of enactment of the Community Disaster Loan Act of 2005 (Public Law 109–88; 119 Stat. 2061).

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 255. A bill to provide assistance to the State of New Mexico for the development of comprehensive State water plans, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. DOMENICI. Mr. President, water is the life's blood for New Mexico. When the water dries up in New Mexico, so will many of its communities. As such, the scarcity of water in New Mexico is a dire situation. Unfortunately, the New Mexico Office of the State Engineer (NM OSE) lacks the tools necessary to undertake the Herculean task of effectively managing New Mexico's water resources.

Today, I introduce legislation that would allow New Mexico to make informed decisions about its limited water resources.

In order to effectively perform water rights administration, as well as comply with New Mexico's compact deliveries, the State Engineer is statutorily required to perform assessments and investigations of the numerous stream systems and ground water basins located within New Mexico. However, the NM OSE is ill equipped to vigorously and comprehensively undertake the daunting but critically important task of water resource planning. At present, the NM OSE lacks adequate resources to perform necessary hydrographic surveys and data collection. As such, ensuring a future water supply for my home state requires that Congress provide the NM OSE with the resources necessary to fulfill its statutory mandate.

The bill I introduce today would create a standing authority for the State of New Mexico to seek and receive technical assistance from the Bureau of Reclamation and the United States Geological Survey. It would also provide the NM OSE the sum of $12.5 million in federal assistance to perform hydrologic models of New Mexico's most important water systems. This bill would provide the NM OSE with the best resources available when making crucial decisions about how best preserve our limited water stores.

Ever decreasing water supplies in New Mexico have reached critical levels and require immediate action. The Congress cannot sit idly by as water shortages cause death to New

Mexico's communities. I hope the Senate will give this legislation its every consideration. I thank Senator BINGAMAN, Chairman of the Energy and Natural Resources Committee for cosponsoring this important legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 255

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 Water Planning Assistance Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Bureau of Reclamation and the United States Geological Survey.

(2) STATE.—The term ''State'' means the State of New Mexico.

SEC. 3. COMPREHENSIVE WATER PLAN ASSISTANCE.

(a) IN GENERAL.—Upon the request of the Governor of the State and subject to subsections (b) through (f), the Secretary shall—

(1) provide to the State technical assistance and grants for the development of comprehensive State water plans;

(2) conduct water resources mapping in the State; and

(3) conduct a comprehensive study of groundwater resources (including potable, brackish, and saline water resources) in the State to assess the quantity, quality, and interaction of groundwater and surface water resources.

(b) TECHNICAL ASSISTANCE.—Technical assistance provided under subsection (a) may include—

(1) acquisition of hydrologic data, groundwater characterization, database development, and data distribution;

(2) expansion of climate, surface water, and groundwater monitoring networks;

(3) assessment of existing water resources, surface water storage, and groundwater storage potential;

(4) numerical analysis and modeling necessary to provide an integrated understanding of water resources and water management options;

(5) participation in State planning forums and planning groups;

(6) coordination of Federal water management planning efforts;

(7) technical review of data, models, planning scenarios, and water plans developed by the State; and

(8) provision of scientific and technical specialists to support State and local activities.

(c) ALLOCATION.—In providing grants under subsection (a), the Secretary shall, subject to the availability of appropriations, allocate—

(1) $5,000,000 to develop hydrologic models and acquire associated equipment for the New Mexico Rio Grande main stem sections and Rios Pueblo de Taos and Hondo, Rios Nambe, Pojoaque and Teseque, Rio Chama, and Lower Rio Grande tributaries;

(2) $1,500,000 to complete the hydrographic survey development of hydrologic models and acquire associated equipment for the San Juan River and tributaries;

(3) $1,000,000 to complete the hydrographic survey development of hydrologic models and acquire associated equipment for Southwest New Mexico, including the Animas Basin, the Gila River, and tributaries;

(4) $4,500,000 for statewide digital orthophotography mapping; and

(5) such sums as are necessary to carry out additional projects consistent with subsection (b).

(d) COST-SHARING REQUIREMENT.—

(1) IN GENERAL.—The non-Federal share of the total cost of any activity carried out using a grant provided under subsection (a) shall be 50 percent.

(2) FORM OF NON-FEDERAL SHARE.—The non-Federal share under paragraph (1) may be in the form of any in-kind services that the Secretary determines would contribute substantially toward the conduct and completion of the activity assisted.

(e) NON-REIMBURSABLE BASIS.—Any assistance or grants provided to the State under this Act shall be made on a non-reimbursable basis.

(f) AUTHORIZED TRANSFERS.—On request of the State, the Secretary shall directly transfer to 1 or more Federal agencies any amounts made available to the State to carry out this Act.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $3,000,000 for each of fiscal years 2008 through 2012.

SEC. 5. SUNSET OF AUTHORITY.

The authority of the Secretary to carry out any provisions of this Act shall terminate 10 years after the date of the enactment of this Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 22—REAFFIRMING THE CONSTITUTIONAL AND STATUTORY PROTECTIONS ACCORDED SEALED DOMESTIC MAIL, AND FOR OTHER PURPOSES

Ms. COLLINS (for herself, Mr. LIEBERMAN, Mr. CARPER, Mr. COLEMAN, and Mr. AKAKA) submitted the following resolution; which was referred to the Committee on Homeland Security and Governmental Affairs:

S. RES. 22

Whereas all Americans depend on the United States Postal Service to transact business and communicate with friends and family;

Whereas postal customers have a constitutional right to expect that their sealed domestic mail will be protected against unreasonable searches;

Whereas the circumstances and procedures under which the Government may search sealed mail are well defined, including provisions under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), and generally require prior judicial approval;

Whereas the United States Postal Inspection Service has the authority to open and search a sealed envelope or package when there is immediate threat to life or limb or an immediate and substantial danger to property;

Whereas the Postal Accountability and Enhancement Act (Public Law 109–435) expressly reaffirmed the right of postal customers to have access to a class of mail sealed against inspection;

Whereas the United States Postal Service affirmed January 4, 2007, that the enactment of the Postal Accountability and Enhancement Act (Public Law 109–435) does not grant Federal law enforcement officials any new authority to open domestic mail;

Whereas the signing statement on the Postal Accountability and Enhancement Act (Public Law 109–435) issued by President Bush on December 20, 2006, raises questions about the President's commitment to abide by these basic privacy protections; and

Whereas the Senate rejects any interpretation of the President's signing statement on the Postal Accountability and Enhancement Act (Public Law 109–435) that in any way diminishes the privacy protections accorded sealed domestic mail under the Constitution and Federal laws and regulations:

Now, therefore, be it

Resolved, That the Senate reaffirms the constitutional and statutory protections accorded sealed domestic mail.

Ms. COLLINS. Mr. President, I rise today to submit a Senate resolution that will reaffirm the fundamental constitutional and statutory protections accorded sealed domestic mail. I am very pleased to have the distinguished chairman of the Senate Governmental Affairs and Homeland Security Committee, Senator LIEBERMAN, as a cosponsor, Senator CARPER, who was the author of the postal reform bill with me in the last Congress, Senator COLEMAN, and Senator AKAKA, all of whom have been very active on postal issues.

On December 20, President Bush signed into law the Postal Accountability and Enhancement Act that Senator CARPER and I originally introduced in 2004. This new law represents the most sweeping reforms to the U.S. Postal Service in more than 30 years.

The Presiding Officer and new chairman of the committee knows well that of all the legislation our committee produced last year, in many ways this was the most difficult to bring to completion.

The act, which will help the 225-year-old Postal Service, meets the challenges of the 21st century, establishes a new rate-setting system, helps ensure a stronger financial future for the Postal Service, provides more stability and predictability in rates, and protects the basic feature of universal service. One of the act's many provisions provides continued authority for the Postal Service to establish a class of mail sealed against inspection.

The day President Bush signed the Postal Reform Act into law, he also issued a signing statement construing that particular provision to permit ''searches in exigent circumstances, such as to protect human life and safety.'' While I understand that the President's spokesman has explained that the signing statement did not intend to change the scope of this new law, it has resulted in considerable confusion and widespread concern about the President's commitment to abide by the basic privacy protections afforded sealed domestic mail. For some, it raised the specter of the Government unlawfully monitoring our mail in the name of national security.

Given this unfortunate perception, I wish to be very clear as the author of this legislation. Nothing in the Postal Reform Act, nor in the President's signing statement, alters in any way

the privacy and civil liberty protections provided to a person who sends or receives sealed mail. In fact, the President's signing statement appears to do nothing more than restate current law, but by the mere act of issuing the signing statement, unfortunately, the administration raised questions about what, in fact, is their intent.

Under current law, mail sealed against inspection is entitled to the strongest possible protections against physical searches, the protections afforded by our Constitution which guard against unreasonable searches. With only limited exceptions, the Government needs a warrant issued by a court before it can search sealed mail. This is true whether the search is conducted under our Criminal Code to obtain evidence of a crime or under the Foreign Intelligence Surveillance Act, FISA, of 1978 to collect foreign intelligence information concerning a national security threat. Only when there is an immediate danger to life or limb or an immediate and substantial danger to property can the Government search a domestic sealed letter or package without a warrant. Let me give a couple of examples. That could occur when there are wires protruding from a package, for example, or odors escaping from an envelope or stains on the outside of a package indicating that the contents may constitute an immediate danger or threat.

Americans depend on the U.S. Postal Service to transact business and to communicate with friends and family, and if there is any doubt in the public's mind that the Government is not protecting the constitutional privacy accorded their mail, if there is suspicion that the Government is unlawfully opening mail, then our Nation's confidence in the sanctity of our mail system and, indeed, in our Government will be eroded. That is precisely why I am joining with my colleagues in submitting this resolution today. It makes clear to all law-abiding Americans that the Federal Government will not invade their privacy by reading their sealed mail absent a court order or emergency circumstances. Any contrary interpretation of the Postal Reform Act is just plain wrong.

I invite my colleagues to join me in cosponsoring this resolution which reaffirms the constitutional and statutory protections accorded to domestic sealed mail. I say to the Presiding Officer, the chairman of the committee with jurisdiction over this matter, that I hope we can act very quickly and get this resolution approved by the full Senate. I believe it is important that we go on record without any delay to assure the American people that those protections which they value so much are still in place and have not been altered, given the doubt that the President's signing statement created.

AMENDMENTS SUBMITTED AND PROPOSED

SA 9. Mr. VITTER (for himself and Mr. INHOFE) submitted an amendment intended to be proposed to amendment SA 3 proposed by Mr. REID (for himself, Mr. MCCONNELL, Mrs. FEINSTEIN, MR. BENNETT, MR. LIEBERMAN, MS. COLLINS, Mr. OBAMA, Mr. SALAZAR, AND MR. DURBIN) to the bill S. 1, to provide greater transparency in the legislative process.

SA 10. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 3 proposed by Mr. REID (for himself, Mr. MCCONNELL, Mrs. FEINSTEIN, Mr. BENNETT, Mr. LIEBERMAN, Ms. COLLINS, Mr. OBAMA, Mr. SALAZAR, and Mr. DURBIN) to the bill S. 1, supra.

SA 11. Mr. DEMINT (for himself and Mr. CORNYN) proposed an amendment to amendment SA 3 proposed by Mr. REID (for himself, Mr. MCCONNELL, Mrs. FEINSTEIN, Mr. BENNETT, Mr. LIEBERMAN, Ms. COLLINS, Mr. OBAMA, Mr. SALAZAR, and Mr. DURBIN) to the bill S. 1, supra.

SA 12. Mr. DEMINT (for himself and Mr. OBAMA) proposed an amendment to amendment SA 3 proposed by Mr. REID (for himself Mr. MCCONNELL, Mrs. FEINSTEIN, Mr. BENNETT, Mr. LIEBERMAN, Ms. COLLINS, Mr. OBAMA, Mr. SALAZAR, and Mr. DURBIN) to the bill S. 1, supra.

SA 13. Mr. DEMINT proposed an amendment to amendment SA 3 proposed by Mr. REID (for himself, Mr. MCCONNELL, Mrs. FEINSTEIN, Mr. BENNETT, Mr. LIEBERMAN, Ms. COLLINS, Mr. OBAMA, Mr. SALAZAR, and Mr. DURBIN) to the bill S. 1, supra.

SA 14. Mr. DEMINT proposed an amendment to amendment SA 3 proposed by Mr. REID (for himself, Mr. MCCONNELL, Mrs. FEINSTEIN, Mr. BENNETT, Mr. LIEBERMAN, Ms. COLLINS, Mr. OBAMA, Mr. SALAZAR, and Mr. DURBIN) to the bill S. 1, supra.

