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Senate

The Senate met at 9 a.m. and was called to order by the Honorable SAM BROWNBACK, a Senator from the State of Kansas.

PRAYER

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

Let us pray.

Great Shepherd of us all, remind us that You will not permit us to be tested beyond our strength. Inspire us in the face of great challenges by the fact that You have weighed the difficulties and will give us the power to meet them. Make us grateful for the opportunities to express our love for You by cheerfully bearing our crosses.

Strengthen our Senators. Do not remove their mountains, but give them the energy to climb them. Lead them around life's stumbling blocks to a destination that brings glory to You.

We pray in Your powerful Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable SAM BROWNBACK led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 7, 2006.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SAM BROWNBACK, a Senator from the State of Kansas, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

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

RESERVATION OF LEADER TIME

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

MARRIAGE PROTECTION AMENDMENT—MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the motion to proceed to S.J. Res. 1, which the clerk will report.

The bill clerk read as follows:

Motion to proceed to the consideration of S.J. Res. 1, proposing an amendment to the Constitution of the United States relating to marriage.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 9:40 shall be equally divided between the two leaders or their designees.

RECOGNITION OF THE MAJORITY LEADER

The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning we will have a brief period for closing remarks prior to the 10 a.m. vote on the Marriage Protection Amendment. That vote will be on a vote for cloture on the motion to proceed to S.J. Res. 1.

Following the 10 o'clock vote, the Senate will recess in order to attend a joint meeting with the House for the President of the Republic of Latvia, who will be addressing both Houses at 11 o'clock this morning. Senators should remain in the Chamber following the vote so we may leave at approximately 10:40 for that joint meeting.

When we return at noon, we have set aside debate times on two issues. First, from 12 o'clock to 3 o'clock, we will be debating the motion to proceed to the repeal of the death tax. A cloture motion was filed on proceeding to the death tax repeal. That vote will occur tomorrow morning. We have also set aside debate from 3 o'clock to 6 o'clock on the motion to proceed to the Native Hawaiians measure. The cloture vote will occur on that motion to proceed during tomorrow's session, as well.

I add that this week we have other matters to consider, including some nominations. We hope to reach agreements to consider Sue Schwab to be U.S. Trade Representative, the Assistant Secretary of Labor for Mine Safety and Health, and several available district judges who are on the Executive Calendar. We will be scheduling those for consideration through the remaining days this week.

RECOGNITION OF THE MINORITY LEADER

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

VOTING

Mr. REID. Mr. President, my only response would be on this side of the aisle, we will be voting on the estate tax.

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

Mr. FEINGOLD. Mr. President, we will shortly be voting on what will presumably be the 28th amendment to the U.S. Constitution. We all know the outcome of that vote. The amendment will fall well short of the 60 votes required for cloture, let alone the 67 votes required to pass a constitutional amendment, so it will fail, as it did 2 years ago. I am pleased that the Senate will reject this amendment.

I am heartened so many Senators have come to the Senate to speak out strongly against this misguided proposal, but I am saddened that once again the Senate has spent several

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

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days on such a divisive and unneeded proposal, a proposal that pits Americans against one another. I think it appeals to people's worst instincts and prejudices.

The arguments made by supporters of the amendment simply do not hold up under scrutiny. Supporters argue that Federal courts are basically on the brink of recognizing same-sex marriage and that States may be forced to recognize same-sex marriage performed in other States. Of course, neither of these things have happened, and no one has explained why we should do a preemptive strike on the basic governing document of the country to address a hypothetical future court decision.

Supporters talk about traditional marriage but in some ways have very little respect for the traditional role of the States in regulating marriage. If they did, they would not be trying to impose a restrictive Federal definition of marriage on all States for all time. The supporters argue that this amendment will not effect the ability of State legislatures to extend benefits to same-sex couples or enact civil unions, but as I tried to point out in some depth yesterday, even the legal experts who would support this constitutional amendment cannot even agree about its potential effect and scope. We are not talking about putting together a statute; we will put this into the Constitution.

Supporters rail against activist judges. But if this vaguely worded amendment ever passes, it will result in substantial litigation. What are the legal incidents of marriage? Is a civil union a marriage in all but name and therefore subject to the amendment? Judges would have to answer these and other questions that the supporters of the amendment have so far failed to resolve. There is certainly a rich irony in that.

