(Mr. LAUTENBERG) was added as a cosponsor of S. 2243, a bill to make college more affordable by expanding and enhancing financial aid options for students and their families and providing loan forgiveness opportunities for public service employees, and for other purposes.

S. 2253

At the request of Mr. DOMENICI, the names of the Senator from Wyoming (Mr. ENZI) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. 2253, a bill to require the Secretary of the Interior to offer the 181 Area of the Gulf of Mexico for oil and gas leasing.

S. 2320

At the request of Mr. SPECTER, his name was added as a cosponsor of S. 2320, a bill to make available funds included in the Deficit Reduction Act of 2005 for the Low-Income Home Energy Assistance Program for fiscal year 2006, and for other purposes.

At the request of Ms. SNOWE, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 2320, supra.

S. 2333

At the request of Mr. SCHUMER, the names of the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Wisconsin (Mr. KOHL), the Senator from Connecticut (Mr. DODD) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 2333, a bill to require an investigation under the Defense Production Act of 1950 of the acquisition by Dubai Ports World of the Peninsular and Oriental Steam Navigation Company, and for other purposes.

S. 2351

At the request of Mrs. BOXER, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 2351, a bill to provide additional funding for mental health care for veterans, and for other purposes.

S. RES. 383

At the request of Mr. BROWNBACK, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. Res. 383, a resolution calling on the President to take immediate steps to help improve the security situation in Darfur, Sudan, with an emphasis on civilian protection.

At the request of Mr. BIDEN, the names of the Senator from New Mexico (Mr. BINGAMAN), the Senator from Florida (Mr. MARTINEZ), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Massachusetts (Mr. KERRY), the Senator from Michigan (Mr. LEVIN), the Senator from South Dakota (Mr. JOHNSON), the Senator from California (Mrs. BOXER) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. Res. 383, supra.

At the request of Mrs. CLINTON, her name was added as a cosponsor of S. Res. 383, supra.

At the request of Mr. FRIST, his name and the names of the Senator from Ohio (Mr. VOINOVICH) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. Res. 383, supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NELSON of Florida (for himself, Ms. COLLINS, Mr. ROCKEFELLER, Mrs. BOXER, Mr. KERRY, Ms. MIKULSKI, Mr. FEINGOLD, Mr. DORGAN, and Mr. KOHL):

S. 2354. A bill to amend title XVIII of the Social Security Act to reduce the coverage gap in prescription drug coverage under part D of such title based on savings to the Medicare program resulting from the negotiation of prescription drug prices; to the Committee on Finance.

Mr. NELSON of Florida. Mr. President, I am pleased to be joined by my colleague and cosponsor Senator SUSAN COLLINS as we introduce the Medicare Prescription Drug Gap Reduction Act of 2006.

For years now, I have advocated for providing seniors with meaningful prescription drug coverage. Seniors in this country should never have to choose between their meals and their medications.

Unfortunately, Congress created a Medicare prescription drug plan that is confusing and contains a huge coverage gap. These are some of the reasons that I did not support the legislation that created this program. But this flawed plan is what passed. Our job now is to help seniors by fixing the underlying law. I have spoken with Medicare beneficiaries across Florida and they are understandably concerned about the new prescription drug benefit. One issue of great concern to Floridians is the large gap in coverage called the ''doughnut hole.''

The Medicare drug benefit contains a large coverage gap during which beneficiaries continue to pay premiums but get no drug coverage at all. For most plans, Medicare will pay 75 percent of initial drug costs up to $2,250 after a $250 deductible. But then the program pays nothing until drug expenses reach $5,100. This lack of coverage for drug spending is often called Medicare's doughnut hole.

More than one-third of all Medicare beneficiaries are projected to have drug spending that falls in the doughnut hole's range, according to the Congressional Budget Office (CBO). Millions of beneficiaries will pay premiums yet receive no coverage during this time. This is simply unacceptable.

In response, we are introducing the Medicare Prescription Drug Gap Reduction Act of 2006 which will reduce the impact of the doughnut hole on Medicare beneficiaries.

Our bill allows the Secretary of Health and Human Services (HHS) to negotiate on behalf of Medicare beneficiaries for lower drug prices. Unfortunately, the law that created the new Medicare drug program actually prohibits the Secretary from using the purchasing power of over 40 million seniors to negotiate for lowers prescription drug prices. The savings generated from allowing negotiations would then be applied towards reducing the doughnut hole, providing more drug coverage for Medicare beneficiaries.

A recent analysis was conducted by researchers at the Johns Hopkins Center for Hospital Finance and Management on the Medicare doughnut hole. They concluded that ''the gap in coverage could be completely eliminated if Medicare paid the same prices as the Veterans' Administration, or Department of Defense and 75 percent of the gap could be eliminated if Medicare paid the same prices as the Federal Ceiling Price.'' Our bill gives the Secretary authority similar to entities like the Veterans' Administration and the Department of Defense, to negotiate contracts and obtain the lowest possible prescription drug prices for Medicare beneficiaries.

Allowing the Federal Government to utilize market forces to negotiate for lower prescription drug prices and using these savings to alleviate the impact of the doughnut hole is a commonsense approach to providing Medicare beneficiaries with affordable prescription drugs.

This issue boils down to just one goal—helping seniors. We urge all of our colleagues, from both sides of the aisle, to join us in this effort to help lower prescription drug costs for Medicare beneficiaries.

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. 2354

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 Prescription Drug Gap Reduction Act of 2006''.

SEC. 2. REDUCING COVERAGE GAP.

Section 1860D–2(b) of the Social Security Act (42 U.S.C. 1395w–102(b)) is amended—

(1) in paragraph (3)(A), by striking ''paragraph (4)'' and inserting ''paragraph (4), subject to the increase described in paragraph (7)''; and

(2) by adding at the end the following new paragraph:

''(7) INCREASE OF INITIAL COVERAGE LIMIT BASED ON MEDICARE SAVINGS DUE TO NEGOTIATION OF DRUG PRICES.—For each year (beginning with 2006), the Secretary shall increase the initial coverage limit for the year specified in paragraph (3) so that the aggregate amount of increased expenditures from the Medicare Prescription Drug Account as a result of such increase under this paragraph in the year (as estimated by the Office of the Actuary of the Centers for Medicare & Medicaid Services) is equal to the aggregate amount of reduced expenditures from such Account that the Office of the Actuary estimates will result in the year as a result of

the application of the amendment made by section 3(a) of the Medicare Prescription Drug Gap Reduction Act of 2006.''.

SEC. 3. 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 inserting the following:

''(i) AUTHORITY TO NEGOTIATE PRICES WITH MANUFACTURERS.—

''(1) IN GENERAL.—Subject to paragraph (4), 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 for each fallback prescription drug plan under subsection (g); and

''(B) participate in negotiation of contracts of any covered part D drug upon request of an approved prescription drug plan or MA–PD plan.

''(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.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of section 101 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173).

By Mrs. FEINSTEIN (for herself, Mr. KYL, Ms. CANTWELL, Mr. FRIST, Mrs. BOXER, Mrs. HUTCHISON, Mr. MCCAIN, Mr. DOMENICI, and Mr. BINGAMAN):

S. 2355. A bill to amend chapter 27 of title 18, United States Code, to prohibit the unauthorized construction, financing, or reckless permitting (on one's land) the construction or use of a tunnel or subterranean passageway between the United States and another country; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, our borders are our Nation's first line of defense. They are the key to our homeland, and ensuring their integrity is vital to our national security.

But there are some who seek to create a means of entering our country illegally. For years, they've tried to go around the border checkpoints. Now they are trying to go under them through sophisticated border tunnels.

In fact, there have been 40 border tunnels financed and constructed since 9/11—to move humans, drugs, and weapons under the border. Twenty-one of these were on the California-Mexico border—eight since January of this year.

This is a serious issue not just for San Diego and California, but for the entire country.

Surprisingly, there is no law on the books now that makes it a crime to construct, finance, build, or use a tunnel into the United States.

Last week, I toured a recently discovered tunnel in San Diego with San Diego Mayor Jerry Sanders, Police Chief Bill Lansdowne, Sheriff Bill Kolender and various Federal Government officials from the Department of Homeland Security.

This tunnel is the largest, most sophisticated underground passageway ever discovered; approximately half a mile long (8 football fields); at its deepest point, more than nine stories below ground; equipped with a drainage system, cement flooring for traction, lighting, and a pulley system; disguised as a produce distribution company known as ''V & F Distributors, LLC''; and accessible only through a small office inside this warehouse, covered by four square tiles.

The Bureau of Immigration and Customs Enforcement began investigating the case two years ago, and raided the tunnel last month from the Mexican side not knowing if or where an opening on the U.S. would be found. They discovered over 2,000 pounds of marijuana on the Mexican side of the border and approximately 300 on the U.S. side.

The legislation which I am introducing today—joined by Senator KYL as the Republican lead, as well as Senators FRIST, CANTWELL, BOXER, HUTCHISON, MCCAIN, BINGAMAN and DOMENICI—throws the book at those who build these tunnels and subterranean passageways into the United States.

It would: criminalize the construction or financing of an unauthorized tunnel or subterranean passage across an international border into the United States with a term of imprisonment up to 20 years; punish those who recklessly permit others to construct or use an unauthorized tunnel on their land with a term of imprisonment of up to 10 years; punish those who use a tunnel to smuggle aliens, weapons, drugs, terrorists, or illegal goods by doubling the sentence for the underlying offense; in addition to imprisonment, ensure that assets involved in the offense, or any property traceable to the offense, may be subject to forfeiture; and instruct the U.S. Sentencing Commission to promulgate or amend sentencing guidelines to provide for criminal penalties for persons convicted under this bill, and to take into account the gravity of this crime when considering the base offense levels.

The legislation is critical. We must secure every aspect of our borders.

Since 9/11: forty border tunnels have been discovered in the United States; all but one have been on the southern border; twenty-one of the tunnels were along the California-Mexico border; eight of the tunnels were discovered in San Diego since the beginning of the year; these tunnels range in complexity from simple ''gopher holes'' a few feet long at the border to massive drug-cartel built mega-tunnels, costing hundreds of thousands to millions of dollars to construct.

The need for this legislation is urgent. We must secure every aspect of our borders, including those we can't always see. And it is in our national security interest that we find these tunnels and prosecute those who construct, finance or recklessly permit the use of these tunnels on their land or property to the fullest extent of the law.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 2355

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 ''Border Tunnel Prevention Act''.

SEC. 2. CONSTRUCTION OF BORDER TUNNEL OR PASSAGE.