SA 15. Mr. SALAZAR (for himself and Mr. OBAMA) submitted an amendment intended to be proposed to amendment SA 3 proposed by Mr. REID (for himself, Mr. MCCONNELL, Mrs. FEINSTEIN, Mr. BENNETT, Mr. LIEBERMAN, Ms. COLLINS, Mr. OBAMA, Mr. SALAZAR, and Mr. DURBIN) to the bill S. 1, supra.

SA 16. Mr. STEVENS proposed an amendment to amendment SA 4 proposed by Mr. REID (for himself, Mr. DURBIN, Mr. SALAZAR, and Mr. OBAMA) to the amendment SA 3 proposed by Mr. REID (for himself, Mr. MCCONNELL, Mrs. FEINSTEIN, Mr. BENNETT, Mr. LIEBERMAN, Ms. COLLINS, Mr. OBAMA, Mr. SALAZAR, and Mr. DURBIN) to the bill S. 1, supra.

SA 17. Mr. GREGG (for himself, Mr. DEMINT, Mrs. DOLE, Mr. BURR, Mr. CHAMBLISS, Mr. THOMAS, Mr. SESSIONS, Mr. MCCONNELL, Mr. LOTT, Mr. KYL, Mrs. HUTCHISON, Mr. CORNYN, Mr. ALLARD, Mr. CRAPO, Mr. BUNNING, Mr. VITTER, Mr. BROWNBACK, Mr. ALEXANDER, Mr. CRAIG, Mr. MCCAIN, Mr. SUNUNU, Mr. ENZI, Mr. MARTINEZ, Mr. COLEMAN, Mr. GRAHAM, Mr. VOINOVICH, Mr. ISAKSON, Mr. ENSIGN, and Mr. COBURN) proposed an amendment to amendment SA 3 proposed by Mr. REID (for himself, Mr. MCCONNELL, Mrs. FEINSTEIN, Mr. BENNETT, Mr. LIEBERMAN, Ms. COLLINS, Mr. OBAMA, Mr. SALAZAR, and Mr. DURBIN) to the bill S. 1, supra.

SA 18. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 19. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 3 proposed by Mr. REID (for himself, Mr. MCCONNELL, Mrs. FEINSTEIN, Mr. BENNETT, Mr. LIEBERMAN, Ms. COLLINS, Mr. OBAMA, Mr. SALAZAR, and Mr. DURBIN) to the bill S. 1, supra; which was ordered to lie on the table.

SA 20. Mr. BENNETT (for himself and Mr. MCCONNELL) submitted an amendment intended to be proposed to amendment SA 3 proposed by Mr. REID (for himself, Mr. MCCONNELL, Mrs. FEINSTEIN, Mr. BENNETT, Mr. LIEBERMAN, Ms. COLLINS, Mr. OBAMA, Mr. SALAZAR, and Mr. DURBIN) to the bill S. 1, supra; which was ordered to lie on the table.

SA 21. Mr. SANDERS submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 9. Mr. VITTER (for himself and Mr. INHOFE) submitted an amendment intended to be proposed to amendment SA 3 proposed by Mr. REID (for himself, Mr. MCCONNELL, Mrs. FEINSTEIN, Mr. BENNETT, Mr. LIEBERMAN, Ms. COLLINS, Mr. OBAMA, Mr. SALAZAR, and Mr. DURBIN) to the bill S. 1, to provide greater transparency in the legislative process; as follows.

On page 51, between lines 12 and 13, insert the following:

SEC. 242. SPOUSE LOBBYING MEMBER.

(a) IN GENERAL.—Section 207(e) of title 18, United States Code, as amended by section 241, is further amended by adding at the end the following:

''(5) SPOUSES.—Any person who is the spouse of a Member of Congress and who was not serving as a registered lobbyist at least 1 year prior to the election of that Member of Congress to office and who, after the election of such Member, knowingly lobbies on behalf of a client for compensation any Member of Congress or is associated with any such lobbying activity by an employer of that spouse shall be punished as provided in section 216 of this title.''.

(b) GRANDFATHER PROVISION.—The amendment made by subsection (a) shall not apply to any spouse of a Member of Congress serving as a registered lobbyist on the date of enactment of this Act.

SA 10. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 3 proposed by Mr. REID (for himself, Mr. MCCONNELL, Mrs. FEINSTEIN, Mr. BENNETT, Mr. LIEBERMAN, Ms. COLLINS, Mr. OBAMA, Mr. SALAZAR, and Mr. DURBIN) to the bill S. 1, to provide greater transparency in the legislative process; as follows.

On page 34, line 5, strike ''$100,000'' and insert ''$200,000''.

SA 11. Mr. DEMINT (for himself and Mr. CORNYN) proposed an amendment to amendment SA 3 proposed by Mr. REID (for himself, Mr. MCCONNELL, Mrs. FEINSTEIN, Mr. BENNETT, Mr. LIEBERMAN, Ms. COLLINS, Mr. OBAMA, Mr. SALAZAR, and Mr. DURBIN) to the bill S. 1, to provide greater transparency in the legislative process; as follows:

Strike section 103 and insert the following:

SEC. 103. CONGRESSIONAL EARMARK REFORM.

The Standing Rules of the Senate are amended by adding at the end the following:

RULE XLIV

EARMARKS

''1. It shall not be in order to consider—

''(a) a bill or joint resolution reported by a committee unless the report includes a list of congressional earmarks, limited tax benefits, and limited tariff benefits in the bill or

in the report (and the name of any Member who submitted a request to the committee for each respective item included in such list) or a statement that the proposition contains no congressional earmarks, limited tax benefits, or limited tariff benefits;

''(b) a bill or joint resolution not reported by a committee unless the chairman of each committee of jurisdiction has caused a list of congressional earmarks, limited tax benefits, and limited tariff benefits in the bill (and the name of any Member who submitted a request to the committee for each respective item included in such list) or a statement that the proposition contains no congressional earmarks, limited tax benefits, or limited tariff benefits to be printed in the Congressional Record prior to its consideration; or

''(c) a conference report to accompany a bill or joint resolution unless the joint explanatory statement prepared by the managers on the part of the House and the managers on the part of the Senate includes a list of congressional earmarks, limited tax benefits, and limited tariff benefits in the conference report or joint statement (and the name of any Member, Delegate, Resident Commissioner, or Senator who submitted a request to the House or Senate committees of jurisdiction for each respective item included in such list) or a statement that the proposition contains no congressional earmarks, limited tax benefits, or limited tariff benefits.

''2. For the purpose of this rule—

''(a) the term 'congressional earmark' means a provision or report language included primarily at the request of a Member, Delegate, Resident Commissioner, or Senator providing, authorizing or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State, locality or Congressional district, other than through a statutory or administrative formula-driven or competitive award process;

''(b) the term 'limited tax benefit' means—

''(1) any revenue-losing provision that—

''(A) provides a Federal tax deduction, credit, exclusion, or preference to 10 or fewer beneficiaries under the Internal Revenue Code of 1986; and

''(B) contains eligibility criteria that are not uniform in application with respect to potential beneficiaries of such provision; or

''(2) any Federal tax provision which provides one beneficiary temporary or permanent transition relief from a change to the Internal Revenue Code of 1986; and

''(c) the term 'limited tariff benefit' means a provision modifying the Harmonized Tariff Schedule of the United States in a manner that benefits 10 or fewer entities.

''3. A Member may not condition the inclusion of language to provide funding for a congressional earmark, a limited tax benefit, or a limited tariff benefit in any bill or joint resolution (or an accompanying report) or in any conference report on a bill or joint resolution (including an accompanying joint explanatory statement of managers) on any vote cast by another Member, Delegate, or Resident Commissioner.

''4. (a) A Member who requests a congressional earmark, a limited tax benefit, or a limited tariff benefit in any bill or joint resolution (or an accompanying report) or in any conference report on a bill or joint resolution (or an accompanying joint statement of managers) shall provide a written statement to the chairman and ranking member of the committee of jurisdiction, including—

''(1) the name of the Member;

''(2) in the case of a congressional earmark, the name and address of the intended recipient or, if there is no specifically intended recipient, the intended location of the activity;

''(3) in the case of a limited tax or tariff benefit, identification of the individual or entities reasonably anticipated to benefit, to the extent known to the Member;

''(4) the purpose of such congressional earmark or limited tax or tariff benefit; and

''(5) a certification that the Member or spouse has no financial interest in such congressional earmark or limited tax or tariff benefit.

''(b) Each committee shall maintain the written statements transmitted under subparagraph (a). The written statements transmitted under subparagraph (a) for any congressional earmarks, limited tax benefits, or limited tariff benefits included in any measure reported by the committee or conference report filed by the chairman of the committee or any subcommittee thereof shall be published in a searchable format on the committee's or subcommittee's website not later than 48 hours after receipt on such information.''.

SA 12. Mr. DEMINT (for himself and Mr. OBAMA) proposed an amendment to amendment SA 3 proposed by Mr. REID (for himself, Mr. MCCONNELL, Mrs. FEINSTEIN, Mr. BENNETT, Mr. LIEBERMAN, Ms. COLLINS, Mr. OBAMA, Mr. SALAZAR, and Mr. DURBIN) to the bill S. 1, to provide greater transparency in the legislative process; as follows:

At the appropriate place, insert the following:

SEC. ___. EARMARKS OUT OF SCOPE.

Any earmark that was not committed to conference by either the House of Representatives or the Senate in their disagreeing votes on a measure shall be considered out of scope under rule XXVIII of the Standing Rules of the Senate and section 102 of this Act if contained in a conference report on that measure.

SA 13. Mr. DEMINT proposed an amendment to amendment SA 3 proposed by Mr. REID (for himself, Mr. MCCONNELL, Mrs. FEINSTEIN, Mr. BENNETT, Mr. LIEBERMAN, Ms. COLLINS, Mr. OBAMA, Mr. SALAZAR, and Mr. DURBIN) to the bill S. 1, to provide greater transparency in the legislative process; as follows:

At the appropriate place, insert the following:

SEC. _____. AMENDMENT TO TITLE 31.

(a) IN GENERAL.—Chapter 13 of title 31, United States Code, is amended by inserting after section 1310 the following new section:

''§ 1311. Continuing appropriations

''(a)(1) If any regular appropriation bill for a fiscal year (or, if applicable, for each fiscal year in a biennium) does not become law before the beginning of such fiscal year or a joint resolution making continuing appropriations is not in effect, there are appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, such sums as may be necessary to continue any project or activity for which funds were provided in the preceding fiscal year—

''(A) in the corresponding regular appropriation Act for such preceding fiscal year; or

''(B) if the corresponding regular appropriation bill for such preceding fiscal year did not become law, then in a joint resolution making continuing appropriations for such preceding fiscal year.

''(2) Appropriations and funds made available, and authority granted, for a project or activity for any fiscal year pursuant to this section shall be at a rate of operations not in excess of the lower of—

''(A) the rate of operations provided for in the regular appropriation Act providing for such project or activity for the preceding fiscal year;

''(B) in the absence of such an Act, the rate of operations provided for such project or activity pursuant to a joint resolution making continuing appropriations for such preceding fiscal year;

''(C) the rate of operations provided for in the regular appropriation bill as passed by the House of Representatives or the Senate for the fiscal year in question, except that the lower of these two versions shall be ignored for any project or activity for which there is a budget request if no funding is provided for that project or activity in either version; or

''(D) the annualized rate of operations provided for in the most recently enacted joint resolution making continuing appropriations for part of that fiscal year or any funding levels established under the provisions of this Act.

''(3) Appropriations and funds made available, and authority granted, for any fiscal year pursuant to this section for a project or activity shall be available for the period beginning with the first day of a lapse in appropriations and ending with the earlier of—

''(A) the date on which the applicable regular appropriation bill for such fiscal year becomes law (whether or not such law provides for such project or activity) or a continuing resolution making appropriations becomes law, as the case may be; or

''(B) the last day of such fiscal year.

''(b) An appropriation or funds made available, or authority granted, for a project or activity for any fiscal year pursuant to this section shall be subject to the terms and conditions imposed with respect to the appropriation made or funds made available for the preceding fiscal year, or authority granted for such project or activity under current law.

''(c) Appropriations and funds made available, and authority granted, for any project or activity for any fiscal year pursuant to this section shall cover all obligations or expenditures incurred for such project or activity during the portion of such fiscal year for which this section applies to such project or activity.