We have heard moving speeches, and I do not doubt the sincerity of the speakers, about the central role and volume of marriage in our society. What I still do not understand, and what the supporters of the amendment have failed to demonstrate, is why we should prevent States from deciding to open this institution to men and women who happen to be gay and lesbian all over the country.

Married heterosexual couples are shaking their heads and wondering, how, exactly, the prospect of gay marriages threatens the health of their marriages.

This amendment would make a minority of Americans permanent second-class citizens of this country. It would prevent States, many of which are grappling with the definition of marriage, from deciding that gays and lesbians should be allowed to marry. It may even prevent States from offering certain benefits of marriage to same-sex couples through civil union or domestic partnership legislation. And it would write discrimination into a document that has served as a historic guarantee of individual freedom.

Gay Americans are our neighbors, our friends, our family members, and our colleagues. Millions are loving parents in strong and healthy families. Let's not demonize them. Let's not play upon fears. Let's not use them as scapegoats for perceived social problems. Let's allow—in fact, let's encourage—States to extend rights and responsibilities to these decent, loving, law-abiding families. We can start today by rejecting this unnecessary, mean-spirited and poorly drafted constitutional amendment.

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

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

The bill clerk proceeded to call the roll.

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

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

Mr. FEINGOLD. Mr. President, I ask the time during the quorum call be equally divided on both sides.

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

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

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

The bill clerk proceeded to call the roll.

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

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

Mr. BROWNBACK. How much time is remaining on our side of the aisle?

The PRESIDING OFFICER. There is 14½ minutes.

Mr. BROWNBACK. I ask when 7½ minutes have been used, I be informed.

The PRESIDING OFFICER. The Chair will inform the Senator.

Mr. BROWNBACK. Mr. President, if Members of the Senate vote as their States have voted on this amendment, the vote today will be 90 to 10 in favor of a constitutional amendment. Forty-five States have defined marriage as the union of a man and a woman.

I want to show my colleagues an outdated map. It shows the number of States that have weighed in on the topic of marriage. Yesterday, Alabama voted by 81 percent to define marriage as the union of a man and a woman. The dark green States are those that have already passed; light green are those where it is pending, and only five States have not defined marriage as a union between a man and a woman. So if Senators would represent their States, this amendment would pass 90 to 10. It would pass with the definition of marriage as the union of a man and a woman. And if anybody wants to define it otherwise, it will have to go through the State legislature, not the courts.

So there is nothing to oppose in this amendment. If your State wanted to go at it by a different route, it says it has to go through the legislature. It can't be forced by the court. What is wrong with that?

I find it a sad prospect that we might not be able to pass this 90 to 10. Marriage is a foundational institution. It is under attack by the courts. It needs to be defended in this way by defining it as the union of a man and a woman as 45 of our 50 States have done. If it is going to be defined otherwise, it must be done by the legislatures and not by the courts.

This morning we are going to vote on a constitutional amendment to define marriage as the union of a man and a woman. This is about who is going to determine the definition, whether it is the courts or the legislative bodies. The amendment is about how we are going to raise the next generation. How are they going to be raised? It is a fundamental issue for our families and for our future. It is an issue for the people. It is not an issue that the courts should resolve. Those of us who support this amendment are doing so in an effort to let the people decide.

There has been a lot of eloquent debate about this constitutional amendment. I have been on the Senate floor most of the time. I have heard very little debate against the amendment. I have heard a lot of people complaining that we ought to take up something else, that this is not so important. I look at it and say, we have this many States that have deemed it important enough that they would put it on their ballots. This is important. We have had basically one, two, maybe three speakers say they really question the amendment, but most of them say we shouldn't spend our time on this amendment. We shouldn't spend our time on the estate tax. They don't mention the native Hawaiian bill that is coming up, or suggest that we should not spend our time on that.

We are going to have this vote. People are going to be responsible for this vote. We are making progress in America on defining marriage as the union of a man and a woman, and we will not stop until it is defined and protected as the union of a man and a woman. We have far more States now that have voted on this issue than the last time we voted on it. We now have far more court challenges taking place to this fundamental definition of how we look at the union of marriage.

Marriage is about our future. I continue to be struck by the opponents of this amendment who say it is an effort to promote discrimination. The amendment is about promoting our future, our families, how we raise that next generation, and about allowing a definition of a fundamental institution to be made by the people rather than by the courts.