(a) IN GENERAL.—Chapter 27 of title 18, United States Code, is amended by adding at the end the following:

''§ 554. Border tunnels and passages

''(a) Any person who knowingly constructs or finances the construction of a tunnel or subterranean passage that crosses the international border between the United States and another country, other than a lawfully authorized tunnel or passage known to the Secretary of Homeland Security and subject to inspection by the Bureau of Immigration and Customs Enforcement, shall be imprisoned for not more than 20 years.

''(b) Any person who recklessly permits the construction or use of a tunnel or passage described in subsection (a) on land that the person owns or controls shall be imprisoned for not more than 10 years.

''(c) Any person who uses a tunnel or passage described in subsection (a) to unlawfully smuggle an alien, goods (in violation of section 545), controlled substances, weapons of mass destruction (including biological weapons), or a member of a terrorist organization (as defined in section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi))) shall be subject to twice the penalty that would have otherwise been imposed had the unlawful activity not made use of such a tunnel or passage.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 27 of title 18, United States Code, is amended by adding at the end the following:

''Sec. 554. Border tunnels and passages.''.

(c) CRIMINAL FORFEITURE.—Section 982(a)(6) of title 18, United States Code, is amended by inserting ''554,'' before ''1425,''.

SEC. 3. DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.

(a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall promulgate or amend sentencing guidelines to provide for increased penalties for persons convicted of offenses described in section 554 of title 18, United States Code, as added by section 1.

(b) REQUIREMENTS.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that the sentencing guidelines, policy statements, and official commentary reflect the serious nature of the offenses described in section 554 of title 18, United States Code, and the need for aggressive and appropriate law enforcement action to prevent such offenses;

(2) provide adequate base offense levels for offenses under such section;

(3) account for any aggravating or mitigating circumstances that might justify exceptions, including—

(A) the use of a tunnel or passage described in subsection (a) of such section to facilitate other felonies; and

(B) the circumstances for which the sentencing guidelines currently provide applicable sentencing enhancements;

(4) ensure reasonable consistency with other relevant directives, other sentencing guidelines, and statutes;

(5) make any necessary and conforming changes to the sentencing guidelines and policy statements; and

(6) ensure that the sentencing guidelines adequately meet the purposes of sentencing set forth in section 3553(a)(2) of title 18, United States Code.

By Mr. LEAHY:

S. 2356. A bill to prohibit profiteering and fraud relating to military action, relief, and reconstruction efforts, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, today I am introducing the ''War Profiteering Prevention Act of 2006.'' This bill creates criminal penalties for war profiteers and cheats who, for ill-gotten gain, would exploit the United States Government's taxpayer-funded war and reconstruction efforts in Iraq and elsewhere around the world. I am pleased that Senator DORGAN has also included this legislation in the ''Honest Leadership and Accountability in Contracting Act of 2006'' that is also being introduced today.

I previously introduced this legislation in 2003. It came to be cosponsored by 21 Senators, including Senators CLINTON, DODD, FEINSTEIN, JOHNSON, KERRY, LANDRIEU, BILL NELSON, WYDEN, DAYTON, DURBIN, FEINGOLD, HARKIN, JEFFORDS, KENNEDY, KOHL, LIEBERMAN and REID. The Senate Appropriations Committee unanimously accepted these provisions during a Senate Appropriations Committee markup of the $87 billion appropriations bill for Iraq and Afghanistan for Fiscal Year 2004, and it passed the Senate. It was the right thing to do then, and it is the right thing to do now.

Regrettably, the Republican leadership in the House stripped this legislation out of that appropriations bill, and we regrettably have been witnessing the results in the meantime. Billions appropriated for the continuing war efforts and for reconstruction are unaccounted for, and fraud has been rampant. The recent report of the special inspector general confirms that U.S. taxpayer funds appropriated for reconstruction have been lost and diverted.

There are, of course, anti-fraud laws to protect against waste of tax dollars at home. But none expressly prohibits war profiteering, and none expressly confers jurisdiction for fraud overseas. This bill would criminalize ''war profiteering''—overcharging taxpayers in order to defraud and to profit excessively from a war, military action, or reconstruction efforts. It would prohibit any fraud against the United States involving a contract for the provision of goods or services in connection with a war, military action, or for relief or reconstruction activities. This new crime would be a felony, subject to criminal penalties of up to 20 years in prison and fines of up to $1 million or twice the illegal gross profits of the crime.

The bill also prohibits false statements connected with the provision of goods or services in connection with a war or reconstruction effort. This crime would also be a felony, subject to criminal penalties of up to 10 years in prison and fines of up to $1 million or twice the illegal gross profits of the crime. These are strong and focused sanctions that are narrowly tailored to punish and deter fraud or excessive profiteering in contracts, here and abroad, related to the United States Government's war or reconstruction efforts.

Congress has sent more than a quarter of a trillion dollars to Iraq with too little accountability and too few financial controls. Disturbingly, there are widespread reports of waste, fraud and war profiteering in Iraq, and the special inspector general examining the use of reconstruction funds in Iraq recently found that billions of taxpayer dollars remain unaccounted for.

For example, a recent report on 60 Minutes revealed that more than $50 billion of U.S. taxpayer funds have gone to private contractors hired to guard bases, drive trucks, feed and shelter the troops and rebuild in Iraq. This is more than the entire annual budget of the Department of Homeland Security.

In addition, just this week, the New York Times, reported that the Army has decided to reimburse a Halliburton subsidiary—Kellogg Brown & Root—for nearly all of its disputed costs on a $2.41 billion no-bid contract to deliver fuel and repair oil equipment in Iraq, even though the Pentagon's own auditors had identified more than $250 million in charges as potentially excessive or unjustified. That article further notes that the Army's decision to pay all but 3.8 percent of these questionable charges lies well outside the normal practice of the military.

The recent revelations about contract fraud and abuse in Iraq make clear that the approach to reconstruction in Iraq has been a formula for mischief. We need strong disincentives for those who would take advantage of the chaos of war to defraud American taxpayers.

We also need to strengthen the tools available to federal prosecutors to combat war profiteering. Despite well-publicized allegations of fraud and war profiteering in Iraq, so far the Government has brought only one case to recover these funds—a civil lawsuit brought under the False Claims Act. That case involves a contractor accused of overcharging the Government millions of dollars under a contract to help distribute new Iraqi currency during the first months after the collapse of the Hussein government. The Government's ability to recover funds in that case is being questioned by the defendant, however, who argues that legal technicalities may constrain current law from reaching all of the conduct of contractors working in Iraq or elsewhere overseas. This bill would address this problem by providing clear authority for the Government to seek criminal penalties and to recover excessive profits for war profiteering overseas. It should already be law, but three years ago the House Republican leadership rejected it.

Every penny of our taxpayers' money must be expended carefully and purposefully and protected from waste. The message sent by this bill is that any act taken to financially exploit the crisis situation in Iraq or elsewhere overseas for exorbitant financial gain is unacceptable, reprehensible—and criminal. Such deceit demeans and exploits the sacrifices that our military personnel and National Guard are making in Iraq and Afghanistan.

When U.S. taxpayers have been called upon to bear the burden of reconstruction contracts—where contracts are awarded in a system that offers little competition and even less accountability—concerns about wartime profiteering are a grave matter. Historical efforts to stem such profiteering have been successful: Congress implemented excessive-profits taxes and contract renegotiation laws after both World Wars, and again after the Korean War. Advocating exactly such an approach, President Roosevelt once declared it our duty to ensure that ''ar few do not gain from the sacrifices of the many.'' Then, as now, our Government cannot in good faith ask its people to sacrifice for reconstruction efforts that allow so many others to profit unfairly.

There is urgency to this important measure because criminal statutes cannot be applied retroactively. These controls should have been put in place at least three years ago; they need to be in place now. I urge that the Senate make prompt passage of this legislation a high priority. I hope that this time the House Republican leadership will have learned the hard lessons of the last three years and that, this time, they will allow this bill's enactment, on behalf of the Nation's taxpayers. 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. 2356

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 ''War Profiteering Prevention Act of 2006''.

SEC. 2. PROHIBITION OF PROFITEERING.

(a) PROHIBITION.—

(1) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

''§ 1039. War profiteering and fraud relating to military action, relief, and reconstruction efforts

''(a) PROHIBITION.—

''(1) IN GENERAL.—Whoever, in any matter involving a contract or the provision of goods or services, directly or indirectly, in connection with a war, military action, or relief or reconstruction activities within the jurisdiction of the United States Government, knowingly and willfully—

''(A)(i) executes or attempts to execute a scheme or artifice to defraud the United States; or

''(ii) materially overvalues any good or service with the specific intent to defraud and excessively profit from the war, military action, or relief or reconstruction activities;

shall be fined under paragraph (2), imprisoned not more than 20 years, or both; or

''(B)(i) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;

''(ii) makes any materially false, fictitious, or fraudulent statements or representations; or

''(iii) makes or uses any materially false writing or document knowing the same to contain any materially false, fictitious or fraudulent statement or entry;

shall be fined under paragraph (2) imprisoned not more than 10 years, or both.

''(2) FINE.—A person convicted of an offense under paragraph (1) may be fined the greater of—

''(A) $1,000,000; or

''(B) if such person derives profits or other proceeds from the offense, not more than twice the gross profits or other proceeds.

''(b) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section.

''(c) VENUE.—A prosecution for an offense under this section may be brought—

''(1) as authorized by chapter 211 of this title;

''(2) in any district where any act in furtherance of the offense took place; or

''(3) in any district where any party to the contract or provider of goods or services is located.''.

(2) TABLE OF SECTIONS.—The table of sections for chapter 47 of title 18, United States Code, is amended by adding at the end the following:

''1039. War profiteering and fraud relating to military action, relief, and reconstruction efforts.''.

(b) CIVIL FORFEITURE.—Section 981(a)(1)(C) of title 18, United States Code, is amended by inserting ''1039,'' after ''1032,''.

(c) CRIMINAL FORFEITURE.—Section 982(a)(2)(B) of title 18, United States Code, is amended by striking ''or 1030'' and inserting ''1030, or 1039''.

(d) RICO.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by inserting the following: '', section 1039 (relating to war profiteering and fraud relating to military action, relief, and reconstruction efforts)'' after ''liquidating agent of financial institution),''.

By Mr. KENNEDY:

S. 2357. A bill to provide for economic security and prosperity; to the Committee on Finance.

Mr. KENNEDY. Mr. President, these have not been easy times for vast numbers of Americans. In many ways, the American dream is in peril for millions of our fellow citizens as global forces have caused the economy to shift against them.

Complacency is not the answer. Few things more affect the way we live than our shrinking and rapidly changing world. Unless we begin to address this immense challenge more effectively, the Nation will pay a high price for years and years to come. Now is the right time to reinvest in America's future, which is why I am today introducing the Right TRACK Act.