''(d) Expenditures made for a project or activity for any fiscal year pursuant to this section shall be charged to the applicable appropriation, fund, or authorization whenever a regular appropriation bill or a joint resolution making continuing appropriations until the end of a fiscal year providing for such project or activity for such period becomes law.

''(e) This section shall not apply to a project or activity during a fiscal year if any other provision of law (other than an authorization of appropriations)—

''(1) makes an appropriation, makes funds available, or grants authority for such project or activity to continue for such period; or

''(2) specifically provides that no appropriation shall be made, no funds shall be made available, or no authority shall be granted for such project or activity to continue for such period.

''(f) For purposes of this section, the term 'regular appropriation bill' means any annual appropriation bill making appropriations, otherwise making funds available, or

granting authority, for any of the following categories of projects and activities:

''(1) Agriculture, Rural Development, Food and Drug Administration, and Related Agencies.

''(2) Commerce, Justice, Science, and Related Agencies.

''(3) Defense.

''(4) Energy and Water Development.

''(5) Financial Services and General Government.

''(6) Homeland Security.

''(7) Interior, Environment, and Related Agencies.

''(8) Labor, Health and Human Services, Education, and Related Agencies.

''(9) Legislative Branch.

''(10) Military Construction, Veterans' Affairs, and Related Agencies.

''(11) State, Foreign Operations, and Related Programs.

''(12) Transportation, Housing and Urban Development, and Related Agencies.''.

(b) CLERICAL AMENDMENT.—The analysis of chapter 13 of title 31, United States Code, is amended by inserting after the item relating to section 1310 the following new item:

''1311. Continuing appropriations''.

SA 14. Mr. DEMINT proposed an amendment to amendment SA 3 proposed by Mr. REID (for himself, Mr. MCCONNELL, Mrs. FEINSTEIN, Mr. BENNETT, Mr. LIEBERMAN, Ms. COLLINS, Mr. OBAMA, Mr. SALAZAR, and Mr. DURBIN) to the bill S. 1, to provide greater transparency in the legislative process; as follows:

At the appropriate place, insert the following:

SEC. ___. PROTECTION OF WORKERS' POLITICAL RIGHTS.

Title III of the Labor Management Relations Act, 1947 (29 U.S.C. 185 et seq.) is amended by adding at the end the following:

''SEC. 304. PROTECTION OF WORKER'S POLITICAL RIGHTS.

''(a) PROHIBITION.—Except with the separate, prior, written, voluntary authorization of an individual, it shall be unlawful for any labor organization to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used to lobby members of Congress or Congressional staff for the purpose of influencing legislation.

''(b) AUTHORIZATION.—An authorization described in subsection (a) shall remain in effect until revoked and may be revoked at any time.''.

SA 15. Mr. SALAZAR (for himself, Mr. OBAMA) submitted an amendment intended to be proposed to amendment SA 3 proposed by Mr. REID (for himself, Mr. MCCONNELL, Mrs. FEINSTEIN, Mr. BENNETT, Mr. LIEBERMAN, Ms. COLLINS, Mr. OBAMA, Mr. SALAZAR, and Mr. DURBIN) to the bill S. 1, to provide greater transparency in the legislative process; as follows:

At the appropriate place, insert the following:

SEC. ___. PUBLIC AVAILABILITY OF SENATE COMMITTEE AND SUBCOMMITTEE MEETINGS.

(a) IN GENERAL.—Paragraph 5(e) of rule XXVI of the Standing Rules of the Senate is amended by—

(1) by inserting after ''(e)'' the following: ''(1)''; and

(2) by adding at the end the following:

''(2) Except as provided in clause (1), each committee and subcommittee shall make publicly available through the Internet a video recording, audio recording, or transcript of any meeting not later than 14 days after the meeting occurs.''.

(b) EFFECTIVE DATE.—This section shall take effect October 1, 2007.

SA 16. Mr. STEVENS proposed an amendment to amendment SA 4 proposed by Mr. REID (for himself, Mr. DURBIN, Mr. SALAZAR, and Mr. OBAMA) to the amendment SA 3 proposed by Mr. REID (for himself, Mr. MCCONNELL, Mrs. FEINSTEIN, Mr. BENNETT, Mr. LIEBERMAN, Ms. COLLINS, Mr. OBAMA, Mr. SALAZAR, and Mr. DURBIN) to the bill S. 1, to provide greater transparency in the legislative process; as follows.

At the appropriate place in the amendment insert the following:

''(l) Notwithstanding any other provision of this paragraph or any other rule, if there is not more than one flight daily from a point in a Member's State to a point within that Member's State, the Member may accept transportation in a privately owned aircraft to that point provided (1) there is no appearance of or actual conflict of interest, and (2) the Member has the trip approved by the Select Committee on Ethics. When accepting such transportation, the Member shall reimburse the provider at either the rate of a first class ticket, if available, or the rate of a full fare coach ticket if first class rates are unavailable between those points.''.

SA 17. Mr. GREGG (for himself, Mr. DEMINT, Mrs. DOLE, Mr. BURR, Mr. CHAMBLISS, Mr. THOMAS, Mr. SESSIONS, Mr. MCCONNELL, Mr. LOTT, Mr. KYL, Mrs. HUTCHISON, Mr. CORNYN, Mr. ALLARD, Mr. CRAPO, Mr. BUNNING, Mr. VITTER, Mr. BROWNBACK, Mr. ALEXANDER, Mr. CRAIG, Mr. MCCAIN, Mr. SUNUNU, Mr. ENZI, Mr. MARTINEZ, Mr. COLEMAN, Mr. GRAHAM, Mr. VOINOVICH, Mr. ISAKSON, Mr. ENSIGN, and Mr. COBURN) proposed an amendment to amendment SA 3 proposed by Mr. REID (for himself, Mr. MCCONNELL, Mrs. FEINSTEIN, Mr. BENNETT, Mr. LIEBERMAN, Ms. COLLINS, Mr. OBAMA, Mr. SALAZAR, and Mr. DURBIN) to the bill S. 1, to provide greater transparency in the legislative process; as follows.

At the end, insert the following:

TITLE III—SECOND LOOK AT WASTEFUL SPENDING ACT OF 2007

SEC. 301. SHORT TITLE.

This title may be cited as the ''Second Look at Wasteful Spending Act of 2007''.

SEC. 302. LEGISLATIVE LINE ITEM VETO.

(a) IN GENERAL.—Title X of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621 et seq.) is amended by striking part C and inserting the following:

''PART C—LEGISLATIVE LINE ITEM VETO

''SEC. 1021. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS.

''(a) PROPOSED RESCISSIONS.—The President may send a special message, at the time and in the manner provided in subsection (b), that proposes to rescind dollar amounts of discretionary budget authority, items of direct spending, and targeted tax benefits.

''(b) TRANSMITTAL OF SPECIAL MESSAGE.—

''(1) SPECIAL MESSAGE.—

''(A) IN GENERAL.—

''(i) FOUR MESSAGES.—The President may transmit to Congress not to exceed 4 special messages per calendar year, proposing to rescind dollar amounts of discretionary budget authority, items of direct spending, and targeted tax benefits.

''(ii) TIMING.—Special messages may be transmitted under clause (i)—

''(I) with the President's budget submitted pursuant to section 1105 of title 31, United States Code; and

''(II) 3 other times as determined by the President.

''(iii) LIMITATIONS.—

''(I) IN GENERAL.—Special messages shall be submitted within 1 calendar year of the date of enactment of any dollar amount of discretionary budget authority, item of direct spending, or targeted tax benefit the President proposes to rescind pursuant to this Act.

''(II) RESUBMITTAL REJECTED.—If Congress rejects a bill introduced under this part, the President may not resubmit any of the dollar amounts of discretionary budget authority, items of direct spending, or targeted tax benefits in that bill under this part, or part B with respect to dollar amounts of discretionary budget authority.

''(III) RESUBMITAL AFTER SINE DIE.—If Congress does not complete action on a bill introduced under this part because Congress adjourns sine die, the President may resubmit some or all of the dollar amounts of discretionary budget authority, items of direct spending, and targeted tax benefits in that bill in not more than 1 subsequent special message under this part, or part B with respect to dollar amounts of discretionary budget authority.

''(B) CONTENTS OF SPECIAL MESSAGE.—Each special message shall specify, with respect to the dollar amount of discretionary budget authority, item of direct spending, or targeted tax benefit proposed to be rescinded—

''(i) the dollar amount of discretionary budget authority available and proposed for rescission from accounts, departments, or establishments of the government and the dollar amount of the reduction in outlays that would result from the enactment of such rescission of discretionary budget authority for the time periods set forth in clause (iii);

''(ii) the specific items of direct spending and targeted tax benefits proposed for rescission and the dollar amounts of the reductions in budget authority and outlays or increases in receipts that would result from enactment of such rescission for the time periods set forth in clause (iii);

''(iii) the budgetary effects of proposals for rescission, estimated as of the date the President submits the special message, relative to the most recent levels calculated consistent with the methodology described in section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 and included with a budget submission under section 1105(a) of title 31, United States Code, for the time periods of—

''(I) the fiscal year in which the proposal is submitted; and

''(II) each of the 10 following fiscal years beginning with the fiscal year after the fiscal year in which the proposal is submitted;

''(iv) any account, department, or establishment of the Government to which such dollar amount of discretionary budget authority or item of direct spending is available for obligation, and the specific project or governmental functions involved;

''(v) the reasons why such dollar amount of discretionary budget authority or item of direct spending or targeted tax benefit should be rescinded;

''(vi) the estimated fiscal and economic impacts, of the proposed rescission;

''(vii) to the maximum extent practicable, all facts, circumstances, and considerations

relating to or bearing upon the proposed rescission and the decision to effect the proposed rescission, and the estimated effect of the proposed rescission upon the objects, purposes, and programs for which the budget authority or items of direct spending or targeted tax benefits are provided; and

''(viii) a draft bill that, if enacted, would rescind the budget authority, items of direct spending and targeted tax benefits proposed to be rescinded in that special message.

''(2) ANALYSIS BY CONGRESSIONAL BUDGET OFFICE AND JOINT COMMITTEE ON TAXATION.—

''(A) IN GENERAL.—Upon the receipt of a special message under this part proposing to rescind dollar amounts of discretionary budget authority, items of direct spending, and targeted tax benefits—

''(i) the Director of the Congressional Budget Office shall prepare an estimate of the savings in budget authority or outlays resulting from such proposed rescission and shall include in its estimate, an analysis prepared by the Joint Committee on Taxation related to targeted tax benefits; and

''(ii) the Director of the Joint Committee on Taxation shall prepare an estimate and forward such estimate to the Congressional Budget Office, of the savings from repeal of targeted tax benefits.

''(B) METHODOLOGY.—The estimates required by subparagraph (A) shall be made relative to the most recent levels calculated consistent with the methodology used to calculate a baseline under section 257 of the Balanced Budget and Emergency Control Act of 1985 and included with a budget submission under section 1105(a) of title 31, United States Code, and transmitted to the chairmen of the Committees on the Budget of the House of Representatives and Senate.

''(3) ENACTMENT OF RESCISSION BILL.—

''(A) DEFICIT REDUCTION.—Amounts of budget authority or items of direct spending or targeted tax benefit that are rescinded pursuant to enactment of a bill as provided under this part shall be dedicated only to deficit reduction and shall not be used as an offset for other spending increases or revenue reductions.

''(B) ADJUSTMENT OF BUDGET TARGETS.—Not later than 5 days after the date of enactment of a rescission bill as provided under this part, the chairs of the Committees on the Budget of the Senate and the House of Representatives shall revise spending and revenue levels under section 311(a) of the Congressional Budget Act of 1974 and adjust the committee allocations under section 302(a) of the Congressional Budget Act of 1974 or any other adjustments as may be appropriate to reflect the rescission. The adjustments shall reflect the budgetary effects of such rescissions as estimated by the President pursuant to paragraph (1)(B)(iii). The appropriate committees shall report revised allocations pursuant to section 302(b) of the Congressional Budget Act of 1974. Notwithstanding any other provision of law, the revised allocations and aggregates shall be considered to have been made under a concurrent resolution on the budget agreed to under the Congressional Budget Act of 1974 and shall be enforced under the procedures of that Act.

''(C) ADJUSTMENTS TO CAPS.—After enactment of a rescission bill as provided under this part, the President shall revise applicable limits under the Second Look at Wasteful Spending Act of 2007, as appropriate.