I have shown a number of charts demonstrating that the best situation for our children to be raised is in a home with a mother and father. Children need these two parents. It is not

that you can't raise good children in a single-parent household; you can. Many struggle heroically to do so. Yet we know from all the data that the best place is with a mother and father. Children do best academically and socially, and they are more likely to be raised in financially stable homes when a mother and father are both present.

More importantly, they have the security of knowing there are two people in their lives who provide security and stability, two people who provide something, each differently, but that is very important.

These two people become one. They are united. They become one bonded together. This past weekend, my mother-in-law and father-in-law celebrated 56 years of marriage. While often they may disagree with one another—sometimes pretty heatedly, sometimes one could call it almost barking at each other—they are inseparable. They are one. It is a beautiful thing to see. It is the way that we should uphold these institutions. Their children and their grandchildren and great-grandchildren get to see these two people, two old trees leaning against each other, holding each other up, physical bodies not anything near what they used to be, but supporting and helping and setting a foundation for all future generations to look at and say: That is the way it ought to be done.

Life hasn't always been easy for them. There have been difficulties through time. They have had some hardships, working together. My father-in-law has done very well, served in Korea, during which time they were separated by many miles.

My parents have been married over 50 years. You look at them and say: That is the way it should be, where two become one. Out of that union comes more people, more children, raised with a solid set of foundational values that you hope can be good citizens. We are all going to have difficulties and problems, but isn't that something that we can do and we should do for the next generation?

We have an important issue in front of us, the definition of marriage. We have a country that is watching and that knows what they believe marriage should be defined as, the union of a man and a woman, as 45 States have defined it. The courts are moving otherwise. We say let the legislatures decide, and that it is an important issue, meritorious of our vote.

To those who oppose this amendment, I think they will have to explain to a lot of people why they oppose marriage as the union of a man and a woman and why they don't think the State legislatures should be the ones responsible for defining this but, rather, that this should be defined by the courts. I don't think their position is across America.

This is important. I hope my colleagues support this constitutional amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. ALLARD. Mr. President, I begin by thanking the majority leader and the 32 cosponsors of S.J. Res. 1, the Marriage Protection Amendment. I thank the Senator from Kansas for his leadership, courage, and for standing in support with me of marriage.

We as Senators are called to duty to debate this issue today out of respect for the democratic process. The voice of the people has been heard loud and clear. Marriage is the union of a man and a woman.

It has been heard in the 20 States with constitutional amendments passed by an average of over 70 percent of voters. It has been heard in the 26 States with statutes protecting traditional marriage. It has been heard in 45 States and in this Congress.

Unfortunately, dissatisfied with the outcome of the democratic process, a handful of activists have launched a carefully coordinated campaign to circumvent the democratic process and redefine marriage through the courts.

As a result, I introduced S.J. Res. 1, an amendment to the Constitution, that simply defines marriage as a union of a man and a woman, while leaving all other issues of civil unions or domestic partnerships to the States. I am pleased the issue has this week been debated in a democratically elected and deliberative body—where it belongs.

Throughout the course of the past 2 days, I have heard countless arguments in favor of marriage from both sides of the aisle. Surprisingly, many of the same people making those arguments will not vote for our amendment to protect marriage.

Equally as surprising, notwithstanding their opposition, I heard few arguments opposing my amendment on the merits. Instead, most of those opposed to the amendment shifted the debate to issues other than the pending business. I suspect these shifts were meant to divert attention away from their intent to vote differently than an average of 70 percent of their constituents do when they vote on the issue of same-sex marriage at home.

While other issues are without a doubt very important, the Senate has and continues to devote considerable time and will likely devote even more time to debate on these important issues this year. With the overwhelming support that was voiced on this floor for the institution of marriage, one would think that addressing the nationwide attack on marriage that is underway would warrant at least 1 full day of debate on the issue.

The one tack taken by those opposed to the amendment most closely resembling an argument on the merits came in the form of States rights. While well meaning, the argument is unfounded.

First, my amendment actually protects States rights. Same-sex advocates have, through the courts, systematically and successfully trampled on laws democratically enacted in the States. My amendment takes the issue out of the hands of a handful of activist judges and puts it squarely back in the hands of the States.