American families across the Nation know the problem. It is measured in jobs moving overseas, stagnant or even falling wages and benefits, our schools losing ground compared to other nations, and fewer opportunities to attain the American dream. Indeed, the course we are on today is a course that will make the American dream the impossible dream.

America cannot move forward if we cut back on investments in education, invention, and innovation, as the administration has proposed. We cannot compete in the world if our companies and our workers are saddled with soaring costs for health care. We cannot advance if we fail to invest in our own employees by paying them a decent wage, by taking steps to enable companies to keep jobs here at home, and by investing wisely in our own economic growth.

The 20th century was widely hailed as the American century, but the 21st century is up for grabs. No nation is guaranteed a future of lasting prosperity. We have to work for it. We have to sacrifice for it.

We have a choice. We can continue to be buffeted by the harsh winds of the global economy or we can think anew and guide the currents of globalization with a new progressive vision that strengthens America and equips our citizens to move confidently to the future.

Competing better in a race to the bottom is not the answer. Equality of opportunity—a bedrock principle of our democracy—is suffering already. Today, children born of parents in the bottom 20 percent of income have only a 1 in 15 chance of reaching the top 20 percent in their lifetimes. Also disturbing is the fact that those born in the middle are more likely to sink to the bottom than to rise to the top. And those born at the top are likely to stay at the top.

We cannot and should not compete by lowering wages. Instead, we must open new doors and new avenues for all Americans to make the most of their God-given talents and rekindle the fires of innovation in our society. By doing so, we can turn this era of globalization into a new era of opportunity for America.

As Thomas Jefferson said, ''Every generation needs a new revolution.'' And I believe the revolution for this generation is to master our own destiny in the new global economy.

What is most required is a new vision for America's future in the global community. Our goal is to rekindle the American Dream, so that if people work hard and play by the rules, they can succeed in life, be better off than their parents, live in good neighborhoods, raise strong families in safe surroundings, work in decent jobs with decent pay and decent benefits and a decent retirement.

To do all that, we must make a commitment to lifelong education, to prepare every man, woman, and child for the new world of intensifying competition and increasingly sophisticated technologies.

We must create high-quality jobs for the years ahead by investing in research and development, encouraging innovation, and modernizing all aspects of our infrastructure.

We must level the playing field for American businesses and employees, to ensure fair worldwide competition and preserve good jobs in the United States.

And we must make a fair commitment to assist and care for workers and communities harmed by the forces of globalization.

We can do all that, but only if we make the right choices, and the time to start is now.

I strongly believe that our highest priority must be a world class education for every American. We must seek a future where America competes with other nations, not by reducing our employees' pay and outsourcing their jobs but by raising their skills.

As a Nation, we must invest in Americans by ensuring access to the highest quality educational opportunities. We must make the American worker and manager the best educated, best trained, and most capable in the world. We need to nourish the capacities of every person in the nation.

To do that, we must begin in the earliest years. Research proves conclusively that what we do for children's early education and development does more to ensure their later success in school than any other investment we can make. It is far less costly to society to spend millions to put young children on the right track from the start, instead of spending billions to rescue them from the wrong track later. In fact, one study concludes that in the long run, we save $13 for every dollar invested in the early education of our youngest citizens. Prevention works in health care, and it can work in education too.

For generations, we have treated education as a three-legged stool—elementary and middle school, high school, and college. To create a solid foundation for the future, we have to add a fourth leg—early childhood education.

In elementary and secondary education, the No Child Left Behind Act was a pioneering reform that held great promise when it was signed into law by President Bush 4 years ago.

No Child Left Behind was not just an abstract goal. It was a moral commitment to every parent and every child and every school in America, and I was proud to stand with President Bush when he signed it. It soon became clear, however, that to the administration, it was more a slogan than a promise. Too many parents, too many children, too many schools are still waiting for the help we pledged.

We can't reform education without the resources needed to pay for the reforms. Promises alone won't provide the qualified teachers, high standards in every classroom, good afterschool activities, and the range of supplemental services that every good school needs if it is to provide the right help for students who need it.

No Child Left Behind was also a promise that every child counts—Black or White or Brown, rich or poor. It was a promise that disabled children too will have the qualified teachers and individual support they need to succeed in school and in life.

We must also do more to help students prepare for college, afford college, be admitted to college and complete college. In 1950, when I graduated from school, only 15 percent of jobs required some postsecondary training. Today, the number is over 60 percent and rising rapidly.

However, we are witnessing a growing gulf in college attendance between the rich and poor. The gap is shameful. Each year, 400,000 college-ready students don't attend a 4-year college because they can't afford it. Never before has the financial challenge of attending college been greater for young students.

It is time for America to agree that cost must never be a barrier to college education. Every child in America should be offered a contract, when they reach eighth grade, making clear that if they work hard, finish high school, and are accepted for college, we will guarantee them the cost of earning a degree. The Right TRACK Act authorizes Federal grants to States to support the creation of ''Contract for Educational Opportunity'' grants to cover students' unmet need up to the cost of attendance at 2-year and 4-year public colleges in that State.

Perhaps nowhere is it more obvious that we are falling behind than in math and science. For a nation that prides itself on innovation and discovery, the downward slide is shocking. In recent years, we have dropped to 28th in the industrial world in math education. Each year, China graduates three times as many engineers as we do. Other nations are gaining on us because they give higher priority to education.

The last time America was shocked into realizing we were unacceptably behind in math and science was in 1958, when the Soviet Union launched Sputnik. Republican President Eisenhower and a Democratic Congress responded by passing the National Defense Education Act, and almost overnight we doubled the Federal investment in education.

In fact, throughout our history, we have remade American education to conquer the challenges of each time. In the mid-1800s, with the Industrial Revolution in full swing, we created free and mandatory public schools before most other nations did. And to stay ahead, we rapidly established public high schools at the start of the last century to keep pace with a growing economy.

Once again, we did something comparable at the end of World War II. We passed the GI Bill of Rights and gave every returning veteran the chance for a college education. The Nation reaped a $7 return for every dollar it invested in their education. The result was the ''greatest generation,'' and it would never have happened without the GI bill.

That is the kind of initiative we need today, because the need is just as great. We need a new Education Bill of Rights, a new National Defense Education Act, for our own day and generation in science and math.

Let's make college free for students training to become math or science teachers.

Let's make college and graduate school free for low- and middle-income math and science students.

Let's see that our standards are internationally competitive, so that our high school graduates can succeed in this new economy. Let's offer incentives and other support for schools to develop and implement rigorous standards and courses in math and science.

The Right TRACK Act responds to each of these challenges. The legislation provides grants to low- and middle-income students studying in science, technology, engineering, and math fields, as well as critical-need foreign languages. The bill provides larger grants to students studying to become teachers in these fields who agree to work in a high poverty school for at least 4 years. It also provides teachers with tax credits, increased loan forgiveness as additional incentives to continue to teach where they are needed the most and invests in teacher training programs supporting their continuing education.

The Right TRACK Act also provides resources to states to create P–16 Preparedness Councils to help States with their efforts to improve State standards and ensure that they are aligned with the expectations of colleges, employers, and the armed services. The bill also provides funding to States working in collaboration to establish common standards and assessments.

The bill also directs resources to high need schools so they can invest in math, science, engineering, and technology textbooks and laboratories to ensure their students have equal access to a curriculum that will provide them with the skills they need to be successful in the 21st century global economy.

It is becoming increasingly important for students to become exposed to and immersed in other languages and cultures. In recent years, foreign language needs have significantly increased throughout the public and private sector due to the presence of a wider range of security threats, the emergence of new nation states, and the globalization of the U.S. economy. American businesses increasingly need employees experienced in foreign languages and international cultures to manage a culturally diverse workforce. Foreign language proficiency is a consideration in 44 percent of hiring decisions and 66 percent of retention decisions. Currently, the U.S. Government requires 34,000 employees with foreign language skills in 100 languages across more than 80 Federal agencies.

The Right TRACK Act responds to these needs by providing grants for elementary and secondary critical-need language programs, summer institutes to improve teachers' knowledge and instruction of foreign languages and international content, and study abroad and foreign language study opportunities for high school students, undergraduate, and graduate students.

We must also continue to invest in our current workforce. The Right TRACK Act builds on existing formula funds for job training with competitive grants to support innovative strategies to meet emerging labor market needs.

From our earliest days as a nation, education has been the engine of the American dream. Our country is home to the greatest universities in the world, and our education system has produced the world's leading scientists, writers, musicians, and inventors. We cannot let these achievements stall now. Slogans aren't strong enough. We have to put first things first and give children, parents, schools, communities and States the support they need to refuel the amazing engine of education and keep our country great in the years ahead.

Beyond education, we must recognize that the foundation of our prosperity in this global world is to remain on the cutting edge of technology and medical and scientific breakthroughs in the years ahead and translate those advances into reliable products and services. A strong and fully developed infrastructure will provide the backbone for that success.

America has always been a world leader in research and development, but we can no longer take our success for granted. Even in highly skilled industries, where our technology and infrastructure have preserved our competitive advantage we are increasingly at risk today. Rapidly growing economies in Asia, Eastern Europe, and South America are now formidable competitors, developing their economies into engines of growth based not just on low wages but on well-educated citizens, advanced infrastructure, and well-run businesses.

In Bangalore, India, a G.E. center employs more than 2,200 Ph.D.s. These workers are not sewing buttons on

shirts; they are carrying out advanced research on jet engines and developing mathematical models for investment. An Intel research and development center in the same city employs 3,000 engineers designing the next generation of computer chips.

However, despite increasing international competition, the Federal commitment to research outside the defense arena has declined under the Bush administration. Of particular concern is the drop in funding for basic research. Much of the research conducted by private companies is focused on getting a product quickly to market. That is not the basic research that lays new foundations for new discoveries. Funding for basic research has declined in the past few years at the National Institutes of Health, the National Science Foundation, the Department of Energy, and other key scientific agencies. And overall the Federal investment in research which once exceeded one percent of our GDP is now less than half a percent.

We cannot allow this trend to continue. The Right TRACK Act will help America maintain its position as the leader in innovation. The Right TRACK Act will not only make the R&D credit permanent but expand it to encourage small businesses, universities, and Federal laboratories to collaborate on research. And it will increase R&D funding for major Federal research agencies by 10 percent that we double it in 7 years.

Innovation is important for its own sake, but it is also what creates jobs. We are currently seeing our investment in R&D paying dividends in high growth, high technology industries such as nanotechnology. We need to help usher these new technologies out of the laboratory and into the marketplace. The Right TRACK Act would encourage investment in nanotechnology businesses and increase support for critical programs at the Department of Commerce that help manufacturers adopt and commercialize new technologies.