''(c) PROCEDURES FOR EXPEDITED CONSIDERATION.—

''(1) IN GENERAL.—

''(A) INTRODUCTION.—Before the close of the second day of session of the Senate and the House of Representatives, respectively, after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader of each House, for himself, or minority leader of each House, for himself, or a Member of that House designated by that majority leader or minority leader shall introduce (by request) the President's draft bill to rescind the amounts of budget authority or items of direct spending or targeted tax benefits, as specified in the special message and the President's draft bill. If the bill is not introduced as provided in the preceding sentence in either House, then, on the third day of session of that House after the date of receipt of that special message, any Member of that House may introduce the bill.

''(B) REFERRAL AND REPORTING.—

''(i) ONE COMMITTEE.—The bill shall be referred by the presiding officer to the appropriate committee. The committee shall report the bill without any revision and with a favorable, an unfavorable, or without recommendation, not later than the fifth day of session of that House after the date of introduction of the bill in that House. If the committee fails to report the bill within that period, the committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

''(ii) MULTIPLE COMMITTEES.—

''(I) REFERRALS.—If a bill contains provisions in the jurisdiction of more than 1 committee, the bill shall be jointly referred to the committees of jurisdiction and the Committee on the Budget.

''(II) VIEWS OF COMMITTEE.—Any committee, other than the Committee on the Budget, to which a bill is referred under this clause may submit a favorable, an unfavorable recommendation, without recommendation with respect to the bill to the Committee on the Budget prior to the reporting or discharge of the bill.

''(III) REPORTING.—The Committee on the Budget shall report the bill not later than the fifth day of session of that House after the date of introduction of the bill in that House, without any revision and with a favorable or unfavorable recommendation, or with no recommendation, together with the recommendations of any committee to which the bill has been referred.

''(IV) DISCHARGE.—If the Committee on the Budget fails to report the bill within that period, the committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

''(C) FINAL PASSAGE.—A vote on final passage of the bill shall be taken in the Senate and the House of Representatives on or before the close of the 10th day of session of that House after the date of the introduction of the bill in that House. If the bill is passed, the Clerk of the House of Representatives shall cause the bill to be transmitted to the Senate before the close of the next day of session of the House.

''(2) CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—

''(A) MOTION TO PROCEED TO CONSIDERATION.—A motion in the House of Representatives to proceed to the consideration of a bill under this subsection shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

''(B) LIMITS ON DEBATE.—Debate in the House of Representatives on a bill under this subsection shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill under this subsection or to move to reconsider the vote by which the bill is agreed to or disagreed to.

''(C) APPEALS.—Appeals from decisions of the chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill under this part shall be decided without debate.

''(D) APPLICATION OF HOUSE RULES.—Except to the extent specifically provided in this part, consideration of a bill under this part shall be governed by the Rules of the House of Representatives. It shall not be in order in the House of Representatives to consider any bill introduced pursuant to the provisions of this part under a suspension of the rules or under a special rule.

''(3) CONSIDERATION IN THE SENATE.—

''(A) MOTION TO PROCEED TO CONSIDERATION.—A motion to proceed to the consideration of a bill under this subsection in the Senate shall not be debatable. A motion to proceed to consideration of the bill may be made even though a previous motion to the same effect has been disagreed to. It shall not be in order to move to reconsider the vote by which the motion to proceed is agreed to or disagreed to.

''(B) LIMITS ON DEBATE.—Debate in the Senate on a bill under this subsection, and all debatable motions and appeals in connection therewith, shall not exceed a total of 10 hours, equally divided and controlled in the usual form.

''(C) DEBATABLE MOTIONS AND APPEALS.—Debate in the Senate on any debatable motion or appeal in connection with a bill under this subsection shall be limited to not more than 1 hour from the time allotted for debate, to be equally divided and controlled in the usual form.

''(D) MOTION TO LIMIT DEBATE.—A motion in the Senate to further limit debate on a bill under this subsection is not debatable.

''(E) MOTION TO RECOMMIT.—A motion to recommit a bill under this subsection is not in order.

''(F) CONSIDERATION OF THE HOUSE BILL.—

''(i) IN GENERAL.—If the Senate has received the House companion bill to the bill introduced in the Senate prior to the vote required under paragraph (1)(C), then the Senate shall consider, and the vote under paragraph (1)(C) shall occur on, the House companion bill.

''(ii) PROCEDURE AFTER VOTE ON SENATE BILL.—If the Senate votes, pursuant to paragraph (1)(C), on the bill introduced in the Senate, the Senate bill shall be held pending receipt of the House message on the bill. Upon receipt of the House companion bill, the House bill shall be deemed to be considered, read for the third time, and the vote on passage of the Senate bill shall be considered to be the vote on the bill received from the House.

''(d) AMENDMENTS AND DIVISIONS PROHIBITED.—

''(1) IN GENERAL.—No amendment to a bill considered under this part shall be in order in either the Senate or the House of Representatives.

''(2) NO DIVISION.—It shall not be in order to demand a division of the question in the House of Representatives (or in a Committee of the Whole).

''(3) NO SUSPENSION.—No motion to suspend the application of this subsection shall be in order in the House of Representatives, nor shall it be in order in either the House of Representatives or the Senate to suspend the application of this subsection by unanimous consent.

''(e) TEMPORARY PRESIDENTIAL AUTHORITY TO WITHHOLD.—

''(1) AVAILABILITY.—The President may not withhold any dollar amount of discretionary budget authority until the President transmits and Congress receives a special message

pursuant to subsection (b). Upon receipt by Congress of a special message pursuant to subsection (b), the President may direct that any dollar amount of discretionary budget authority proposed to be rescinded in that special message shall be withheld from obligation for a period not to exceed 45 calendar days from the date of receipt by Congress.

''(2) EARLY AVAILABILITY.—The President may make any dollar amount of discretionary budget authority withheld from obligation pursuant to paragraph (1) available at an earlier time if the President determines that continued withholding would not further the purposes of this Act.

''(f) TEMPORARY PRESIDENTIAL AUTHORITY TO SUSPEND.—

''(1) SUSPEND.—

''(A) IN GENERAL.—The President may not suspend the execution of any item of direct spending or targeted tax benefit until the President transmits and Congress receives a special message pursuant to subsection (b). Upon receipt by Congress of a special message, the President may suspend the execution of any item of direct spending or targeted tax benefit proposed to be rescinded in that message for a period not to exceed 45 calendar days from the date of receipt by Congress.

''(B) LIMITATION ON 45-DAY PERIOD.—The 45-day period described in subparagraph (A) shall be reduced by the number of days contained in the period beginning on the effective date of the item of direct spending or targeted tax benefit; and ending on the date that is the later of—

''(i) the effective date of the item of direct spending or targeted benefit; or

''(ii) the date that Congress receives the special message.

''(C) CLARIFICATION.—Notwithstanding subparagraph (B), in the case of an item of direct spending or targeted tax benefit with an effective date within 45 days after the date of enactment, the beginning date of the period calculated under subparagraph (B) shall be the date that is 45 days after the date of enactment and the ending date shall be the date that is the later of—

''(i) the date that is 45 days after enactment; or

''(ii) the date that Congress receives the special message.

''(2) EARLY AVAILABILITY.—The President may terminate the suspension of any item of direct spending or targeted tax benefit suspended pursuant to paragraph (1) at an earlier time if the President determines that continuation of the suspension would not further the purposes of this Act.

''(g) DEFINITIONS.—In this part:

''(1) APPROPRIATION LAW.—The term 'appropriation law' means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations.

''(2) CALENDAR DAY.—The term 'calendar day' means a standard 24-hour period beginning at midnight.

''(3) DAYS OF SESSION.—The term 'days of session' means only those days on which both Houses of Congress are in session.

''(4) DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY.—The term 'dollar amount of discretionary budget authority' means the dollar amount of budget authority and obligation limitations—

''(A) specified in an appropriation law, or the dollar amount of budget authority required to be allocated by a specific proviso in an appropriation law for which a specific dollar figure was not included;

''(B) represented separately in any table, chart, or explanatory text included in the statement of managers or the governing committee report accompanying such law;

''(C) required to be allocated for a specific program, project, or activity in a law (other than an appropriation law) that mandates obligations from or within accounts, programs, projects, or activities for which budget authority or an obligation limitation is provided in an appropriation law;

''(D) represented by the product of the estimated procurement cost and the total quantity of items specified in an appropriation law or included in the statement of managers or the governing committee report accompanying such law; or

''(E) represented by the product of the estimated procurement cost and the total quantity of items required to be provided in a law (other than an appropriation law) that mandates obligations from accounts, programs, projects, or activities for which dollar amount of discretionary budget authority or an obligation limitation is provided in an appropriation law.

''(5) RESCIND OR RESCISSION.—The term 'rescind' or 'rescission' means—

''(A) in the case of a dollar amount of discretionary budget authority, to reduce or repeal a provision of law to prevent that budget authority or obligation limitation from having legal force or effect; and

''(B) in the case of direct spending or targeted tax benefit, to repeal a provision of law in order to prevent the specific legal obligation of the United States from having legal force or effect.

''(6) DIRECT SPENDING.—The term 'direct spending' means budget authority provided by law (other than an appropriation law), mandatory spending provided in appropriation Acts, and entitlement authority.

''(7) ITEM OF DIRECT SPENDING.—The term 'item of direct spending' means any specific provision of law enacted after the effective date of the Second Look at Wasteful Spending Act of 2007 that is estimated to result in an increase in budget authority or outlays for direct spending relative to the most recent levels calculated consistent with the methodology described in section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 and included with a budget submission under section 1105(a) of title 31, United States Code, and, with respect to estimates made after that budget submission that are not included with it, estimates consistent with the economic and technical assumptions underlying the most recently submitted President's budget.

''(8) SUSPEND THE EXECUTION.—The term 'suspend the execution' means, with respect to an item of direct spending or a targeted tax benefit, to stop the carrying into effect of the specific provision of law that provides such benefit.

''(9) TARGETED TAX BENEFIT.—The term 'targeted tax benefit' means—

''(A) any revenue provision that has the practical effect of providing more favorable tax treatment to a particular taxpayer or limited group of taxpayers when compared with other similarly situated taxpayers; or

''(B) any Federal tax provision which provides one beneficiary temporary or permanent transition relief from a change to the Internal Revenue Code of 1986.''.

(b) EXERCISE OF RULEMAKING POWERS.—Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended—

(1) in subsection (a), by striking ''and 1017'' and inserting ''1017, and 1021''; and

(2) in subsection (d), by striking ''section 1017'' and inserting ''sections 1017 and 1021''.

(c) CLERICAL AMENDMENTS.—

(1) SHORT TITLE.—Section 1(a) of the Congressional Budget and Impoundment Control Act of 1974 is amended by—

(A) striking ''Parts A and B'' before ''title X'' and inserting ''Parts A, B, and C''; and

(B) striking the last sentence and inserting at the end the following new sentence: ''Part C of title X also may be cited as the 'Second Look at Wasteful Spending Act of 2007'.''.

(2) TABLE OF CONTENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by deleting the contents for part C of title X and inserting the following:

''PART C—LEGISLATIVE LINE ITEM VETO

''Sec. 1021. Expedited consideration of certain proposed rescissions''.

(d) SEVERABILITY.—If any provision of this Act or the amendments made by it is held to be unconstitutional, the remainder of this Act and the amendments made by it shall not be affected by the holding.

(e) EFFECTIVE DATE AND EXPIRATION.—

(1) EFFECTIVE DATE.—The amendments made by this Act shall—

(A) take effect on the date of enactment of this Act; and

(B) apply to any dollar amount of discretionary budget authority, item of direct spending, or targeted tax benefit provided in an Act enacted on or after the date of enactment of this title.

(2) EXPIRATION.—The amendments made by this Act shall expire on December 31, 2010.

SA 18. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 1, to provide greater transparency in the legislative process; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. CONGRESSIONAL TRAVEL PUBLIC WEBSITE.

(a) IN GENERAL.—Not later than October 1, 2007, the Secretary of the Senate and the Clerk of the House of Representatives shall establish a publicly available website that contains information on all congressional reported official travel that includes—

(1) a simple, easily understood search engine;

(2) uniform categorization by Member, organization, travel, dates, destination, and any other common categories associated with congressional travel; and

(3) all forms filed in the Senate and the House of Representatives relating to official travel, including the ''Disclosure of Member or Officer's Reimbursed Travel Expenses'' form in the Senate.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SA 19. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 3 proposed by Mr. REID (for himself, Mr. MCCONNELL, Mrs. FEINSTEIN, Mr. BENNETT, Mr. LIEBERMAN, Ms. COLLINS, Mr. OBAMA, Mr. SALAZAR, and Mr. DURBIN) to the bill S. 1, provide greater transparency in the legislative process; which was ordered to lie on the table; as follows:

On page 8, line 4 of the amendment, strike ''expense.''.'' and insert the following: ''expense.