Secondly, the process to amend the Constitution is the most democratic, federalist process in all our government. It is neither an exclusively Federal nor an exclusively State action. It is the shared responsibility of both. Once passed by the Congress, legislatures in all 50 States will have the opportunity to debate and decide this issue for themselves.

Finally, under my amendment, States remain free to address the issue of civil unions and domestic partnerships. Citizens acting through their State legislatures can bestow whatever benefits to same-sex couples they choose. The real danger to States rights would be to do nothing and to acquiesce to the recognition of unenumerated constitutional rights in which the States have had no participation.

The truth is, the Constitution will be amended whether we pass this bill or not. The only question is whether it will be amended through the amendment process or by unaccountable activist judges. If we fail to redefine marriage, the courts will not hesitate to do it for us.

I, for one, believe the institution of marriage and the principles of democracy are too precious to surrender to the whims of a handful of unelected activist judges. I urge my colleagues to join me in my stand for democracy and marriage by voting yes on S.J. Res. 1, the Marriage Protection Amendment.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

Mr. DURBIN. Mr. President, one of the first things a Member of the Senate should learn is humility, humility when it comes to some of the documents that guide our Nation. We certainly understand the Constitution we are sworn to uphold and defend is a treasured document which has guided us for over two centuries. I, for one, come to the subject of amending this Constitution with real humility. I think it is bold of some of my colleagues to believe that their handiwork, their words, could stand the test of time, could be measured against the work product of Thomas Jefferson and the greats in American history.

This matter before us today is an attempt by some of my colleagues to amend the Constitution, to change the document which has guided America for so long. I have seen a lot of these amendments come and go as a member of the Judiciary Committee. Some of them, frankly, couldn't even make it

through the committee, let alone on the Senate floor or be sent to legislatures for approval.

But still Members come forward with a variety of ideas. Today, we consider the so-called Marriage Protection Amendment. My friend, my colleague from Colorado, Senator ALLARD, the lead sponsor of it, says this amendment will not infringe on the rights of States to determine the status of different relationships. Yet let me read the language of his amendment:

> Neither this Constitution, nor the Constitution of any State, shall be construed to require that marriage or the legal incidents thereof be conferred upon any union other than the union of a man and a woman.

So if my State of Illinois decides to establish a domestic partnership law and say that two people of the same gender can live together and share health insurance and can be in a relationship where there would be a guarantee that they would have access to visit one another in times of hospitalization and sickness, where property rights could be established, is that a legal incident of married life? Most people would say yes. Clearly, this language says it would be prohibited. So what we have here goes far beyond the concept of marriage. We have to take care not to put language in this Constitution that will come back to haunt us.

I step back, too, and look at this debate and wonder, why are we here on the floor of the Senate doing this? Why are we debating this issue above all others? Why are we taking virtually a week of Senate business time to debate the issue of gay marriage? I think it goes back to a statement made by President Bush a couple weeks ago on the issue of immigration. This is what he said:

> We cannot build a unified country by inciting people to anger, or playing on anyone's fears, or exploiting [an] issue . . . for political gain.

He was referring to the issue of immigration, but the standard is a good one. We have a responsibility to unite America and not divide it.

Mr. President, I wish you could hear the telephone calls to my office. The people calling in support of this amendment—many of them—are very courteous and ask me to vote for the amendment. But, sadly, so many of them call spewing their hatred and bigotry of people of different sexual orientation. You think to yourself, is this good for America? Is it good for us to have this sort of angry display brought out by our actions on the floor of the Senate at a time when we know this constitutional amendment will not be enacted by the Senate? Nobody believes it will receive the 67 votes that are necessary for final passage, and few believe it will even come close to the 60 votes necessary on a cloture motion. Yet we come today, as we have times before, to bring up this issue.

This debate is not about the preservation of marriage. This debate is about the preservation of a majority. The Republican majority believes that if they can bring these issues which fire up their political base to the floor, they will have better luck in the November election. So at the risk of dividing America, at the risk of putting language in the Constitution that could not stand the test of time, they will take the time of the Senate and engage us in this debate. That is unfortunate when you think of so many other things we should be dealing with.

Would this not have been a great week to deal with energy policy and reducing our dependence on foreign oil, to make America less dependent upon the Middle East and the foreign powers that push us around because we need their oil to propel our economy? Would this not have been a perfect week to debate affordable and accessible health care for every single American? Would this not have been a perfect week for us to decide what in the 21st century we need to do to make sure our schools prepare our citizens to continue to lead in this world? Would this not have been an important week for us to come together and have a meaningful debate on the war in Iraq which has claimed 2,476 of our best and bravest young men and women?