We also must invest in innovation and infrastructure—highways, mass transit, new sources of clean energy, health I.T., and more. The Right TRACK Act will authorize funds for capital improvements to Amtrak and expands and increases tax credits for school renovation and construction that will equip schools with 21st century technology.

These investments not only improve the quality of our lives, but they also create the quality jobs that drive our economy forward.

Broadband infrastructure is a perfect example. Two years ago, President Bush declared that every American should have access to affordable broadband technology by the year 2007. But the administration still has no plan to get us there. In the meantime, we have fallen to 16th in the world in broadband access behind countries such as Japan and the Netherlands that have broadband speeds four and five times faster than ours.

Widespread use of basic broadband would add $500 billion to our economy and create 1.2 million jobs. Clearly, this is the kind of infrastructure we should invest in to produce good jobs and economic growth in the future. The Right TRACK Act also puts us on the ''right track'' to take full advantage of that economic opportunity.

We also live in an age exploding with medical miracles. A generation ago, few could possibly have imagined the advances in science and biology that have revolutionized the practice of medicine. No one today can predict how new discoveries in the life sciences will improve our lives and change the world, but we can be certain the effects will be profound.

Thanks to the genius and dedication of scientists, doctors, and business leaders, the potential of medical research is virtually limitless. Diagnosing a faulty heart valve or blocked artery once meant risky and traumatic exploratory surgery. Today, doctors make the diagnosis with a miniature camera and fiber optic cable, and the patient can walk out of the office moments later.

A few years ago, it seemed inconceivable that anyone could decipher the entire genetic code—the very blueprint of life. But today, doctors across the globe can read that sequence on their computer screens and use the information to search for new ways to treat cancer, diabetes, Alzheimer's, Parkinson's and other major illnesses.

Continuing at the forefront of the life sciences may well be the most important way for America to retain its leadership in the world economy in the coming years.

Another of the fundamental challenges of the global economy is that our companies are losing business and our people are losing jobs because they are not competing on a level playing field.

Foreign governments manipulate their currencies to give their products an unfair advantage. They refuse to enforce basic labor protections like a minimum wage. They use abhorrent practices like child labor and forced labor. As a result, these countries can produce goods much more cheaply and dominate the global marketplace.

Our own trade deficit is skyrocketing because we are producing less at home and buying more from other nations. Last year, we imported a record $726 billion more than we exported—an all-time high.

We can't continue down this reckless path. It is too damaging to our economy. Over $2.2 trillion of our national debt today is owed to foreign investors and foreign governments. America has always controlled its own destiny but when foreigners are bankrolling our Government, our destiny is no longer in our hands.

It is not just our companies that suffer—our workers are also struggling because the playing field is so uneven. More and more of our companies are shipping U.S. jobs overseas. Fifty-four percent of America's top companies have already done so. Even governments are part of the offshoring bandwagon. In my home State of Massachusetts, the State government has hired contractors that used workers from India to process Medicaid data and answer questions about food stamps.

The Nation as a whole has lost nearly 3 million manufacturing jobs since 2001. The pain is widespread—48 States have lost manufacturing jobs under President Bush. These are not just blue-collar jobs. Millions of high-paying, white-collar jobs are also at risk of being shipped overseas, especially in the fields of medicine and computers.

The disappearance of these good jobs is reducing our standard of living and threatening the very existence of the American middle class. President Bush's so-called economic recovery has the worst job creation record of any recovery since World War II.

Those fortunate enough to have jobs are finding that their wages are stagnant even though other costs are soaring. College tuition is up 46 percent since 2001. Housing costs are up 49 percent. Health insurance is up 58 percent. Gasoline is $2.33 a gallon—40 percent higher than it was 5 years ago.

The foundation of the America dream is weakening. That is because more of what our economy produces in this recovery now goes to business profits and executive suite salaries, and less to employees, than at any time since such records began in 1929. Wages are down, but profits are up by more than 60 percent.

There is a better way. We need policies that reject the Walmart-ization of the American workforce.

We must level the playing field in the competition for good jobs and demonstrate leadership in promoting fair wages for workers around the world. This is not just an economic issue—it is a moral issue. The Right TRACK Act will help raise living standards worldwide by prioritizing the elimination of forced labor and child labor in U.S. trade agreements and providing incentives for multinational corporations to treat their foreign workers with respect. It will also level the playing field for American businesses by ensuring that countries cannot manipulate their currencies to give their goods an unfair advantage in the global market.

Rejecting the race to the bottom also means reaffirming our commitment to workers here at home. We must stop rewarding companies by giving them favorable tax breaks for shipping jobs overseas. The Right TRACK Act corrects this nonsensical policy by eliminating the tax loophole that allows companies to avoid paying taxes on money they have earned overseas. The act also addresses the offshoring epidemic by requiring companies to give workers better notice when their jobs could be offshored to other countries

and ensuring that the Government does not use hard-earned tax dollars to ship jobs overseas.

Our commitment to workers at home also demands that we give them their fair share of the economic growth that globalization brings. In this century, just as in the last, we must ensure that workers can organize and have a voice at work. The Right TRACK Act preserves the basic rights of American workers by protecting employees who try to organize from employer intimidation, supporting the democratic right of a majority of workers to choose a representative through fair and neutral card-check procedures, and requiring employers to come to the table and negotiate a first contract.

We owe a particular duty to those Americans who lose their jobs due to the effects of trade or economic downturns. When workers lose their jobs in the global economy, we should help in the difficult and painful transition to new employment with top-notch job training and income assistance for their families until they get another paycheck. The Right TRACK Act gives workers and communities harmed by trade the support they deserve. It expands the Trade Adjustment Assistance Program to include service workers and workers who lose their jobs due to increased trade with countries like China and India. It also improves funding levels for training programs, provides wage insurance for older workers who lose their jobs, and helps workers to retain their health care coverage during times of transition.

And it is a scandal that the minimum wage has been stuck at $5.15 an hour for the past 9 years, below the poverty line for a family of three. It is the lowest the minimum wage has been in real value in more than 50 years. How can so many Republicans in Congress keep voting against any increase? Why can't we all at least agree that no one who works for a living in America should have to live in poverty? The Right TRACK Act gives these hardworking Americans a long overdue raise by increasing the minimum wage to $7.25 an hour in three steps.

America has to rise to each and every dimension of this challenge. We can do it by creating a new culture of innovation and creativity that keeps our Nation in the lead in the global market place—by equipping every American to compete and win in the new global economy. Only then will our economy continue to grow and prosper. Only then will the good jobs of the future be made in the U.S.A.

The same can-do spirit of innovation, invention, and progress that brought us the automobile, the airplane, and the computer can do it again. Those advances brought the American dream closer for all, and we can't afford to let it slip away now.

The essence of the American dream is the ability to provide a better life for yourself and your family. At its very heart are a good job, first-class education, good health care, and a secure retirement. Some say the dream is out of reach in today's global economy. But I am here today to tell you it doesn't have to be that way. We can revitalize the American dream.

I have full confidence in our ability to meet these challenges and reach new heights of discovery prosperity, and progress. Passing the Right TRACK Act that I've introduced today is an important step towards ensuring that the American dream remains attainable for generations to come, and I urge my colleagues to support it.

By Mr. OBAMA:

S. 2358. A bill to amend title 38, United States Code, to establish a Hospital Quality Report Card Initiative to report on health care quality in Veterans Affairs hospitals; to the Committee on Veterans' Affairs.

By Mr. OBAMA:

S. 2359. A bill to amend title XVIII of the Social Security Act to establish a Hospital Quality Report Card Initiative under the Medicare program to assess and report on health care quality in hospitals; to the Committee on Finance.

Mr. OBAMA. Mr. President, today I am introducing legislation that would expand and improve quality reporting for our Nation's hospitals through the establishment of a national Hospital Quality Report Card Initiative.

Study after study has documented that health care quality in the United States is inconsistent and inadequate. The landmark 2003 RAND report by Beth McGlynn found that the chance of Americans getting recommended care is not much greater than the flip of coin. For many conditions, the chances are even worse—only about a third of diabetics and a quarter of patients with atrial fibrillation and hip fractures receive the right treatment, as do only about 10 percent of patients with alcohol dependence. Patients are suffering, and the financial costs of poor care are staggering. We can and must do more to ensure that every patient gets the right care, at the right time, in the right way.

One way to help improve health care quality is to measure and report the quality of care in our nation's hospitals. Hospital quality reports can help patients and consumers choose the hospital that will best serve their health needs. Purchasers and payers can use hospital quality information to help their decision-making about where employees and members can go for care. Hospitals and health care professionals would similarly benefit from identification of areas of need, and opportunities for quality improvement and cost containment. And finally, with greater quality reporting and transparency, we can begin to have an honest dialogue about health care quality and how to reform our health care system.

Several States have already developed and implemented hospital report card initiatives, and I am proud to say that Illinois began its own report card initiative in January of this year—an initiative that I spearheaded when I served in the Illinois State Senate.

On the national level, the Centers for Medicare and Medicaid Services (CMS) and the Hospital Quality Alliance have partnered to identify and encourage submission of quality measures for several health conditions, on a voluntary basis, in exchange for greater federal reimbursement. The Deficit Reduction Act codified this initiative earlier this year.

The Hospital Report Card Act, which I am introducing today, takes quality measurement one step further, by mandating that the Secretary expand and improve upon current quality reporting for hospitals. Within 18 months, the Secretary would establish a formal Hospital Report Card Initiative, and publish reports on individual hospital quality using data submitted for the value based purchasing program at CMS, but also including other data available to the Secretary. The report cards would report quality measures that align with those used in the National Healthcare Quality Report, including measures of effectiveness, safety, timeliness, efficiency, patient-centeredness, and equity. In addition, the report cards would provide information on other quality priorities for patients, such as staffing levels of nurses, rates of infections acquired in hospitals, volume of procedures performed, and availability of specialized care. The Secretary would also report measures of relevance to a number of priority populations, including women, children and minorities.

The bill requires the Secretary to take steps to ensure that all reported data is accurate and fairly represents hospital quality, and that hospitals have an opportunity to participate in the development of the report card initiative. I also want to make sure that sick patients have full access to the best hospitals, and so the report cards will risk-adjust quality data, so that hospitals are not inadvertently penalized for caring for more challenging patient populations.

We are hearing a lot of rhetoric about patient empowerment and consumer-driven health plans. However, we can't expect patients to make the best choices for their health care in the absence of accurate information on quality and costs. Similarly, we can't expect hospitals to recognize their areas of deficiencies or strengths without a critical look inwards. Finally, we can't expect the Nation at large to support and embrace healthcare reform without greater awareness of quality problems.

The Hospital Quality Report Card Act will help the Nation take one step closer to improving health care quality and containing costs, and I hope my colleagues will join me in passing this critical legislation.