''(i) A Member, officer, or employee who travels on an aircraft operated or paid for by a carrier not licensed by the Federal Aviation Administration shall file a report with the Secretary of the Senate not later than 60 days after the date on which such flight is taken. The report shall include—

''(1) the date of such flight;

''(2) the destination of such flight;

''(3) the owner or lessee of the aircraft;

''(4) the purpose of such travel;

''(5) the persons on such flight (except for any person flying the aircraft); and

''(6) the charter rate paid for such flight.''.

On page 9, line 21 of the amendment, strike ''committee pays'' and insert the following: ''committee—

''(I) pays''

On page 10, line 5 of the amendment, strike ''taken.'' and insert the following: ''taken; and

''(II) files a report with the Secretary of the Senate not later than 60 days after the date on which such flight is taken, such report shall include—

''(aa) the date of such flight;

''(bb) the destination of such flight;

''(cc) the owner or lessee of the aircraft;

''(dd) the purpose of such travel;

''(ee) the persons on such flight (except for any person flying the aircraft); and

''(ff) the charter rate paid for such flight.''.

SA 20. Mr. BENNETT (for himself and Mr. MCCONNELL) submitted an amendment intended to be proposed to amendment SA 3 proposed by Mr. REID (for himself, Mr. MCCONNELL, Mrs. FEINSTEIN, Mr. BENNETT, Mr. LIEBERMAN, Ms. COLLINS, Mr. OBAMA, Mr. SALAZAR, and Mr. DURBIN) to the bill S. 1, to provide greater transparency in the legislative process; which was ordered to lie on the table; as follows:

Strike section 220 of the amendment (relating to disclosure of paid efforts to stimulate grassroots lobbying).

SA 21. Mr. SANDERS submitted an amendment intended to be proposed by him to the bill S. 1, to provide greater transparency in the legislative process; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. REPORT REGARDING POLITICAL CONTRIBUTIONS.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to Congress detailing the number, type, and quantity of contributions made to Members of the Senate or the House of Representatives during the 30-month period beginning on the date that is 24 months before the date of enactment of the Acts identified in subsection (b) by the corresponding organizations identified in subsection (b).

(b) ORGANIZATIONS AND ACTS.—The report submitted under subsection (a) shall detail the number, type, and quantity of contributions made to Members of the Senate or the House of Representatives as follows:

(1) For the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173; 117 Stat. 2066), any contribution made during the time period described in subsection (a) by or on behalf of a political action committee associated or affiliated with—

(A) a pharmaceutical company; or

(B) a trade association for pharmaceutical companies.

(2) For the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (Public Law 109-8; 119 Stat. 23), any contribution made during the time period described in subsection (a) by or on behalf of a political action committee associated or affiliated with—

(A) a bank or financial services company;

(B) a company in the credit card industry; or

(C) a trade association for any such companies.

(3) For the Energy Policy Act of 2005 (Public Law 109-58; 119 Stat. 594), any contribution made during the time period described in subsection (a) by or on behalf of a political action committee associated or affiliated with—

(A) a company in the oil, natural gas, nuclear, or coal industry; or

(B) a trade association for any such companies.

(4) For the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (Public Law 109-53; 119 Stat. 462), any contribution made during the time period described in subsection (a) by or on behalf of a political action committee associated or affiliated with—

(A) the United States Chamber of Commerce, the National Association of Manufacturers, the Business Roundtable, the National Federation of Independent Business, the Emergency Committee for American Trade, or any member company of such entities; or

(B) any other free trade organization funded primarily by corporate entities.

(c) AGGREGATE REPORTING.—The report submitted under subsection (a)—

(1) shall not list the particular Member of the Senate or House of Representative that received a contribution; and

(2) shall report the aggregate amount of contributions given by each entity identified in subsection (b) to—

(A) Members of the Senate by the organizations identified in subsection (b) during the time period described in subsection (a) for the corresponding Act identified in subsection (b); and

(B) Members of the House of Representatives by the organizations identified in subsection (b) during the time period described in subsection (a) for the corresponding Act identified in subsection (b).

(d) DEFINITIONS.—In this section—

(1) the terms ''authorized committee'', ''candidate'', ''contribution'', ''political committee'', and ''political party'' have the meanings given such terms in section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431); and

(2) the term ''political action committee'' means any political committee that is not—

(A) a political committee of a political party; or

(B) an authorized committee of a candidate.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I wish to inform the Senate and the Public that the committee on Energy and Natural Resources will hold a hearing during the session of the Senate on Wednesday, January 10, 2007 at 9:45 a.m. in room SD–G50 of the Dirksen Building.

The purpose of the hearing is to receive testimony on the global oil balance and its implications for U.S. economic and national security.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. 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 10, 2007 at 9:30 a.m. in 328a, Senate Russell Office Building. The purpose of this committee hearing will be to discuss agriculture and rural America's role in enhancing national energy security.

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

COMMITTEE ON ARMED SERVICES

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, January 10, 2007, at 2 p.m., in closed session to receive a briefing regarding U.S. military action in Somalia.

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

COMMITTEE ON FINANCE

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Finance will meet on Wednesday, January 10, 2007, at 10 a.m., in 215 Dirksen Senate Office Building, to hear testimony on ''Tax Incentives for Businesses in Response to a Minimum Wage Increase''.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. LEAHY. 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 10, 2007, at 9:30 a.m. to hold a hearing on Iraq.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to hold a hearing during the session of the Senate on Wednesday, January 10, 2007 at 10 a.m. in SD–430.

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

COMMITTEE ON THE JUDICIARY

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on ''Balancing Privacy and Security: The Privacy Implications of Government Data Mining Programs'' on Wednesday, January 10, 2007 at 9:30 a.m. in Dirksen Senate Office Building Room 226.

Witness List: The Honorable Robert Barr, Chief Executive Officer, Liberty Strategies, LLC, Atlanta, GA; James Jay Carafano, Ph.D., Heritage Foundation, Assistant Director, Kathryn and Shelby Cullom Davis Institute for International Studies, Senior Research Fellow, Douglas and Sarah Allison Center for Foreign Policy Studies, Washington, DC; Mr. Jim Harper, Director of Information Policy Studies, CATO Institute, Washington, DC; Ms. Leslie Harris, Executive Director, Center for

Democracy and Technology, Washington, DC; Mr. Kim A. Taipale, Founder and Executive Director, Center for Advanced Studies in Science and Technology Policy, New York, NY.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. LEAHY. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on January 10, 2007 at 2:30 p.m. to hold a business meeting.

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

PRIVILEGES OF THE FLOOR

Mr. GREGG. Mr. President, I ask unanimous consent that Seema Mittal, assistant to the Senate Budget Committee, be allowed the privilege of the floor during the consideration of S. 1 and votes that may occur in relation thereto.

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

APPOINTMENTS

The PRESIDING OFFICER. The chair, on behalf of the majority leader, after consultation with the ranking member of the Senate Committee on Finance, pursuant to Public Law 106–170, announces the appointment of the following individual to serve as a member of the Ticket to Work and Work Incentives Advisory Panel: David L. Miller of South Dakota.

The Chair, on behalf of the Vice President, pursuant to the provisions of 20 U.S.C., sections 42 and 43, appoints the Senator from Connecticut (Mr. DODD) as a member of the Board of Regents of the Smithsonian Institution, vice the Senator from Tennessee (Mr. FRIST).

MEASURE READ THE FIRST TIME—H.R. 2

Mr. WHITEHOUSE. Mr. President, I understand that H.R. 2 is at the desk, and I ask for its first reading.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2) to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage.

Mr. WHITEHOUSE. I now ask for a second reading, and I object to my own request.

The ACTING PRESIDENT pro tempore. The objection is heard.

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

ORDERS FOR THURSDAY, JANUARY 11, 2007

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 9:30 a.m., Thursday, January 11; that on Thursday, following the prayer and the 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 that there then be a period of morning business for 90 minutes, with Senators permitted to speak therein, with the first half controlled by the minority and the second half controlled by the majority; that at the conclusion of morning business, the Senate resume S. 1.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PROGRAM

Mr. WHITEHOUSE. Mr. President, on behalf of the leader, I have been asked to reiterate that votes are expected tomorrow and could occur around noon, with other votes occurring in the afternoon. A number of amendments are still pending, and it is hoped that we can begin to dispose of them as other Members come forward with amendments.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. WHITEHOUSE. If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 6:07 p.m., adjourned until Thursday, January 11, 2007, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate January 10, 2007:

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

BRADLEY UDALL, OF COLORADO, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION FOR A TERM EXPIRING OCTOBER 6, 2012. (REAPPOINTMENT)

DEPARTMENT OF STATE

P. ROBERT FANNIN, OF ARIZONA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE DOMINICAN REPUBLIC.

WILLIAM RAYMOND STEIGER, OF WISCONSIN, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MOZAMBIQUE.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

DOUGLAS MENARCHIK, OF TEXAS, TO BE AN ASSISTANT ADMINISTRATOR OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT. (REAPPOINTMENT)

OFFICE OF PERSONNEL MANAGEMENT

HOWARD CHARLES WEIZMANN, OF MARYLAND, TO BE DEPUTY DIRECTOR OF THE OFFICE OF PERSONNEL MANAGEMENT, VICE DAN GREGORY BLAIR.

FOREIGN SERVICE

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED. FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS ONE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

NATALIE J. FREEMAN, OF THE DISTRICT OF COLUMBIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS TWO, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

JASON D. FRASER, OF THE DISTRICT OF COLUMBIA
TADEUSZ FINDEISEN, OF FLORIDA
MILAN PAVLOVIC, OF NEW YORK
CHERYL ANN WILLIAMS, OF VIRGINIA

DEPARTMENT OF STATE

KATHERINE L. BRANDEIS, OF VIRGINIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS THREE, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

KAYA DURRELL ADAMS, OF THE DISTRICT OF COLUMBIA
ROBERT W. APPIAH, OF TENNESSEE
ROBERT L. ARELLANO, OF FLORIDA
JOHN L. BRANNAMAN, OF IOWA
PAUL V. BRUNING, OF CALIFORNIA
JAYNE M. CARBONE, OF MARYLAND
JULIE CHEN, OF MARYLAND
KENNETH COLLINS, OF THE DISTRICT OF COLUMBIA
LAURA E. COUGHLIN, OF MARYLAND
THOMAS CRUBAUGH, OF MARYLAND
TIMOTHY J. DONNAY, OF VERMONT
BETH PENNOCK DUNFORD, OF NEW YORK
POLLY C. DUNFORD-ZAHAR, OF NEW YORK
MICHAEL J. EDDY, OF MISSOURI
RONALD HOWARD EDWARDS, OF MARYLAND
SYLVA ETIAN, OF MARYLAND
MARTIN R. FISCHER, OF CALIFORNIA
LATANYA MAPP FRETT, OF GEORGIA
CHRISTIAN G. FUNG, OF CALIFORNIA
RAMSES GAUTHIER, OF FLORIDA
NANCY A. FISHER-GORMLEY, OF FLORIDA
JOHN F. HANSEN, OF WASHINGTON
ROSS MARVIN HICKS, OF TEXAS
MCDONALD C. HOMER, OF MARYLAND
JOHN D. IRONS, OF VIRGINIA
CHERYL KAMIN, OF MARYLAND
JEFFREY S. KAUFMAN, OF VIRGINIA
RALPH VINCENT KOEHRING, OF VIRGINIA
KIMBERLEY LUCAS, OF THE DISTRICT OF COLUMBIA
MICHAEL MARTIN, OF FLORIDA
STEPHEN ROBERT MORIN, OF VIRGINIA
PAMELA J. MORRIS, OF MASSACHUSETTS
ALEATHEA D. PIRTLE MUSAH, OF GEORGIA
EVELYN RODRIGUEZ PEREZ, OF FLORIDA
KENDRA PHILLIPS, OF ILLINOIS
SUZANNE M. POLAND, OF IOWA
ROBERT S. RHODES, JR., OF MARYLAND
PATRICK L. ROBINSON, OF NEW HAMPSHIRE
MICHAEL PATRICK ROSSMAN, OF VIRGINIA
KEVIN C. SHARP, OF CALIFORNIA
DAVID B. SMALE, OF OREGON
AMY C. TOHILL-STULL, OF VIRGINIA
KEVIN JOSEPH STURR, OF NEW YORK
SUSAN CAROL THOLLAUG, OF CALIFORNIA
SUSAN MARY THOMAS, OF TENNESSEE
DAVID JOSEPH THOMPSON, OF VIRGINIA
CHRISTOPHE A. TOCCO, OF CALIFORNIA
THERESA G. TUANO, OF MARYLAND
MARK ROBERT VISOCKY, OF WISCONSIN
CLINTON DAVID WHITE, OF FLORIDA
PETER ALEXANDER WIEBLER, OF PENNSYLVANIA
IRIS L. YOUNG, OF VIRGINIA
SHEILA A. YOUNG, OF OREGON