No. The Republican majority said no. They said this is a perfect week for us to come together and discuss a flawed amendment to the Constitution, for us to come together on an issue that, sadly, divides us rather than unites us as Americans, and to take that time off the Senate calendar. I think it is very clear that this is not a voter priority. It is not an American priority. When the American people were asked in a Gallup Poll in April, ''What do you think is the most important problem facing this country today,'' this issue came in at No. 33. But for Senator FRIST and the Republican majority, it is No. 1 this week. I think most people realize there is political motivation here and that is what it is all about.

We should also consider the reality that this is clearly a State issue. States have always established the standards for marriage. That has been the tradition in American law, a tradition which would be upset and voided by this amendment. Each State may have slightly different standards.

A few years ago, under a Democratic President, Congress passed the Defense of Marriage Act. The Defense of Marriage Act said that no State would be compelled to recognize the standards of another State when it came to same-sex marriage. Now, that means in the State of Massachusetts, where gay marriage is allowed, they can make that decision. The people in that State can validate that decision and courts can approve that decision, but they cannot impose that decision on Kansas, Colorado, Illinois, or Alabama.

The Defense of Marriage Act has never been successfully challenged, never been overturned, and it is the law of the land. But it is not good enough for those who propose this amendment. They want more. I believe that is unfortunate. It is unfortunate when we consider that we are taking the precious time of the Senate on an issue which we should not be considering at this moment. The Republican leadership ought to listen to First Lady Laura Bush. She was asked about this amendment last month on ''FOX News Sunday''—the fair and balanced FOX, remember that? This is what she said:

> I don't think it should be used as a campaign tool, obviously.

That sentiment was echoed last month by the daughter of Vice President CHENEY. This is what she said:

> I certainly don't know what conversations have gone on between Karl [Rove] and anybody up on the Hill, but . . . this amendment . . . is writing discrimination into the Constitution and . . . it is fundamentally wrong.

Now consider the wise words of another former Senator, a loyal Republican, John Danforth of Missouri—a conservative man, but he opposes this amendment. He said this in a recent speech:

> Some historian should really look at all of the proposals that have been put forth throughout the history of our country for possible constitutional amendments. Maybe at some point in time there was one that was sillier than this one, but I don't know of one.

In fact, over 11,000 constitutional amendments have been proposed by Members of Congress throughout our history. Only 17 of them actually passed into the Bill of Rights. Why? Because amending our Constitution should take place under only the most extraordinary circumstances. We should amend it only when it is essential to protect the rights and liberties of the American people.

I am joined in this belief not only by Democrats but by Senator Danforth, the Vice President's daughter, the First Lady, and by many true conservatives.

Listen to what Steve Chapman, a libertarian writer from the Chicago Tribune, wrote:

> If there is anything American conservatives should revere, it's the U.S. Constitution, a timeless work of political genius. Having provided the foundation for one of the freest societies and most durable democracies on Earth, it shouldn't be altered lightly or often.

As United States Senators, we take an oath. We solemnly swear to support and defend this Constitution. I believe part of that oath requires us to take care when it comes to changing the Constitution.

I have listened to some of the debate on the floor. The Presiding Officer from Kansas spoke yesterday about marriage in America. I think it is a legitimate concern. America's strength is its families. The family of Americans has been the model—the goal, really—and the leadership of our Nation. But to argue for this amendment, suggesting that the increase in births to unmarried women is somehow

linked to gay marriage—I don't understand that connection in any way whatsoever. To suggest that lower income level people are less likely to marry and that has something to do with gay marriage—I don't understand that connection, either.

If we are truly going to strengthen the American family, would we not want to increase the minimum wage in America, which hasn't been increased by this Republican Congress in 9 years? Would we not want to provide basic health insurance to families so they can have peace of mind when their children get sick? Would that not strengthen families? Would we not want to make sure we have good-paying jobs in America that create opportunities so people can look ahead with optimism? Would that not strengthen families and our country? Instead, we have the gay marriage amendment.