By Mr. WYDEN:

S. 2360. A bill to ensure and promote a free and open Internet for all Americans; to the Committee on Commerce, Science, and Transportation.

Mr. WYDEN. Mr. President, a headline in today's Wall Street Journal warns consumers that they will soon face a ''pay to play'' Internet where those businesses and consumers who want to continue to see equal content get equal treatment will have to pay more. Rather than let them continue to have the freedom to choose whatever content, applications and services they want, the big network operators want to control the content consumers can access. Allowing the big network operators to discriminate on the Net is bad news for consumers, small businesses, schools, libraries, nonprofits and any other user who enjoys their freedom of access.

That is why today I am proposing legislation that will codify the principle of network neutrality. I want consumers, small businesses and every other Internet user to continue to enjoy tomorrow the full array of content, service and applications they enjoy today.

My legislation, the Internet Non-Discrimination Act of 2006, will establish the principle of network neutrality by requiring the operators of the network to treat all content on the Internet equally. It will ensure transparency so that everyone can easily determine all rates, terms and conditions for the provision of any communications. Transparency coupled with a complaint process before the Federal Communications Commission will encourage compliance.

This legislation has been developed in consultation with a number of consumer groups and businesses, and 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. 2360

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 ''Internet Non-Discrimination Act of 2006''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Since passage of the Telecommunications Act of 1996, the Internet has grown robustly. Today, Americans are changing how they access the Internet, moving from dial-up to broadband for their home connections. According to the Pew Internet and American Life Project, 72 percent of Americans use the Internet and 59 percent of Americans with home Internet have a high-speed Internet connection.

(2) Americans use the Internet for many daily activities. Over 17 percent of Americans have sold something over the Internet. Everyday, approximately 60,000,000 Americans use search engines to get access to information. 80 percent of Americans have looked online for health care information. In growing numbers, Americans are using the Internet to place phone calls, watch their favorite televisions shows or movies, and play games.

(3) The growth of the Internet and its success are due in large part to the freedom that has always existed on the content and applications layer of the Internet. Innovation has thrived on this layer, as anyone with a good idea has the ability to access consumers. The continuation of this freedom is essential for future innovation.

(4) Freedom on the content and applications layer has also led to robust competition for retail goods for consumers. Consumers can shop at thousands upon thousands of retailers from their home computers, including small businesses located miles away in other towns, States, and even countries.

(5) Such freedom is leading to the development of important new entertainment offerings, on-demand video and movie purchases, Internet Protocol television, and enhanced gaming options. The entertainment options available in the future will only be limited by the bandwidth that can be used and the innovation of people all over the world.

(6) Despite the growth of the Internet and increased access to the Internet for Americans, there is very little choice in who provides them high-speed Internet access. According to an April 2005 White Paper by Harold Feld and Gregory Rose, et. al., entitled, ''Connecting the Public: The Truth About Municipal Broadband'' only 2 percent of Americans get high-speed Internet access from someone other than their local phone company or cable provider. According to the Federal Communications Commission, approximately 20 percent of Americans do not have a high-speed Internet access provider that offers them service.

(7) As more and more Americans get high-speed access to the Internet without having much choice of who their provider will be, it is important that Congress protect the freedom on the Internet to ensure its continued success.

SEC. 3. DEFINITIONS.

In this Act, the following definitions shall apply:

(1) APPLICATION OR SERVICE.—The term ''application or service'' means any information or service—

(A) by which an end-user through software or a device engages in an exchange of data or information; and

(B) conveyed over communications.

(2) BITS.—The term ''bits'' or ''binary digits'' means the smallest unit of information in which form data is transported on the Internet as a single digit number in base-2.

(3) COMMISSION.—The term ''Commission'' means the Federal Communications Commission.

(4) COMMUNICATIONS.—The term ''communications''—

(A) means any voice, video, or data application or service, regardless of the facilities or technology used, that—

(i) is a transmission to subscribers by use of—

(I) the public rights-of-way;

(II) spectrum;

(III) numbering or addressing resources; or

(IV) other inputs licensed or managed by a unit of local government, or a private entity working in concert with such unit of local government, for the benefit of the public;

(ii) is offered to the public, or as to such classes of subscribers as to be effectively available directly to the public, with or without a fee; and

(iii) enables an end user, as part of such service, to transmit content of their own design or choosing between or among points specified by such user;

(B) includes interactive on-demand services, as such term is defined in section 602(12) of the Communications Act of 1934 (47 U.S.C. 522(12)); and

(C) does not include cable service, as such term is defined in section 602(6) of the Communications Act of 1934 (47 U.S.C. 522(6)).

(5) CONTENT.—The term ''content'' means information—

(A) in the form of writing, signs, signals, pictures, and sounds of all kinds, including stored information requested by an end user; and

(B) that is generated based on the input or request of such user.

(6) PERSON.—The term ''person'' means any natural person, partnership, firm, association, corporation, limited liability company, or other legal entity.

(7) NETWORK OPERATOR.—

(A) IN GENERAL.—The term ''network operator'' means any person who owns, operates, controls, or resells and controls any facility that provides communications directly to a subscriber.

(B) OBLIGATIONS.—Any obligation imposed on a network operator by the provisions of this Act shall apply only to the extent that such network operator is engaged in providing communications.

(8) SUBSCRIBER.—The term ''subscriber'' means any person who—

(A) is an end user of an application or service provided through communications; and

(B) consumes or provides goods provided through such application or service.

(9) TRANSMISSION COMPONENT.—The term ''transmission component'' means the portion of communications which enables an end user to transmit content of their own design and choosing between or among points specified by such user.

SEC. 4. OBLIGATIONS OF NETWORK OPERATORS.

(a) IN GENERAL.—A network operator shall—

(1) not interfere with, block, degrade, alter, modify, impair, or change any bits, content, application or service transmitted over the network of such operator;

(2) not discriminate in favor of itself or any other person, including any affiliate or company with which such operator has a business relationship in—

(A) allocating bandwidth; and

(B) transmitting content or applications or services to or from a subscriber in the provision of a communications;

(3) not assess a charge to any application or service provider not on the network of such operator for the delivery of traffic to any subscriber to the network of such operator;

(4) offer communications such that a subscriber can access, and a content provider can offer, unaffiliated content or applications or services in the same manner that content of the network operator is accessed and offered, without interference or surcharges;

(5) allow the attachment of any device, if such device is in compliance with part 68 of title 47, Code of Federal Regulations, without restricting any application or service that may be offered or provided using such a device;

(6) treat all data traveling over or on communications in a non-discriminatory way;

(7) offer just, reasonable, and non-discriminatory rates, terms, and conditions on the offering or provision of any service by another person using the transmission component of communications;

(8) provide non-discriminatory access and service to each subscriber; and

(9) post and make available for public inspection, in electronic form and in a manner that is transparent and easily understandable, all rates, terms, and conditions for the provision of any communications.

(b) PRESERVED AUTHORITY OF NETWORK OPERATORS.—Notwithstanding the requirements described in subsection (a), a network operator—

(1) may—

(A) take reasonable and non-discriminatory measures to protect subscribers from adware, spyware, malware, viruses, spam, pornography, content deemed inappropriate for minors, or any other similarly nefarious application or service that harms the Internet experience of subscribers, if such subscribers—

(i) are informed of the application or service; and

(ii) are given the opportunity to refuse or disable any such preventative application or service;

(B) support an application or service intended to prevent adware, spyware, malware, viruses, spam, pornography, content deemed inappropriate for minors, or any other similarly nefarious application or service that harms the Internet experience of subscribers, if such subscribers—

(i) are informed of the application or service; and

(ii) are given the opportunity to refuse or disable any such preventative application or service; and

(C) take reasonable and non-discriminatory measures to protect the security of the network of such operator, if such operator faces serious and irreparable harm; and

(2) shall—

(A) give priority to an emergency communication;

(B) comply with any court-ordered law enforcement directive; and

(C) prevent any activity that is unlawful or illegal under any Federal, State, or local law.

SEC. 5. COMPLAINTS REGARDING VIOLATIONS.

(a) COMPLAINT.—Any aggrieved party may submit a written complaint to the Commission seeking a ruling that a network operator has violated a requirement described in section 4(a).

(b) CONTENT OF COMPLAINT.—In any complaint submitted under subsection (a) an aggrieved party shall make a prima facie case that—

(1) a network operator violated a requirement of section 4(a);

(2) such violation was not a preserved authority described in subparagraph (A) or (B) of section 4(b)(1); and

(3) such violation is harmful to such party.

(c) 7-DAY ACCEPTANCE PERIOD.—Not later than 7 days after the date of the submission of a complaint under subsection (a), the Commission shall issue a decision regarding its acceptance or denial of the prima facie case made by an aggrieved party.

(d) CEASE AND DESIST.—

(1) IN GENERAL.—If the Commission accepts the prima facie case of an aggrieved party under subsection (c), a network operator shall be required to cease and desist the action that is the underlying basis of the complaint for the duration of the proceeding on such complaint, until such time as the Commission may rule that a violation of a requirement of section 4(a) has not occurred.

(2) AUTHORITY TO EXTEND CEASE AND DESIST ORDER.—The Commission shall have the authority to extend any cease and desist order to any similarly situated person as the Commission determines necessary and appropriate.

(e) BURDEN OF PROOF.—If the Commission accepts the prima facie case of an aggrieved party under subsection (c), a network operator shall bear the burden of proving that—

(1) no violation of section 4(a) occurred; or

(2) such violation was a preserved authority described in section 4(b).

(f) FINAL DECISION.—

(1) 90-DAY PERIOD.—Not later than 90 days after the date of the submission of a complaint under subsection (a), the Commission shall issue a final decision regarding the request for a ruling contained in such complaint.

(2) FAILURE TO ISSUE DECISION.—If the Commission fails to issue a decision at the expiration of the 90-day period described in paragraph (1), a violation of a requirement of section 4(a) shall be deemed to have occurred.

(g) RULES OF CONSTRUCTION.—

(1) DELEGATION.—

(A) IN GENERAL.—Nothing in this section shall be construed—

(i) to prevent the Commission from delegating any authority granted to it under this section to a relevant office or bureau pursuant to the authority granted the Commission under section 5(c) of the Communications Act of 1934 (47 U.S.C. 155(c)); or

(ii) to limit the Commission from adopting any appropriate procedures pursuant to any other provision of law.

(B) LIMITATION.—The rule established under subparagraph (A) shall only apply if at the expiration of the 90-day period described in subsection (f)(1)—

(i) the Commission issues a final decision that is ripe for judicial review; or

(ii) a violation of a requirement of section 4(a) shall be deemed to have occurred under subsection (f)(2).