DEPARTMENT OF STATE

BRIAN E. ANSELMAN, OF TEXAS

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS FOUR, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

ERNEST J. ABISELLAN, OF FLORIDA
ORY S. ABRAMOWICZ, OF ILLINOIS
VALERIE THERESE ADAMCYK, OF NEW YORK
TERRY ALLEN ALSTON, OF TENNESSEE
BRIDGETTE SARAH ANDERSON, OF TEXAS
PETER JAMES ANTHES, OF VIRGINIA
JOHN MORGAN BARRETT, OF CALIFORNIA
ELIAS STEPHEN BAUMANN, OF FLORIDA
SALLY PARKS BEHRHORST, OF CALIFORNIA
MOULIK DHYAN BERKANA, OF NEW YORK
MANU BHALLA, OF NEW HAMPSHIRE
ELLEN S. BIENSTOCK, OF PENNSYLVANIA
DANIEL L. BIERS, OF CALIFORNIA
BRIAN EDWARD BOLTON, OF VIRGINIA
TREVOR W. BOYD, OF NEW JERSEY
JEREMY D. CADDEL, OF TEXAS
JOSEPH J. CALLAHAN IV, OF FLORIDA
MICHAEL R. CARPENTER, OF CALIFORNIA
MICHAEL J. CHADWICK, OF VIRGINIA
BENJAMIN CHIANG, OF VIRGINIA
JASON JOHN CHIODI, OF PENNSYLVANIA
LOREN EDWARD CHOVAN, OF CALIFORNIA
DAN CINTRON, OF NEW YORK
WILLIAM M. COLEMAN IV, OF NORTH CAROLINA
DEWITT CHARLES CONKLIN III, OF FLORIDA
MARY GARDNER COPPOLA, OF CONNECTICUT
WILEY PATRICK CRAGUN, OF TEXAS
KEVIN BERLE CRISP, OF CALIFORNIA
RODNEY DEVI CUNNINGHAM, OF NEW YORK
JENNIFER LYNN DAVIS, OF VIRGINIA
JESSICA LYNN DAVIS BA, OF THE DISTRICT OF COLUMBIA
BROOKE ELIZABETH DE MONTLUZIN, OF LOUISIANA
STEVEN M. DYOKAS, OF ILLINOIS

JENNIFER W. EADIE, OF VIRGINIA
MEGAN ALLISON ELLIS, OF CALIFORNIA
JEROME NORBERT EPPING, JR., OF TEXAS
MATTHEW M. EUSSEN, OF WASHINGTON
SHANNON BELL FARRELL, OF WISCONSIN
LISA LAURETTE FICEK, OF SOUTH DAKOTA
MARY FRANCIS FISK-TELCHI, OF ARKANSAS
REBECCA ANN FONG, OF CALIFORNIA
DONALD L. FRERICHS, OF TEXAS
KATHERINE L. GILES-DIAZ, OF VIRGINIA
ROBERT L. GONZALES, OF TEXAS
SARAH ELIZABETH GORDON, OF NEW YORK
JEFFREY DAVID GRAHAM, OF NEW YORK
MICHAEL W. GRAY, OF LOUISIANA
MICHAEL THOMAS GREER, OF NEW YORK
NICHOLAS C. GRIFFITH III, OF TENNESSEE
C. COLIN GUEST, OF VIRGINIA
CATHERINE GULYAN, OF COLORADO
MARY K. GUNN, OF CALIFORNIA
CHRISTOPHER JOHN GUNNING, OF TEXAS
MARLIN J. HARDINGER, OF WISCONSIN
CYNTHIA R. HARVEY, OF WASHINGTON
RONALD E. HAWKINS, JR., OF MARYLAND
CHARLES V. HAWLEY, OF VIRGINIA
CHRISTENE BINH-AN PHAM HENDON, OF MICHIGAN
WILLIAM E. HERZOG, OF ILLINOIS
DEBORAH ANN HICK, OF FLORIDA
KEVAN PAUL HIGGINS, OF MARYLAND
JAMES J. HOGAN III, OF CALIFORNIA
ERIK J. HOLMGREN, OF ILLINOIS
SARAH PRICE HORTON, OF FLORIDA
BRADLEY A. HURST, OF CALIFORNIA
SUZANNE MARY INZERILLO, OF ILLINOIS
ANDREW JOHNSON, OF CALIFORNIA
MATTHEW RALEIGH JOHNSON, OF ALABAMA
KENNETH JONES, OF NEW JERSEY
RYAN JOHN KOCH, OF COLORADO
KAWEEM M. KOSHAN, OF CALIFORNIA
COURTNEY A. KRAMER BEALE, OF THE DISTRICT OF COLUMBIA
JENNIFER ADRIANA LARSON, OF NEW HAMPSHIRE
MEGAN ELIZABETH LARSON-KON, OF MARYLAND
GEORGE EDWARD LEARNED, OF COLORADO
CHRISTOPHER GEORGE LESLIE, OF NORTH CAROLINA
YAGNYA VIKRAM LIMAYE-DAVIS, OF VIRGINIA
VLAD LIPSCHUTZ, OF NEW YORK
BONNIE D. LONG, OF FLORIDA
CHRISTOPHER JOHN LONG, OF CALIFORNIA
SARA MARGARET LUTHER, OF COLORADO
ELIZABETH M. MACDONALD, OF CONNECTICUT
PETER K. MALECHA, OF ILLINOIS
JOHN RUSH MARBURG, OF MARYLAND
JOHN MARIETTI, OF MICHIGAN
ELIZABETH KATHLEEN MARTIN, OF ILLINOIS
PETER H. MARTIN, OF THE DISTRICT OF COLUMBIA
JEFFREY WILLIAM MAZUR, OF WISCONSIN
ANDREW MCCLEARN, OF VIRGINIA
ROBERT HAYNES MCCUTCHEON III, OF VIRGINIA
MARK G. MCGOVERN, OF NEW JERSEY
WALTER R. MILLER, OF CONNECTICUT
JOSEPH E. MOONE, OF VIRGINIA
DAVID W. MOYER, OF MARYLAND
GONS GUTIRREZ NACHMAN, OF FLORIDA
JAI LAWRIE NAIR, OF ARIZONA
SIRIANA KVALVIK NAIR, OF ARIZONA
PAUL F. NARAIN, OF MARYLAND
TIMOTHY DAVID NELSON, OF CALIFORNIA
ELEFTHERIOS E. NETOS, OF INDIANA
CHRISTOPHER M. NEWTON, OF CALIFORNIA
AMY LORENE NICODEMUS, OF NEW JERSEY
AARON C. OLSA, OF VIRGINIA
BRYAN OLTHOF, OF VIRGINIA
LESLIE ORDEMAN, OF COLORADO
AMY LYNN MUDD PATEL, OF MISSOURI
DEBORAH Y. PEDROSO, OF CALIFORNIA
MAURA VAUGHAN PELLET, OF WASHINGTON
CHAD S. PETERSON, OF WASHINGTON
JENNIFER MARIE PETERSON, OF FLORIDA
RICHARD J. PETERSON, OF UTAH
JEFFREY LYNN PILGREEN, OF WASHINGTON
ROBERT JASPER POPE, OF MINNESOTA
ANDREW L. PRATER, OF MISSOURI
CAROLINE L. PRICE, OF GEORGIA
MARION HEYNA RAM, OF CALIFORNIA
JUDITH RAVIN, OF NEW JERSEY
LARILYN LEIGH REFFETT, OF ILLINOIS
ANTHONY F. RENZULLI, OF NEW YORK
ISABEL E. RIOJA-SCOTT, OF ARIZONA
FREDERIC JORGE ROCAFORT PABN, OF FLORIDA
JENNIFER LEE ROQUE, OF FLORIDA
JAMES PALMER ROSELI, OF MARYLAND
ERIC A. SALZMAN, OF NEW MEXICO
SATRAJIT SARDAR, OF TEXAS
ERIN SAWYER, OF CALIFORNIA
LAURA KATHRYN SCHEIBE, OF VIRGINIA
CAROLYN SCHERER CLARK, OF FLORIDA
ELIZABETH NICHOLS SCHLACHTER, OF VIRGINIA
AARON MICHAEL SCHWOEBEL, OF TEXAS
JON M. SELLE, OF TEXAS
MICHAEL T. SESTAK, OF NEW YORK
GEOFFREY C. SIEBENGARTNER, OF OREGON
JESSICA LEIGH SIMON, OF OREGON
DAVID WALKER SIMPSON, OF TEXAS
CHRISTOPHER M. SMITH, OF FLORIDA
DEMIAN SMITH, OF VIRGINIA
TIMOTHY G. SMITH, OF WASHINGTON
AARON DAVID SNIPE, OF VIRGINIA
CHRISTOPHER K. SNIPES, OF CALIFORNIA
ALEXANDER W. SOKOLOFF, OF FLORIDA
MARK STROH, OF PENNSYLVANIA
OSMAN N. TAT, OF MARYLAND
ROBERT J. TATE, OF WASHINGTON
CODY CORINNE TAYLOR, OF CALIFORNIA
KATYA THOMAS, OF MARYLAND
STERLING DAVID TILLEY, JR., OF FLORIDA
TIMOTHY SHAWN TIMMONS, OF WASHINGTON
DANNA JULIE VAN BRANDT, OF THE DISTRICT OF COLUMBIA
KRISTIN L. WESTPHAL, OF VERMONT
THOMAS WISE, OF MINNESOTA

THE FOLLOWING-NAMED CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION WITHIN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED: CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

DEBORAH ANN MCCARTHY, OF FLORIDA

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

WALLY G. VAUGHN, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

JAMES E. POWELL, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

JEAN M. EAGLETON, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant general

JEFFREY R. COLPITTS, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

STEPHEN D. HOGAN, 0000
PAULA R. WATSON, 0000
PHILLIP H. WILLIAMS, 0000

THE FOLLOWING NAMED INDIVIDUAL TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

LAURENCE W. GEBLER, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

JOHN E. MARKHAM, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

ARIEL P. ABUEL, 0000
DEAN A. REDDEN, 0000
SCOTT C. SHELTZ, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

DAVID W. LAFLAM, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

THOMAS P. FLYNN, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 1552:

To be colonel

EARL W. SHAFFER, 0000

IN THE AIR FORCE

THE FOLLOWING NAMED INDIVIDUALS FOR APPOINTMENT IN THE GRADES INDICATED IN THE REGULAR AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531(A):

To be lieutenant colonel

GAYANNE DEVRY, 0000
CARLOS R. ESQUIVEL, 0000

To be major

GRADY L. BURLESON, 0000
RENEE S. DAYE, 0000
JULIETTE S. FONTAINE, 0000
STEVEN P. HERNANDEZ, 0000
JANICE E. KATZ, 0000
NEIL R. WHITTAKER, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES ARMY DENTAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be colonel

ORSURE W. STOKES, 0000

THE FOLLOWING NAMED OFFICER FOR REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL SERVICE CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be lieutenant colonel

ALVIS DUNSON, 0000

THE FOLLOWING NAMED INDIVIDUALS FOR REGULAR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be lieutenant colonel

JEFFREY W. WEISER, 0000

To be major

MURRAY R. BERKOWITZ, 0000
PABLO C. CHAN, 0000
LEONARD J. GRADO, 0000

THE FOLLOWING NAMED INDIVIDUALS FOR REGULAR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES ARMY MEDICAL SERVICE CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be lieutenant colonel

KURT G. BULLINGTON, 0000

To be major

RANDELL D. BASS, 0000
JASON M. CATES, 0000

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

ALTON J. LUDER, JR., 0000
DOUGLAS J. MOUTON, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY DENTAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be colonel

GARY L. BREWER, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be colonel

MICHAEL J. FINGER, 0000
ROBERT T. RUIZ, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be major

PHILIP SUNDQUIST, 0000

THE FOLLOWING NAMED INDIVIDUALS FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY VETERINARY CORPS UNDER TITLE 10, U.S.C., SECTION 531 AND 3064:

To be major

CARRIE G. BENTON, 0000
CAROL A. MACGREGORDEBARBA, 0000

THE FOLLOWING NAMED INDIVIDUAL FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL SERVICE CORPS UNDER TITLE 10, U.S.C., SECTION 531 AND 3064:

To be major

MARIVEL VELAZQUEZCRESPO, 0000

THE FOLLOWING NAMED INDIVIDUALS FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY NURSE CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be major

GRACE NORTHUP, 0000
JANET L. NORMAN, 0000
MYLY T. MCDIVITT, 0000
MARY L. SPRAGUE, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AS CHAPLAINS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be colonel

FRANCIS M. BELUE, 0000
RUBEN D. COLON, JR., 0000
JAMES L. GRIFFIN, 0000
CHARLES L. HOWELL, 0000
KENNETH L. KERR, 0000
WILLIAM T. LAIGAIE, 0000
MICHAEL T. LEMBKE, 0000
SCOTTIE R. LLOYD, 0000
THOMAS A. MACGREGOR, 0000
JOHN E. POWERS, 0000
THOMAS E. PRESTON, 0000
RICHARD G. QUINN, 0000

GREGORY K. WILLIAMSON, 0000
CHRISTOPHER H. WISDOM, 0000
CARL S. YOUNG, JR., 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

JAMES W. ADAMS, 0000
MICHAEL C. AID, 0000
ROBERT Q. AKE, 0000
JOHN W. ALLEN, 0000
MICHAEL J. ALLEN, 0000
REGINALD E. ALLEN, 0000
PEDRO G. ALMEIDA, 0000
FRANZ J. AMANN, 0000
PAUL J. AMBROSE, 0000
CURTIS A. ANDERSON, JR., 0000
DAVID E. ANDERSON, 0000
RICHARD J. ANDERSON, 0000
MICHAEL A. ARMSTEAD, 0000
HENRY A. ARNOLD III, 0000
REGGIE L. AUSTIN, 0000
JOHN W. BAKER, 0000
WILLIAM E. BALES, 0000
CHRISTOPHER S. BALLARD, 0000
LAUREEN M. BARONE, 0000
EARNEST A. BAZEMORE, 0000
CRAIG A. BELL, 0000
LEITH A. BENEDICT, 0000
LISA C. BENNETT, 0000
GUS BENTON II, 0000
JOHN E. BESSLER, 0000
RICHARD A. BEZOLD, 0000
ELIZABETH A. BIERDEN, 0000
CLINTON R. BIGGER, 0000
MARTIN G. BINDER, 0000
CARL D. BIRD III, 0000
GARRY P. BISHOP, 0000
JAMES R. BLACKBURN, 0000
KENNETH L. BOEHME, 0000
MICHAEL D. BOLLUYT, 0000
BRADLEY W. BOOTH, 0000
RICHARD F. BOWYER, 0000
JAMES M. BRANDON, 0000
LARS E. BRAUN, 0000
DARCY A. BREWER, 0000
DAVID J. BROST, 0000
CHARLES R. BROWN, 0000
FREDRICK BROWN, 0000
JEFFERY D. BROWN, 0000
PAUL D. BROWN, 0000
JON K. BUONERBA, 0000
KATHRYN A. BURBA, 0000
STEPHEN T. BURNS, 0000
PAUL S. BURTON, 0000
GREGORY K. BUTTS, 0000
RICHARD M. CABREY, 0000
GRETCHEN A. CADWALLADER, 0000
DWAYNE CARMAN, JR., 0000
STEVEN E. CARRIGAN, 0000
CAROLYN A. CARROLL, 0000
ALFRED D. CARTER, 0000
FLORENTINO L. CARTER, 0000
ROSEMARY M. CARTER, 0000
JERRY CASHION, 0000
MICHAEL A. CEROLI, 0000
CLATON D. CHANDLER, 0000
ALLEN M. CHAPPELL III, 0000
WELTON CHASE, JR., 0000
ROBERT G. CHEATHAM, JR., 0000
CONRAD D. CHRISTMAN, 0000
WILLIAM M. CHURCHWELL, 0000
FREDERICK S. CLARKE, 0000
ROGER L. CLOUTIER, JR., 0000
MARK B. COATS, 0000
MARCUS A. COCHRAN, 0000
GEORGE E. CONE, JR., 0000
JOSEPH R. CONNELL, 0000
JEFFREY C. CORBETT, 0000
ROBERT E. CORNELIUS, JR., 0000
LUIS B. CRESPO, 0000
DEBORAH M. CUSIMANO, 0000
ERIK O. DAIGA, 0000
JAMES W. DANNA III, 0000
MARK C. DARDEN, 0000
JEFFREY L. DAVIDSON, 0000
JEFFREY S. DAVIES, 0000
KEVIN I. DAVIS, 0000
MATTHEW Q. DAWSON, 0000
ANTHONY E. DEANE, 0000
BRIAN J. DIAZ, 0000
JEFFREY W. DILL, 0000
TODD L. DODSON, 0000
ROBERT C. DOERER, 0000
BRIAN L. DOSA, 0000
BRIAN M. DRINKWINE, 0000
EDWIN M. DROSE, JR., 0000
KENNETH C. DYER, 0000
JEFFREY R. ECKSTEIN, 0000
RODNEY D. EDGE, 0000
PETER B. EDMONDS, 0000
JAMES D. EDWARDS, 0000
ANTHONY J. ENGLISH, 0000
DANIEL M. ENOCH, 0000
PAUL J. ERNST, SR., 0000
RAUL E. ESCRIBANO, 0000
THOMAS P. EVANS, 0000
JOHN S. FANT, 0000
STEPHEN E. FARMEN, 0000
ANTHONY FEAGIN, 0000
PHILIP T. FEIR, 0000
JEFFREY L. FELDMAN, 0000
BRUCE H. FERRI, JR., 0000
MARLENE S. FEY, 0000
GEORGE R. FIELDS, 0000
DOUGLAS L. FLOHR, 0000
JACK D. FLOWERS, 0000
JAY G. FLOWERS, 0000
ANDREW J. FRANK, 0000
JEFFREY D. FREELAND, 0000
DONALD G. FRYC, 0000
DAVID E. FUNK, 0000
CHARLES H. GABRIELSON, 0000
DAVID B. GAFFNEY, 0000
DONALD N. GALLI, 0000
AUBREY L. GARNER II, 0000
JAMES P. GARRISON, 0000
JAMES D. GEORGE, JR., 0000
RANDY A. GEORGE, 0000
MARIA R. GERVAIS, 0000
CHRISTOPHER P. GIBSON, 0000
KARL GINTER, 0000
GERALD L. GLADNEY, 0000
DAVID P. GLASER, 0000
JEFFREY J. GOBLE, 0000
MICHAEL GODFREY, 0000
MICHAEL K. GODFREY, 0000
WILLIAM P. GOETZ, 0000
JON P. GOODSMITH, 0000
DARYL GORE, 0000
REGINA M. GRANT, 0000
DANIEL C. GRIFFITH, 0000
JOSEPH M. GRUBICH, 0000
JUSTIN C. GUBLER, 0000
BRIAN R. HAEBIG, 0000
WILLIAM T. HAGER, 0000
DELBERT M. HALL, 0000
FRANK R. HALL, 0000
OSCAR J. HALL IV, 0000
JOSEPH P. HARRINGTON, 0000
BARRY HARRIS, 0000
MARC D. HARRIS, 0000
STEVEN D. HARRIS, 0000
JEROME K. HAWKINS, 0000
FREDERICK A. HEAGGANS, SR., 0000
CHRISTIAN E. HEIBEL, 0000
RICHARD S. HICKENBOTTOM, 0000
CHRISTOPHER M. HICKEY, 0000
MATTHEW T. HIGGINBOTHAM, 0000
DAVID C. HILL, 0000
JOHN C. HINKLEY, 0000
DANIEL R. HIRSCH, 0000
GARY R. HISLE, JR., 0000
CHRISTOPHER K. HOFFMAN, 0000
DAVID E. HOLLIDAY, 0000
THOMAS S. HOLLIS, 0000
JOHN M. HORN, 0000
MARK C. HOROHO, 0000
MICHAEL L. HOWARD, 0000
RHONDA P. HOWARD, 0000
DONALD E. HOWELL, 0000
FRANCIS J. HUBER, 0000
MELVIN D. HULL, 0000
MARK A. HURON, 0000
KENNETH J. HURST, 0000
CLAYTON M. HUTMACHER, 0000
JAMES T. IACOCCA, 0000
SHEILA F. J-MCCLANEY, 0000
WILLIAM T. JAMES, JR., 0000
ANDREW V. JASAITIS, 0000
SEAN M. JENKINS, 0000
JAMES H. JOHNSON III, 0000
MARK D. JOHNSON, 0000
PETER L. JONES, 0000
RICHARD G. KAISER, 0000
DANIEL L. KARBLER, 0000
OLEN L. KELLEY, 0000
WILLIAM P. KEYES, 0000
ERIC B. KEYS, 0000
GRADY S. KING, 0000
RICKY T. KING, 0000
DAVID P. KITE, 0000
ROBERT J. KMIECIK, 0000
LAWRENCE A. KOMINIAK, 0000
RICHARD J. KOUCHERAVY, 0000
JAMES E. KRAFT, 0000
DENNIS A. KRINGS, 0000
MICHAEL E. KURILLA, 0000
PAUL W. LADUE, 0000
MORGAN M. LAMB, 0000
STEVE E. LAMBERT, 0000
KEVIN J. LANCASTER, 0000
KEITH A. LANDRY, 0000
RANDALL C. LANE, 0000
PAUL J. LAUGHLIN II, 0000
ANTHONY A. LAYTON, 0000
ALVIN B. LEE, 0000
DAVID A. LEE, 0000
JAMES D. LEE, 0000
SUNG H. LEE, 0000
JOHN W. LOFFERT, JR., 0000
LAURA C. LOFTUS, 0000
RONNIE W. LONG, JR., 0000
ORLANDO LOPEZ, 0000
GARY E. LUCK, JR., 0000
JEFFERY K. LUDWIG, 0000
STEVEN M. LYNCH, 0000
PATRICK M. LYONS, 0000
THOMAS D. MACDONALD, 0000
LORENZO MACK, SR., 0000
WILLIAM A. MACKEN, 0000
SCOT D. MACKENZIE, 0000
ROGER S. MARIN, 0000
JOSEPH F. MARQUART IV, 0000
VALRICA J. MARSHALLQUINONES, 0000
STEVEN D. MATHIAS, 0000
GREGORY C. MAXTON, 0000
JOHN M. MCCARTHY, 0000
JOHN N. MCCARTHY, 0000
KYLE M. MCCLELLAND, 0000
DEBORAH J. MCDONALD, 0000
TIMOTHY P. MCGUIRE, 0000
TERRENCE J. MCKENRICK, 0000
WILLIAM MELENDEZ, 0000
MYRNA L. MERCED, 0000
STEVEN M. MERKEL, 0000
JENNIFER E. MERKLE, 0000
STEVEN R. MILES, 0000
CHRIS E. MILLER, 0000
GERALD H. MILLER, 0000
MICHELE D. MILLET, 0000
GARY L. MILNER, 0000
JIMMIE MISTER, JR., 0000
CHRISTOPHER R. MITCHELL, 0000
LAURENCE M. MIXON, 0000
TOMMY R. MIZE, 0000
JAMES H. MOLLER, 0000
WILLIAM K. MOONEY, JR., 0000
JOSEPH P. MOORE, 0000
HURMAYONNE W. MORGAN, 0000
EDWARD J. MORRIS, JR., 0000
SHAWN M. MORRISSEY, 0000
MICHAEL G. MORROW, 0000
DOUGLAS S. MULBURY, 0000
MARK A. MURRAY, 0000
PAUL J. MURRAY, 0000
DAVID J. NELSON, 0000
PETER A. NEWELL, 0000
DOUGLAS H. NOMURA, 0000
JOHN G. NORRIS, 0000
JAMES E. NORWOOD, 0000
THOMAS P. OCKENFELS, 0000
RICHARD B. OCONNOR II, 0000
JEFFREY S. OGDEN, 0000
THOMAS E. OHARA, JR., 0000
JOSEPH E. OSBORNE, 0000
THOMAS H. PALMATIER, 0000
BRUCE D. PARKER, 0000
ROBERT PASTORELLI, 0000
DOUGLAS J. PAVEK, 0000
WILLIAM O. PAYNE, 0000
ROBERT D. PETERSON, 0000
GREGORY D. PETRIK, 0000
CARL E. PHILLIPS, 0000
SAMUEL T. PIPER III, 0000
BRIAN J. PRELER, 0000
JACK K. PRITCHARD, 0000
LAVON R. PURNELL, 0000
ROBERT C. QUINN, 0000
LEOPOLDO A. QUINTAS, JR., 0000
MARK A. RADO, 0000
JAMES E. RAINEY, 0000
LEE F. RANSDELL, 0000
KARL D. REED, 0000
CATHERINE A. REESE, 0000
TERENCE W. REEVES, 0000
RICHARD J. REID, JR., 0000
DAN J. REILLY, 0000
GREGORY D. REILLY, 0000
CEDRIC T. RICE, 0000
PATRICK M. RICE, 0000
ROBERT J. RICE, 0000
MARK D. RICHARDSON, 0000
THOMAS P. RILEY, 0000
ROBERT H. RISBERG, 0000
FRANKLIN D. ROACH, 0000
JOEL E. ROBERTS, 0000
DOUGLAS C. ROBERTSON, 0000
THOMAS H. ROE, 0000
RANDY R. ROSENBERG, 0000
DOMENICO ROSSI, 0000
ROBERT M. ROTH, 0000
RANDOLPH R. ROTTE, JR., 0000
WILFRED G. ROWLETT, JR., 0000
EDWARD J. RUSH, JR., 0000
JACQUELYN L. RUSSELL, 0000
JOHN T. RYAN, 0000
JEFFERSON M. RYSCAVAGE, 0000
MICHAEL J. SAGE, 0000
JAMES R. SAGEN, 0000
KREWASKY A. SALTER, 0000
CHARLES B. SALVO, 0000
BOBBIE H. SANDERS, 0000
GARY S. SANDERS, 0000
ROGER N. SANGVIC, 0000
KENT D. SAVRE, 0000
WILLIAM J. SCHAFER, 0000
JOHN F. SCHRADER, 0000
CHARLES E. SEXTON, 0000
CAROLYN R. SHARPE, 0000
WILLIAM H. SHAW III, 0000
STEVEN L. SHEA, 0000
LINDA K. SHEIMO, 0000
JAMES J. SHIVERS, 0000
BARTHOLOMEW U. SHREVE, 0000
WILLIAM P. SIMRIL, JR., 0000
KERRY T. SKELTON, 0000
ANTHONY R. SKINNER, 0000
DEREK S. SMITH, 0000
JOHN T. SMITH, 0000
STANLEY O. SMITH, 0000
TRACY O. SMITH, 0000
SCOTT A. SPELLMON, 0000
CHRISTOPHER L. SPILLMAN, 0000
JEFFREY A. SPRINGMAN, 0000
MARK R. STAMMER, 0000
THOMAS C. STEFFENS, 0000
JERRY D. STEVENSON, 0000
MICHELLE J. STEWART, 0000
NAPOLEON W. STEWART, 0000
TIMOTHY S. SUGHRUE, 0000
ROBERT P. SULLIVAN, 0000
BRIAN P. SUNDIN, 0000
MICHAEL J. SWANSON, 0000
BRENDA F. TATE, 0000
MICHAEL J. TEAGUE, 0000
RORY K. TEGTMEIER, 0000
DANIEL L. THOMAS, 0000
NELLO A. THOMAS III, 0000