In the State of Kansas, the former Republican State chairman has decided to become a Democrat. He said he was tired of the culture wars the Republican Party tended to always want to fight. We saw it here in the Congress last year when the House Republicans were in trouble and they brought up the tragic case of Terri Schiavo—an invasion of the Federal Government into the most personal, private decision a family could face. Now, again, facing political difficulty, they bring up this Federal marriage amendment. It will not pass today. We must set it behind us and move forward on the important agenda the American people sent us to Washington to work on. Let us do it in the spirit that President Bush reminded us of a few weeks ago—building a unified country, not inciting people to anger or playing on anyone's fears or exploiting an issue for political gain.

I hope my colleagues will join me in opposing amending the Constitution, despite the best efforts of those who bring this issue before us today in S.J. Res. 1. This does not merit inclusion in the most treasured and important document that guides America and its democracy.

Mr. LEVIN. Mr. President, the Senate is once again debating an amendment which proposes to establish a Federal definition of marriage in the U.S. Constitution. Only 2 years ago, the Senate rejected a similar effort.

One stated reason for considering this amendment is to protect States from having to honor the decisions of other States regarding marriage laws. This is unnecessary because 10 years ago this body overwhelmingly passed, and President Clinton signed into law, the Defense of Marriage Act, DOMA, which I supported, which states that "No State . . . shall be required to give effect to any public act, record, or judicial proceeding of any other State . . . respecting a relationship between persons of the same sex that is treated as a marriage under the laws of such other State . . . or a right or claim arising from such relationship." The Defense of Marriage Act has clearly already defined "marriage" as "only a legal union between one man and one woman as husband and wife."

Proponents of this amendment argue that it is only a matter of time before the Federal courts become involved with marriage law, and they raise the fear that the Defense of Marriage Act could be struck down by so-called "activist" judges and courts. However, this simply has not been the case. This same argument was made in the Senate in 2004, but the Defense of Marriage Act still stands and remains law.

Since 2004, DOMA has been upheld three times in Federal courts. In 2004, a Washington Federal judge upheld DOMA in a case where a couple had obtained a Canadian marriage license. In 2005, a Florida Federal district court upheld DOMA as constitutional in a case where a couple married in Massachusetts sought recognition of their marriage in Florida. And only last month, the Ninth Circuit Court of Appeals upheld a lower court decision dismissing a challenge to DOMA in California. There is no particular reason to believe that another pending challenge currently in district court or future challenges to DOMA will be successful.

I believe that the laws regarding marriage are matters to be dealt with by the States. My State of Michigan, for example, enacted a constitutional amendment in 2004 which provides that marriages and other similar unions shall only be recognized as being between one man and one woman. DOMA continues to protect each State's right to define marriage.

The language of the proposed constitutional amendment contains a number of other problems. The amendment reads "Marriage in the United States shall consist only of the union of a man and a woman. Neither this Constitution, nor the constitution of any State, shall be construed to require that marriage or the legal incidents thereof be conferred upon any union other than the union of a man and a woman."

The principal sponsor of this amendment, Senator ALLARD, states that this amendment will give "State legislatures the freedom to address civil unions however they see fit," even though this is a power the States already possess. In fact, the very language of this constitutional amendment would make it unconstitutional for the States to create civil unions or domestic partnerships in their constitutions with any of the same legal benefits currently afforded to marriage.

Our Constitution should not be altered lightly. It has been amended only 17 times since the enactment of the Bill of Rights over 200 years ago. As former Republican Congressman Bob Barr, the author of the Defense of Marriage Act, stated in testimony before the House Judiciary Committee 2 years ago, "We meddle with the Constitution to our own peril. If we begin to treat the Constitution as our personal sandbox, in which to build and destroy castles as we please, we risk diluting the grandeur of having a Constitution in the first place."

The Constitution has been amended in the past to broaden and affirm the rights of Americans and never to narrow the rights of a group of Americans. Amendments to our Constitution have freed enslaved Americans and given women the right to vote. And it is the first 10 amendments, our Bill of Rights, which protect our most cherished freedoms like the freedom of speech.

For all these reasons, I will oppose the adoption of this constitutional amendment.

Mr. KERRY. Mr. President, for the past 3 days, the Senate has been bogged down debating a constitutional amendment on gay marriage.

You might ask yourself, why now? What's the constitutional crisis that needed to be addressed this week? Did the Republican leader bring this legislation to the floor in response to a marriage crisis in the United States?

States, which have had the responsibility of setting marriage laws for two centuries, have taken action on gay marriage as they've seen fit. No crisis there.