(2) PETITION FOR RECONSIDERATION.—

(A) IN GENERAL.—Nothing in this section shall be construed to affect the ability of any eligible party to file a petition for reconsideration under section 405 of the Communications Act of 1934 (47 U.S.C. 405).

(B) TIMING.—

(i) 90-DAY PERIOD.—Not later than 90 days after the date of the submission of a petition for reconsideration under section 405 of the Communications Act of 1934 (47 U.S.C. 405), the Commission shall issue an order granting or denying such petition.

(ii) FAILURE TO ISSUE AN ORDER.—If the Commission fails to issue a decision at the expiration of the 90-day period described in clause (i), the previous decision of the Commission shall be considered affirmed and final for purposes of judicial review.

(3) JUDICIAL REVIEW.—Notwithstanding section 402(b) of the Communications Act of 1934 (47 U.S.C. 402(b)) and any other provision of law, any appeal of a decision of the Commission under this section shall be made to United States district court for the district in which the principle place of business of the aggrieved party is located.

(4) INTERVENTION BY THIRD PARTIES.—Nothing in this section shall be construed to prevent any interested person from intervening in any appeal of a decision of the Commission in accordance with section 402(e) of the Communications Act of 1934 (47 U.S.C. 402(e)).

SEC. 6. PENALTIES.

(a) IN GENERAL.—If the Commission issues a ruling under section 5 that a network operator is in violation of a requirement of section 4(a), such network operator shall be subject to the penalties prescribed under section 501 of the Communications Act of 1934 (47 U.S.C. 501).

(b) SEPARATE VIOLATIONS.—Each violation of a requirement of section 4(a) shall be treated as a separate incident for purposes of imposing penalties under subsection (a).

By Mr. BYRD:

S. 2362. A bill to establish the National Commission on Surveillance Activities and the Rights of Americans; to the Committee on the Judiciary.

Mr. BYRD. Mr. President, before the Presidents Day recess, I spoke about recent egregious examples of domestic surveillance by the executive branch, and I announced my intention to introduce legislation to establish a commission to investigate the instances of warrantless wiretapping and spying on U.S. citizens by the National Security Agency and other departments of Government.

I am not the lone voice raising questions about the legality of this program and its effect on the rights of law-abiding American citizens. I am only one—only one—in a growing chorus—a growing chorus—of concerned individuals. Since the New York Times broke the story of the NSA's wiretapping program, many in this Chamber on both sides of the aisle have questioned the legality of the warrantless wiretapping and have called for investigations into possible violations of the Foreign Intelligence Surveillance Act, as well as other transgressions against the spirit or the letter of our revered Constitution.

Many of our country's foremost constitutional scholars and professors of law have expressed their categorical opposition to the NSA's program, citing possible violations of both the Constitution and the Foreign Intelligence Surveillance Act. They agree that ''the program appears on its face''—on its face—''to violate existing law.''

These concerns have, of course, been dismissed by the same branch of Government that hatched the domestic spying program. Did you hear that? I will say it again. These concerns have been dismissed by the same branch of Government that hatched the domestic spying program. But this stonewalling—yes, that is stonewalling—this stonewalling is only part of the story. Important questions about NSA's program have been answered with strained and tenuous justifications or claims of the dire need for secrecy and, as a result, Congress's access to information has been severely—severely, severely—curtailed, by whom? By whom? Guess what, by the administration; by the administration.

There are some things we do know. We know that top officials in the Department of Justice who were concerned about questions of legality and lack of oversight of the program refused to endorse continued use of the NSA's wiretapping. That isn't all. We also know because of these concerns this secret program was suspended. Do you get that? This secret program was suspended temporarily due to questions about its legality.

What most Americans don't know is that FBI agents complained about the utility of the wiretapping program. Voluminous amounts of information and records that were gleaned from this secret eavesdropping program were sent from the National Security Agency to the Federal Bureau of Investigation, and FBI officials repeatedly complained that they were being drowned by a river of useless information that

diverted their resources from pursuing important counterterrorism work. Such complaints raise the question of whether the domestic wiretapping program may have backfired by sending our top counterterrorism agencies on wild-goose chases, thus making our country less secure instead of making our country more secure.

We know that one member of the Foreign Intelligence Surveillance Court, Judge James Robertson, resigned—yes, resigned—4 days after the New York Times first detailed the NSA's warrantless—warrantless—domestic surveillance. We know that only the chief judge of the FISA Court, the secret court charged with approving requests to conduct domestic surveillance, had any knowledge of this clandestine wiretapping program. The other judges, who are sworn to strict secrecy, learned of the program just as many of our citizens did—through reports in the press. Yes, thank God for a free press.

We know that although most of the judges of the Foreign Intelligence Surveillance Court were kept in the dark about the program, at least one of the judges was tipped off by an attorney within the Department of Justice that some of the information being presented to the court to secure warrants was improperly obtained, meaning the Government had apparently circumvented a court-ordered screening process to eliminate tainted evidence.

We know that in a February 28 letter to Senate Judiciary Committee Chairman ARLEN SPECTER, Attorney General Gonzales admitted that the Justice Department's legal justification for the wiretaps has ''evolved over time.''

What does that mean? Does it mean that there actually was no legal basis for the NSA to spy on American citizens when it first began the surveillance? Does it mean the Department had to gin up some legal basis for the spying once the program became public? Does it mean the administration's reliance on the use-of-force resolution to justify its snooping was simply a ploy—just a ploy—an ''after the fact'' face-saving device meant to give the administration cover for having violated the civil liberties of Americans?

We know that earlier this week, 18 Members of the House of Representatives sent a letter to President Bush requesting that he appoint a special counsel to investigate the NSA's warrantless surveillance of our citizens. In their letter, the House Members noted that with no clear information coming from the administration, they and all of America have been forced to rely primarily on press reports to determine the scope of the NSA's activities.

With so many questions unanswered by the administration, it is absolutely imperative that there be an objective investigation of this program and any violations of law that may have occurred.

We are in a supercharged political year—we know that, you know that, everybody knows that—an election year for one-third of the Senate, including this Senator from West Virginia, and for the entire House of Representatives. And the Senate Intelligence Committee as of today has refused to initiate a serious investigation into this matter. But an investigation has to go forward. The efficacy of our laws and our Constitution is at stake. That is why I am proposing legislation to establish a nonpartisan commission to review and investigate domestic surveillance in America, along with serious allegations of abuse. In this way, we will be sure to safeguard our first and fourth amendment rights as enumerated in this Constitution, as well as evaluate the actual effectiveness of such programs in combating terrorist threats.

James Madison wrote in his essay, ''Political Reflections,'' that ''[t]he fetters''—the fetters, f-e-t-t-e-r-s—''[t]he fetters imposed on liberty at home have ever been forged out of the weapons provided for defense against real, pretended, or imaginary dangers from abroad.

No one is suggesting that the threat of terrorist attacks is anything but a real threat, and one that must be of the Congress's utmost priority. But the suggestion that the American people would be safer in their homes if they just forego their constitutionally protected rights is a deliberately deceptive assertion that may forge the fetters that bind law-abiding citizens. Make no mistake about it: It is these ill-conceived strictures that may ultimately destroy precious liberties.

In fact, it is because our forefathers were fearful of re-creating the same tyrannous form of government from which many of them had fled, that the Bill of Rights—the Bill of Rights, those first 10 amendments—the Bill of Rights was added to the Constitution to better secure for all time—all time—the freedom from oppression that ever looms from an overly powerful executive. Get that. Get that. Let me say that again. It was because our forefathers, thank God, were fearful of re-creating the same tyrannous, the same tyrannical form of government from which many of them had fled that the Bill of Rights was added to the Constitution to better secure, for all time, the freedom from oppression that ever looms from an overly powerful executive. And you better believe it. You better believe it. Hear me. Hear me now. I will always speak out against an all-powerful executive, under either party.

In a climate of fear, liberties have been sacrificed time and again under the guise of keeping the Nation from harm. Fear. Yes, fear is a powerful tool for manipulation; useful for easing the American people out of their liberties and into submission. Fear. When the public is confronted with a situation, real or imagined, that inspires fear, the public rightfully look to their leaders—look to their leaders, Mr. President—for protection from foreboding consequences. The claim of wartime necessity always strengthens the hands of a President. Let me say that again. The claim of wartime necessity always strengthens a President, any President, Republican or Democrat. And often facts are sealed from the prying eyes of Congress by a purported need for secrecy.

But Senators, and that includes this Senator from West Virginia, Senators have a sworn duty—a sworn duty, a sworn duty—sworn right up there at that desk with their hand on the Bible—the holy Bible, the holy Bible, the holy Bible—with their hand on the Bible to check executive power. We have to be on guard every moment of every day. The executive branch, whether it be Democratic or Republican, is always reaching—always reaching, always reaching—always grabbing more power, more power, more power, and we have to be on guard. We have a sworn duty to check executive power and, as long as I live, I am going to stand for the checking of the executive power; I don't care whether it is a Democrat or Republican in the White House or an Independent. It makes no difference. We have a sworn duty. We swear. We put our hand on the Bible before God and man, and we swear to check executive power at all times—at all times—in times of crisis or otherwise. Each of us here, and there are 100 here, and each of this 100, 100 Senators, we are each bound to defend the Constitution and each bound to defend the liberties that the Constitution gives to all Americans, at all times, in times of peace and in times of war.

History has shown us many times that a climate of fear can take a hefty toll on our freedoms. That is your freedoms. That is your freedoms. That is your freedoms. Worse still are liberties surrendered in vain, resulting in little added security.

There is no doubt that constitutional freedoms will never be abolished in one fell swoop—never—for the American people cherish their freedoms, and they would not tolerate such a loss if they could perceive it; if they could see it coming, if they could hear it, if they could feel it, if they could perceive it. But the erosion of freedom rarely comes as an all-out frontal assault; rather, it is gradual, noxious, creeping, cloaked in secrecy and glossed over by reassurances of greater security.

The American people are a people born of sacrifice, and the sacrifices that the American people are willing to endure speak well of the tenacity and the strength that makes the United States of America what it is. Some may be tempted to accept on blind faith the administration's—any administration's, any administration's—promise of increased security, and they may see it as a duty to capitulate their rights for that flimsy promise. May we all pause to reflect on the hard-won liberties—the hard-won liberties—for which earlier generations fought and

died. Remember Nathan Hale. He died. He regretted that he had but one life to give, to lose, one life to lose for his country. Remember Patrick Henry: ''Give me liberty or give me death,'' he said. John Paul Jones: ''We have only begun to fight.''