CHRISTOPHER R. THOMPSON, 0000
PRESTON THOMPSON, 0000
JOHN C. THOMSON III, 0000
JOHN K. TIEN, JR., 0000
DAVID E. TIGHE, 0000
JOSEPH A. TIRONE, 0000
GARY W. TONEY, 0000
SHERI L. TONNER, 0000
AMY F. TURLUCK, 0000
LENNIE R. UPSHAW, 0000
DIANE M. VANDERPOT, 0000
JAMES A. VIOLA, 0000
LOUIS A. VOGLER, 0000
TIMOTHY A. VUONO, 0000
FLEM B. WALKER, JR., 0000
DAVID L. WARD, 0000
JESSE S. WARD, 0000
MICHAEL J. WARMACK, 0000
THOMAS F. WASHER II, 0000
VERSALLE F. WASHINGTON, 0000
SCOTT T. WATERMAN, 0000
GRANT A. WEBB, 0000
ERIC J. WESLEY, 0000
ROBERT P. WHALEN, JR., 0000
MARVIN S. WHITAKER, 0000
CHRISTOPHER J. WICKER, 0000
ROBERT F. WIELER, JR., 0000
DAVID L. WILCOX, 0000
CHARLES A. WILLIAMS, 0000
ROBERT D. WILLIAMS, 0000
THEODORE C. WILLIAMS IV, 0000
WILLIAM L. WIMBISH, JR., 0000
LOUIS B. WINGATE, 0000
DAVID M. WITTY, 0000
TODD R. WOOD, 0000
JAMES E. WOODARD, SR., 0000
ANTHONY O. WRIGHT, 0000
GEORGE G. WRIGHT, 0000
DALE L. WRONKO, 0000
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THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

EDWARD E. AGEE, JR., 0000
JAMES B. BANKSTON, 0000
RANDALL M. BENTZ, 0000
DAVID D. BRIGGS, 0000
TODD A. BROWNE, 0000
STEVEN M. CHARBONNEAU, 0000
THOMAS M. CIOPPA, 0000
ROBERT A. CLAFLIN, 0000
RAY A. COMBS II, 0000
GUY T. COSENTINO, 0000
BOBBY G. CRAWFORD, 0000
CHARLES D. EUBANKS, JR., 0000
JOHN G. FERRARI, 0000
FREDERICK J. GELLERT, 0000
ALEJANDRO D. HERNANDEZ, 0000
WESLEY J. JENNINGS, 0000
STANLEY A. KING, 0000
ROBERT F. KOLTERMAN, 0000
SCOTT T. KRAWCZYK, 0000
RUSSELL P. LACHANCE, 0000
EUGENE J. LESINSKI, 0000
MICHAEL E. LINICK, 0000
LARRY LOCK, 0000
JEFFREY A. MARQUEZ, 0000
MICHAEL S. MCGURK, 0000
CHRISTOPHER P. MCPADDEN, 0000
DOUGLAS J. MILLER, 0000
FRANK A. MILLER, 0000
STEVEN A. STEBBINS, 0000
CEDRIC T. WINS, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

TIMOTHY K. BUENNEMEYER, 0000
RENE G. BURGESS, 0000
HANS E. BUSH, 0000
JANE E. CRICHTON, 0000
EDWARD H. EIDSON, 0000
JEFFREY A. FARNSWORTH, 0000
EDWARD J. FISH, 0000
CASEY C. FLAGG, 0000
THOMAS P. GALVIN, 0000
JEFFREY T. GIRARD, 0000
EARNEST E. HANSLEY, 0000
KIRK V. JOHNSON, 0000
RIVERS J. JOHNSON, JR., 0000
GREGORY S. JULIAN, 0000
CHARLES A. JUMPER, 0000
TIMOTHY L. KOPRA, 0000
KAREN F. LLOYD, 0000
MATTIE M. LOVE, 0000
JEREMY M. MARTIN, 0000
TED F. MARTIN, 0000
STEPHEN J. MAYHEW, 0000
MICHAEL A. MILLER, 0000
DONALD W. MORRIS, 0000
LUCIOUS B. MORTON, 0000
ANGELO RIDDICK, 0000
MICHAEL J. SANDERS, 0000
WAYNE M. SHANKS, 0000
WILLIAM K. SUCHAN, 0000
ARTHUR N. TULAK, 0000
D000062

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

PHILIP K. ABBOTT, 0000
MARK R. ARN, 0000
CALVIN D. BAILEY, 0000
CRIS J. BOYD, 0000
SCOTT A. CAMPBELL, 0000
MICHAEL P. CAVALIER, 0000
KENNETH A. CHANCE, 0000
ANTONIO S. CHOW, 0000
MATTHEW T. CLARKE, 0000
WILLIAM E. COLE, 0000
CRAIG A. DEDECKER, 0000
SHANE DIETRICH, 0000
STEVEN G. DRAKE, 0000
ROBERT W. DUGGLEBY, 0000
JOHN A. ELLIS, 0000
GREGORY M. FIELDS, 0000
KARL S. FLYNN, 0000
ROBIN L. FONTES, 0000
JEFFREY A. GABBERT, 0000
DONALD L. GABEL II, 0000
GREGORY B. GONZALEZ, 0000
KEITH R. HARRINGTON, 0000
LINDA R. HERBERT, 0000
SIMON L. HOLZMAN, 0000
DEAN T. KATSIYIANNIS, 0000
ROBERT H. LUNN, 0000
PHILLIP N. MAXWELL, 0000
KURT H. MEPPEN, 0000
JEFFREY J. MOCKENSTURM, 0000
EARL D. NOBLE, 0000
WARREN N. ODONELL, 0000
CHRISTOPHER M. OLIVER, 0000
THOMAS M. OLSON, 0000
SHANE T. OPENSHAW, 0000
ANTHONY S. PELCZYNSKI, 0000
KEVIN B. PETERSON, 0000
JAIMY S. RAND, 0000
DAVID W. RIGGINS, 0000
DOUGLAS H. ROMBOUGH, 0000
DANIEL C. ROSSO, 0000
KAREN D. SAUNDERS, 0000
THOMAS SCHAIDHAMMER, 0000
MICHAEL V. SCHLEICHER, 0000
MICHAEL L. SCHODOWSKI, 0000
ROBERT W. SCHUMITZ, 0000
LAWRENCE S. SILAS, 0000
JAMES E. SIMPSON, 0000
VALERIE E. SLOAN, 0000
MICHAEL R. STEVES, 0000
JOHN R. SURDU, 0000
ZSOLT I. SZENTKIRALYI, 0000
IVAR S. TAIT, 0000
DOUGLAS A. TAMILIO, 0000
KENNETH R. TARCZA, 0000
KURT L. TAYLOR, 0000
SCOTT R. TAYLOR, 0000
PHILIP R. THIELER, 0000
LEON N. THURGOOD, 0000
DANIEL W. TOMLINSON, 0000
CAROLYN J. WASHINGTON, 0000
JOHN M. WENDEL, 0000
JEFFREY S. WILTSE, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY JUDGE ADVOCATE GENERAL'S CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be lieutenant colonel

CHERYL E. BOONE, 0000
GREGORY L. BOWMAN, 0000
KAREN H. CARLISLE, 0000
GARY P. CORN, 0000
MICHAEL A. CRESSLER, 0000
WENDY P. DAKNIS, 0000
KERRY L. ERISMAN, 0000
STACY E. FLIPPIN, 0000
JAMES J. GIBSON, 0000
TRACY A. GLOVER, 0000
JEFFREY C. HAGLER, 0000
PATRICIA A. HARRIS, 0000
NEWTON W. HILL, 0000
ROBERT P. HUSTON, 0000
CHRISTOPHER W. JACOBS, 0000
LAURA K. KLEIN, 0000
MICHAEL L. KRAMER, 0000
RICK S. LEAR, 0000
CHARLES D. LOZANO, 0000
JAMES R. MCKEE, JR., 0000
CRAIG E. MERUTKA, 0000
SAMUEL W. MORRIS, 0000
MICHAEL L. NORRIS, 0000
JOHN N. OHLWEILER, 0000
CYNTHIA G. OLSEN, 0000
ROBERT T. PENLAND, JR., 0000
PAUL J. PERRONE, JR., 0000
JUAN A. PYFROM, 0000
PAULA I. SCHASBERGER, 0000
WILLIAM A. SCHMITTEL, 0000
FRANCISCO A. VILA, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

TIMOTHY M. GREENE, 0000

THE FOLLOWING NAMED OFFICERS FOR TEMPORARY APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 5721:

To be lieutenant commander

DAVID J. ADAMS, 0000
ISMIAL A. ALJIHAD, 0000
PAUL M. ALLGEIER, 0000
CASEY B. BAKER, 0000
DANIEL A. BAKKER, 0000
TIMOTHY M. CLARK, 0000
CHARLES E. EATON, 0000
MATTHEW H. LEWIS, 0000
RONNIE P. MANGSAT, 0000
JOSEPH A. MOORE, 0000
ROBERT I. PATCHIN IV, 0000
DOUGLAS J. PEGHER, 0000
ANDREW B. PLATTEN, 0000
JACK C. RIGGINS, 0000
SCOTT A. ROSETTI, 0000
MATTHEW RUSSELL, 0000
THEODORE P. STANTON, 0000
WILLIAM B. SWANBECK, 0000
CHIMI I. ZACOT, 0000