No, this amendment is front and center in the Senate in response to a political crisis: a crisis in the Republican Party.

What is most outrageous to Americans is the cost of this debate in opportunities lost to address very clear and present crises in our country. Debating the constitutional amendment to ban gay marriage displaces Americans' real priorities—dealing with gas prices and our dangerous dependence on foreign oil, providing health care to the 45 million uninsured, lowering health care costs, advancing stem cell research, securing our ports, bringing our troops home from Iraq, and ensuring our returning veterans have the support they need.

Why the sudden call from so-called conservatives to take the power to regulate marriage away from the States? The Federal Government does not even have the jurisdiction to regulate marriage. Since this country was founded, States have had the authority to regulate marriage and other family-related matters. Currently 49 States limit marriage licenses to heterosexual couples, and 18 States have adopted State constitutional amendments banning same-sex marriages. For over 200 years, this balance of power has worked.

The Federal Government is not in the business of issuing marriage licenses or dissolving marriages. Congress does not dictate the age at which people can get married or the grounds for seeking an annulment or divorce. I do not believe the Federal Government even has the power to legislate such things.

Should this amendment pass, it would be the first time that the Constitution is amended to deny rights to

a particular group of Americans, singling them out for discrimination. The discrimination would not be limited to actual marriages either. The wording of the amendment could limit rights afforded under civil unions. When similar State amendments were adopted in Ohio, Michigan, and Utah, domestic violence laws and health care plans for couples—gay and straight—were taken away.

In the past, we have amended our Constitution to protect groups of citizens suffering from discrimination, to ensure that everyone enjoys the same basic civil rights. I strongly oppose any effort by the Senate to change the course of history in such a dramatic way, and I particularly resent that this is being done for raw political purposes.

In 2004 when this amendment was brought up, only 48 Senators supported it. The outcome of today's vote is no surprise. Instead of spending 3 days debating a doomed constitutional amendment, we should have spent these 3 days guaranteeing all American children health care, addressing record-breaking gas prices, stimulating the economy after a month of sluggish job growth, or working out a real plan for dealing with the mess in Iraq. We should have been doing the work of the American people, but instead we debated a constitutional amendment that never had any hope of passing.

Mr. President, I hope that in the future the Senate can get its priorities straight, and I am confident that if it doesn't Americans will find their own way of holding the system accountable.

Mr. JEFFORDS. Mr. President, I am very troubled by the Senate leadership's decision, with limited days remaining in the session, to spend valuable time trying to amend the Constitution to define marriage. This issue should not be at the top of our priority list.

Unfortunately, it is a recurring theme here in the Senate during election years, to concentrate on issues that fuel partisan politics, rather than addressing our country's important needs. For the reasons I will lay out, I will once again oppose a Federal marriage amendment.

The Federal marriage amendment comes up at a time when many other critical issues face our Nation. We have soldiers in Iraq and Afghanistan fighting wars with no end in sight. Veterans are still not granted adequate medical support, and now have also been exposed to the threat of identity theft. Millions of Americans still have no health insurance, and gas prices are too high.

There are many pieces of pending legislation the Senate should be taking up other than the Federal marriage amendment, such as those addressing increased support for education, Head Start reauthorization, global warming, and a rapidly increasing deficit.

Some of my colleagues insist that the institution of marriage is under attack by the courts, and, therefore, passage of this constitutional amendment is critical. This argument is questionable at best.

In 1996, the Defense of Marriage Act was passed by the Congress and signed into law. This law gives each State the power to determine its own marriage laws and not be forced to accept another State's definition of marriage. I voted in favor of the Defense of Marriage Act because I believe in the importance of allowing States, including Vermont, the right to define marriage in a manner they deem appropriate.

As of this date, no court has overruled the Defense of Marriage Act. In fact, the court that many of my colleagues consider to be the most liberal, the Ninth Circuit, has upheld the Defense of Marriage Act. The proponents of a Federal marriage amendment also point to a case in Nebraska, Equal Protection Inc. v. Brunning, to prove their point. But that case only addressed the right of people to petition the government, it did not rule on the definition of marriage. Because the Defense of Marriage Act remains the law of the land, each State retains the right to define marriage as it sees fit, rather than have a definition forced upon it.