So may we all pause to reflect, as we have just done, on the hard-won liberties for which earlier generations fought and died before we easily accept convincing rhetoric. Rhetoric is cheap. Talk is cheap. To suggest that innocent Americans surrender rights to preserve freedom is a false choice. It is also a slippery slope, one that is fraught with ever more secrecy and the certainty of egregious abuses of our Bill of Rights and of our laws over time.

The commission that I propose would determine how to best protect the homeland, as well as the most effective ways of gathering needed intelligence. It will examine the procedures for the NSA's use and retention of intelligence obtained without warrants, and the method and scope of dissemination of such information to other agencies. It will investigate any questions raised by the Foreign Intelligence Surveillance Court concerning the legality of the domestic spying program. It will examine the obligation of the President—do you get that? Do you hear that, Mr. President? Republican or Democrat. It will examine the obligation of the President to brief Members of Congress—not just one or two or three or four—on warrantless surveillance of American citizens. It will lift the fog—lift the fog—of secrecy and clandestine government activity misaimed at law-abiding citizens and perhaps, most importantly, it will shed much needed sunshine—let the sunshine in—much needed sunshine on any unlawful or unconstitutional executive—executive, executive intrusions into the lives of ordinary Americans.

By Ms. CANTWELL (for herself, Mr. BINGAMAN, Mr. HARKIN, Mr. LAUTENBERG, Mrs. BOXER, Mr. LIEBERMAN, Mrs. CLINTON, Mr. MENENDEZ, Mr. AKAKA, Mr. DODD, and Mr. KERRY):

S. 2364. A bill to provide lasting protection for inventoried roadless areas within the National Forest System; to the Committee on Energy and Natural Resources.

Ms. CANTWELL. Mr. President, I rise along with Senators BINGAMAN, HARKIN, LAUTENBERG, BOXER, LIEBERMAN, CLINTON, MENENDEZ, AKAKA, DODD and KERRY to introduce the Roadless Conservation Act of 2006.

Since Teddy Roosevelt established the national forest system 100 years ago, we have cherished these amazing public lands. They have provided both timber for our economy, and quiet solace for our souls. However, only a fraction of the vast natural forests that once covered our nation remain. I believe it is our duty to protect these lands before we have no natural forest legacy to pass on to our children.

Simply put, the Roadless Area Conservation Act of 2006 represents a balanced and reasoned approach to forest management on untouched public lands. This legislation reasserts safeguards in place in 2001 to protect our nation's the last remaining pristine forest lands, 58.5 million acres, from logging, road-building, and other environmentally damaging development. In Washington State alone there are 2,015,000 acres of National Forest system lands that qualify for protection as Roadless areas under the legislation.

The bill would prohibit new road construction or reconstruction in inventoried roadless areas while maintaining opportunities for hunting, fishing, hiking, mountain-biking, snowmobiling, cross-country skiing and other forms of outdoor recreation in our National Forests.

The legislation also includes a number of important exemptions to allow new road construction for human health and safety, oil and gas development, and other previously approved economic activities, such as ski trails.

What is more, it allows for hazardous fuels reduction, forest stewardship projects, and targeted economic activities. This legislation also helps address the serious fiscal challenge presented by the more than $8.6 billion dollar maintenance and reconstruction backlog on the 386,000 miles of existing U.S. Forest Service roads.

Of course, this might not sound new. And you'd be right. In many ways, we've travelled these roads before. The Clinton Administration finalized the Roadless Area Conservation Rule in January 2001, following three years of official review and public participation, over 600 public meetings—45 public meetings in Washington state alone—and hearings on each National Forest and in each Forest Service region.

During his confirmation hearing I asked Attorney General John Ashcroft if the administration would uphold the Roadless regulation. He pledged that he would. In May 2001, then-USDA Secretary Ann Venemen also pledged that the administration would stand by the Rule.

But that's not what happened. Through a series of subtle yet unmistakable steps the administration has allowed these protections to be undermined steadily. They've rolled over for logging companies and developers. They've cooked up loopholes for State-based petitions or settlements that could weaken or eliminate the protections afforded to these unique lands. And finally, in May of 2005, they dropped the pretense altogether when the U.S.D.A. Forest Service repealed the 2001 Roadless Area Conservation Rule, eliminating these vital roadless forest land protections.

The need for action today is more urgent than ever. These are national forest lands that provide unmatched outdoor recreation opportunities, critical fish and wildlife habitats, and promote clean drinking water for millions of Americans. This bill would not apply or effect state, tribal, county, municipal, or private lands and does not impact existing U.S. Forest Service roads, trails, or activities on those roads and trails.

The 2001 Roadless Rule has received unprecedented public support, including over four million comments submitted to the U.S. Forest Service asking that it not be overturned. Most recently, over 250,000 Americans, including over 100 current and former Olympic athletes, have filed a formal petition under the Administrative Procedures Act (APA) to reverse the Bush Administration's decision to eliminate the 2001 Rule. This legislation enjoys the support and endorsement of such groups as National Wildlife Federation, Trout Unlimited, the Heritage Forests Campaign, the Wilderness Society, and the Sierra Club.

I've worked to protect these pristine forest lands since the day I came into office, and I'll keep fighting to make sure this bill gets signed into law. We've heard it loud and clear: Americans don't want to see their hunting, fishing, and hiking areas turned into a reckless patchwork of road-building, logging, and mining.

Let's act today and pass the Roadless Conservation Act of 2006. The American people and future Americans deserve 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. 2364

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 ''Roadless Area Conservation Act of 2006''.

SEC. 2. FINDINGS AND PURPOSE.

(a) IN GENERAL.—Congress finds that—

(1) there is a compelling need to establish national protection for inventoried roadless areas of the National Forest System in order to protect the unique social and ecological values of those irreplaceable resources;

(2) roadless areas protect healthy watersheds and their numerous benefits including—

(A) protecting downstream communities from floods and tempering the effects of drought;

(B) ensuring a supply of clean water for domestic, agricultural, and industrial uses;

(C) helping maintain abundant and healthy fish and wildlife populations and habitats;

(D) providing the setting for many forms of outdoor recreation; and

(E) providing drinking water to millions of citizens from the more than 354 municipal watersheds found on roadless areas;

(3) maintaining roadless areas in a relatively undisturbed condition—

(A) saves downstream communities millions of dollars in water filtration costs; and

(B) is crucial to preserve the flow of affordable, clean water to a growing population;

(4) the protection of roadless areas can maintain biological strongholds and refuges for many imperiled species by halting the

ongoing fragmentation of the landscape into smaller and smaller parcels of land divided by road corridors;

(5) roadless areas conserve native biodiversity by serving as a bulwark against the spread of nonnative invasive species;

(6) roadless areas provide unparalleled opportunities for hiking, camping, picnicking, wildlife viewing, hunting, fishing, cross-country skiing, canoeing, mountain-biking, and similar activities;

(7) while roadless areas may have many wilderness-like attributes, unlike wilderness areas, the use of mechanized means of travel is allowed in many roadless areas;

(8) roadless areas contain many sites sacred to Native Americans and other groups that use roadless areas for spiritual and religious retreats;

(9) from the inception of Federal land management, it has been the mission of the Forest Service and other agencies to manage the National Forest System for the dual purposes of resource extraction and conservation;

(10) consistent with that dual mission, this Act—

(A) protects social and ecological values, while allowing for many multiple uses of inventoried roadless areas; and

(B) does not impose any limitations on the use of, or access to Nation Forest System, State, or private land outside inventoried roadless areas;

(11) establishing a consistent national policy for the protection of inventoried roadless areas—

(A) ensures that the considerable long-term ecological and economic benefits of protecting roadless areas for future generations are properly considered;

(B) diminishes the likelihood of controversy at the project level; and

(C) enables the Chief of the Forest Service to focus on the economic and environmental benefits of reducing hazardous fuel buildups in portions of the landscape that already have roads;

(12) the National Fire Plan indicates that fires are almost twice as likely to occur in roaded areas as in roadless areas, because roadless areas are generally located further away from communities and are harder to access;

(13) the report entitled ''Protecting People and Sustaining Resources in Fire-Adapted Ecosystems—A Cohesive Strategy'' (65 Fed. Reg. 67480) advocates a higher priority for fuel reduction on land that is near communities and readily accessible municipal watersheds;

(14) the Forest Service has an enormous backlog of maintenance needs for the existing 386,000 mile road system of the Forest Service that will cost millions of dollars to eliminate;

(15) no State or private land owner would continue to build new roads in the face of such an enormous backlog;

(16) failure to maintain forest roads—

(A) limits public access; and

(B) causes degradation of water quality and wildlife and fish habitat; and

(17) protection of roadless areas—

(A) will impact less than 0.5 percent of the national timber supply; and

(B) will have a negligible impact on oil and gas production because—

(i) the entire National Forest System provides only approximately 0.4 percent of the quantity of oil and gas that is produced in the United States; and

(ii) roadless areas provide only a fraction of the quantity of oil and gas that is produced in the National Forest System.

(b) PURPOSE.—The purpose of this Act is to provide, within the context of multiple-use management, lasting protection for inventoried roadless areas within the National Forest System.

SEC. 3. DEFINITIONS.

In this Act:

(1) CLASSIFIED ROAD.—

(A) IN GENERAL.—The term ''classified road'' means a road wholly or partially within, or adjacent to, National Forest System land that is determined to be needed for long-term motor vehicle access.

(B) INCLUSIONS.—The term ''classified road'' includes a State road, county road, privately-owned road, National Forest System road, and any other road authorized by the Forest Service.

(2) INVENTORIED ROADLESS AREA.—The term ''inventoried roadless area'' means 1 of the areas identified in the set of inventoried roadless area maps contained in the document entitled ''Forest Service Roadless Areas Conservation, Final Environmental Impact Statement, Volume 2'', dated November 2000.

(3) RESPONSIBLE OFFICIAL.—The term ''responsible official'' means a Forest Service line officer or employee with the authority and responsibility to make decisions regarding the protection and management of inventoried roadless areas under this Act.

(4) ROAD.—The term ''road'' means a motor vehicle travelway over 50 inches wide, unless designated and managed as a trail.

(5) ROAD CONSTRUCTION.—The term ''road construction'' means activity that results in the addition of classified road or temporary road miles.

(6) ROAD IMPROVEMENT.—The term ''road improvement'' means activity that results in—

(A) an increase of the traffic service level of an existing road;

(B) an expansion of the capacity of the road; or

(C) a change in the original design function of the road.

(7) ROADLESS AREA CHARACTERISTICS.—The term ''roadless area characteristics'' means resources or features that are often present in and characterize inventoried roadless areas, including—

(A) high quality or undisturbed soil, water, and air;

(B) sources of public drinking water;

(C) diversity of plant and animal communities;

(D) habitat for—

(i) threatened, endangered, candidate, or sensitive species, and species proposed for listing, under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

(ii) species dependent on large, undisturbed areas of land;

(E) primitive, semiprimitive nonmotorized, and semiprimitive motorized classes of dispersed recreation;

(F) reference landscapes;

(G) natural appearing landscapes with high scenic quality;

(H) traditional cultural properties and sacred sites; and

(I) other locally identified unique characteristics.

(8) ROAD MAINTENANCE.—The term ''road maintenance'' means ongoing upkeep of a road necessary to retain or restore the road in accordance with approved road management objectives.

(9) ROAD REALIGNMENT.—The term ''road realignment'' means an activity that results in—

(A) a new location of all or part of an existing road; and

(B) treatment of the old roadway.

(10) ROAD RECONSTRUCTION.—The term ''road reconstruction'' means an activity that results in improvement or realignment of an existing classified road.

(11) TEMPORARY ROAD.—The term ''temporary road'' means a road that is—

(A) authorized by contract, permit, lease, other written authorization, or emergency operation; and

(B) not intended to be part of the forest transportation system and not necessary for long-term resource management.

(12) UNCLASSIFIED ROAD.—The term ''unclassified road'' means a road on National Forest System land that is not managed as part of the forest transportation system, including—

(A) an unplanned road, abandoned travelway, or off-road vehicle track that has not been designated and managed as a trail; and

(B) a road that was once under permit or other authorization and was not decommissioned on the termination of the authorization.

SEC. 4. PROHIBITION ON ROAD CONSTRUCTION AND ROAD RECONSTRUCTION IN INVENTORIED ROADLESS AREAS.

(a) PROHIBITION.—Except as provided in subsection (b), road construction and road reconstruction may not take place in an inventoried roadless area of the National Forest System.

(b) EXCEPTIONS.—Road construction and road reconstruction may take place, including through the use of appropriated funds, in an inventoried roadless area of the National Forest System if the responsible official determines that—

(1) a road is needed to protect public health and safety in a case of an imminent threat of flood, fire, or other catastrophic event that, without intervention, would cause the loss of life or property;

(2) a road is needed to conduct—

(A) a response action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.); or

(B) a natural resource restoration action under—

(i) that Act;

(ii) section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321); or

(iii) the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.);

(3) a road is needed pursuant to a reserved or outstanding right, or as provided for by law or treaty;

(4) a road realignment is needed—

(A) to prevent irreparable resource damage that arises from the design, location, use, or deterioration of a classified road that cannot be mitigated by road maintenance; and

(B) to provide for essential public or private access, natural resource management, or public health or safety;

(5) road reconstruction is needed to implement a road safety improvement project on a classified road determined to be hazardous on the basis of accident experience or accident potential with respect to the road;

(6)(A) a Federal-aid highway project authorized under chapter 1 of title 23, United States Code, is—

(i) in the public interest; or

(ii) consistent with the purposes for which the land was reserved or acquired; and

(B) no other reasonable and prudent alternative to the project exists; or

(7)(A) a road is needed in conjunction with—

(i) the continuation, extension, or renewal of a mineral lease on land that is under lease by the Secretary of the Interior as of January 12, 2001; or

(ii) the issuance of a new lease issued immediately on the date of expiration of an existing lease described in clause (i);

(B) road construction or road reconstruction under this paragraph will be conducted in a manner that—

(i) minimizes the effects on surface resources;

(ii) prevents unnecessary or unreasonable surface disturbance; and

(iii) complies with all applicable laws (including regulations), lease requirements, and land and resource management plan directives; and

(C) a road constructed or reconstructed under this paragraph will be removed on the earlier of—

(i) the date on which the road is no longer needed for the purposes of the lease; or

(ii) the date of termination or expiration of the lease.

(c) ROAD MAINTENANCE.—A classified road in an inventoried roadless area may be maintained.

SEC. 5. PROHIBITION ON TIMBER CUTTING, SALE, OR REMOVAL IN INVENTORIED ROADLESS AREAS.

(a) PROHIBITION.—Except as provided in subsection (b), timber may not be cut, sold, or removed in an inventoried roadless area of the National Forest System.

(b) EXCEPTIONS.—Timber may be cut, sold, or removed in an inventoried roadless area if the responsible official determines that the cutting, sale, or removal of the timber is expected to be infrequent and—

(1) the cutting, sale, or removal of generally small diameter timber—

(A) will improve or maintain 1 or more roadless area characteristics; and

(B) is needed—

(i) to improve habitat for threatened, endangered, candidate, or sensitive species, and species proposed for listing, under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); or

(ii) to maintain or restore the characteristics of ecosystem composition and structure, such as to reduce the risk of uncharacteristic wildfire effects, within the range of variability that would be expected to occur under a natural disturbance regime of the current climatic period;

(2) the cutting, sale, or removal of timber is incidental to the implementation of a management activity not otherwise prohibited by this Act;

(3) the cutting, sale, or removal of timber is needed and appropriate for personal or administrative use, in accordance with part 223 of title 36, Code of Federal Regulations; or

(4) roadless characteristics have been substantially altered in a portion of an inventoried roadless area as a result of the construction of a classified road and subsequent timber harvest, if—

(A) the road construction and subsequent timber harvest occurred after the area was designated an inventoried roadless area and before January 12, 2001; and

(B) timber is cut, sold, or removed only in the substantially altered portion of the inventoried roadless area.

SEC. 6. SCOPE AND APPLICABILITY.

(a) EFFECT.—This Act does not—

(1) revoke, suspend, or modify any permit, contract, or other legal instrument authorizing the occupancy and use of National Forest System land issued or entered into before January 12, 2001;

(2) compel the amendment or revision of any land and resource management plan;

(3) revoke, suspend, or modify any decision concerning any project or activity made before January 12, 2001; or

(4) apply to road construction, reconstruction, or the cutting, sale, or removal of timber in an inventoried roadless area of the Tongass National Forest if a notice of availability of a draft environmental impact statement for such activity has been published in the Federal Register before January 12, 2001.

(b) LIMITATION ON REVISION.—The prohibitions and restrictions established in this Act are not subject to reconsideration, revision, or rescission in any subsequent project decision or amendment or revision to any land and resource management plan carried out in accordance with section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604).

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 387—RECOGNIZING THE NEED TO REPLACE THE UNITED NATIONS HUMAN RIGHTS COMMISSION WITH A NEW HUMAN RIGHTS COUNCIL

Mr. COLEMAN (for himself, Mr. SMITH, Mr. VOINOVICH, Mr. COBURN, and Mr. KYL) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 387

Whereas the United Nations Human Rights Commission (hereinafter ''UNHRC'') has lost its credibility as an instrument for the promotion or protection of human rights, instead allowing repressive regimes to shield themselves from criticism for their human rights violations;

Whereas Secretary-General Kofi Annan has also acknowledged that, ''the Commission's declining credibility has cast a shadow on the reputation of the United Nations system'';

Whereas the primary deficiency of the Human Rights Commission is directly related to its membership, where 6 of the 53 current members, namely China, Cuba, Eritrea, Saudi Arabia, Sudan, and Zimbabwe, are listed as the worst human-rights abusers by Freedom House, and many other members have serious deficiencies concerning commitments to democracy and human rights according to the Department of State Country Reports on Human Rights Practices;

Whereas the lack of membership criteria of the UNHRC, particularly when combined with the relatively large membership of 53 countries, hinders efforts to filter out countries with poor human rights records from membership;

Whereas the UNHRC spends a disproportionate amount of time vilifying Israel, its primary target for criticism, but fails to direct such sustained criticism at states engaged in the systematic abuse of human rights, with 30 percent of all country-specific resolutions critical of human rights records over the history of the UNHRC have been directed at Israel alone, while there has never been a single such resolution on China, Syria, or Zimbabwe;

Whereas the UNHRC has consistently failed to take decisive action against member states implicated in the massive violation of human rights, which is evidenced by the fact that the UNHRC has never held a special emergency session on Sudan despite millions of deaths over 2 decades in Sudan, but the UNHRC has held a special sitting to criticize Israel on the death of Sheikh Ahmed Yassin, the leader of Hamas;

Whereas the UNHRC only meets for 6 weeks each year, providing the UNHRC with insufficient time to review and take action against the most flagrant human rights violators;

Whereas Israel has been consistently discriminated against by being denied full participatory rights in regional group meetings associated with the operation of the UNHRC, while non-United Nations members such as the Holy See (WEOG) and the Palestinian observer participate in these meetings;

Whereas the overwhelming failures of the UNHRC led to an international consensus that it must be abolished and replaced with a new Human Rights Council, and the United Nations Summit Outcome Document, signed by all United Nations member states in September 2005, stated that ''Pursuant to our commitment to further strengthen the United Nations human rights machinery, we resolve to create a Human Rights Council. The Council will be responsible for promoting universal respect for the protection of all human rights and fundamental freedoms for all, without distinction of any kind and in a fair and equal manner. The Council should address situations of violations of human rights, including gross and systematic violations and make recommendations thereon. It should also promote effective coordination and the mainstreaming of human rights within the United Nations system.''; and

Whereas efforts by the United States and other committed democracies to carry out the mandate of the Summit Document to create a new credible Human Rights Council have been strongly opposed by human rights abusers at the United Nations: Now, therefore, be it

Resolved, That—

(1) the United States remains strongly committed to the creation of a new Human Rights Council to replace the discredited United Nations Human Rights Commission (hereinafter ''UNHRC''), and the proposal for such a Council should work to assure the integrity of its membership as well as provide a strong mandate for action;

(2) the Senate urges the President to use the present opportunity that has been generated by the international recognition of the need to replace the current UNHRC, and to refrain from supporting any proposal for a Human Rights Council that would result either in only cosmetic changes or changes that would even further degrade the membership and mandate of the current UNHRC;

(3) the Senate urges the President and the governments of other member countries of the United Nations to continue with negotiations for the creation of a Human Rights Council that is a credible human rights institution; and

(4) it is the sense of the Senate that an acceptable proposal for a credible Human Rights Council would—

(A) establish criteria for membership that would serve to exclude the worst human rights abusers, and such criteria would include, but should not be limited to, the automatic exclusion of member countries that are subject to Security Council sanctions;

(B) include a provision allowing full participation by Israel in all operations associated with the Council;

(C) set a size limit that is consistent with the goal of ensuring that only countries that respect human rights are members of the primary human rights body of the United Nations;

(D) establish a human rights review requirement that is tied to a mandatory outcome and takes place prior to elections for membership;

(E) exclude any provision that prevents the consecutive election of member countries to the Council; and

(F) utilize a formula for the distribution of membership among United Nations member countries that gives priority to countries that respect human rights, while also giving consideration to geographical distribution, the representation of different forms of civilization, and the principal legal systems.