I am proud that in my State of Vermont, the legislature, in a bipartisan manner, was able to pass a law that affords same-sex couples the same legal rights as other married couples. Vermont's civil union legislation proved to the Nation that the rights of marriage do not have to be an exclusive privilege.

The Congress should be focusing on unity, not on exclusion and discrimination. I am proud that during my 32 years in Congress I have been a supporter of inclusive, unifying pieces of legislation. I have been a leading advocate of the Employment Non-Discrimination Act, the Permanent Partners Act, and of expanding the definition of hate crimes to include crimes motivated by gender and sexuality.

Here in the Senate, the leadership continues to insist on prioritizing a Federal marriage amendment. They insist on spending floor time on this amendment when other, more pressing issues remain in the shadows.

What message is the Senate sending to the American people? That real and pertinent issues can be swept aside so we can discuss a way to further exclude our fellow Americans? That we would rather spend time on a partisan fight than expanding our health care programs or increasing funding for education?

This is not a message I can support. We must change our focus from symbolic theoretical debates to concrete policy improvements that yield positive results for all Americans. I will vote against a Federal marriage amendment, and hope this issue will be laid to rest so the Senate can begin addressing the needs of the American people.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, first of all, let me say this has not really been my issue. We have been involved in some other things, but it is one about which I cannot remain silent.

I have to say I am probably the wrong person to talk about the marriage amendment for a couple of reasons. One reason is I am not a lawyer—one of the few in this body who is not a lawyer. However, I have to say sometimes that gives you a better insight into these things than if you are.

I enjoyed listening to some of the liberal Democrats on the Sunday shows saying they are for a marriage between a man and woman, yet immediately starting to back down, backpedal, and think of every reason in the world. It reminds me a little bit of my English as the national language amendment that we had a couple of weeks ago. Everyone was saying they were for it, and then they turned around and thought of reasons to vote against it. That is what is happening now. What does that tell you? It tells you the vast majority of people in America want this amendment.

When they talk about the polling being only 50 percent of the people in America supporting a constitutional amendment for marriage between a man and a woman, they normally are talking to people who are very much for that but think we can do it some other way. They think there is another way of doing it, that we can do it State by State or we can do it statutorily. But it doesn't work out that way.

I think, even not being a lawyer, I can see that a State-by-State approach to gay marriage will be a logical and legal mess that will force the Federal courts to intervene and require all States to recognize same-sex marriages.

Apparently, most people do agree that is the problem. I find all of those who are concerned about the very strong lobby, the homosexual marriage lobby, as well as the polygamous lobby, that they share the same goal of essentially breaking down all State-regulated marriage requirements to just one, and that one is consent. In doing so, they are paving the way for legal protection of such practices as homosexual marriage and unrestricted sexual conduct between adults and children, group marriage, incest, and, you know: If it feels good, do it.

When you look at the history of this country, you can see way back in the founding days that the marriage institution was one of the very basic values on which this country was based. Way back in 1878, Reynolds v. United States, which upheld the constitutionality of Congress's antipolygamy laws, also recognized that the one-man/one-woman family structure is a crucial foundational element of the American democratic society. Thus, there is a compelling governmental interest in its preservation.

That was 1878. That wasn't just the other day. Yet 3 years ago this month,

the U.S. Supreme Court signaled its likely support for same-sex marriage and possibly polygamy and Federal jurisdiction over the issue when it struck down the sodomy ban in Lawrence v. Texas. That happened only 3 years ago this month. The majority opinion extended the reach of due process in the 14th amendment of the Constitution to protect that.

Then they declared—this is significant—they declared:

> [P]ersons in a homosexual relationship may seek autonomy for these purposes, just as heterosexual persons do.

In his dissenting opinion, Justice Scalia stated:

> The reasoning leaves on pretty shaky grounds state laws limiting marriage to opposite sex couples. . . .

That is really much of a concern, when a member of the U.S. Supreme Court agrees with my interpretation as to what that particular interpretation meant.

Now we face a serious problem. Looking at the various States, right now we have 45 States that have passed laws, statutes, or have passed constitutional amendments to their State constitutions that would do away with gay marriage. Look at the percentages.

For those people who say less than 50 percent of the people want a constitutional amendment to protect marriage between a man and a wife, look at the percentages. In my State of Oklahoma, it is 76 percent of the people. That is three-fourths of the people. Down in Louisiana, 86 percent of the people said marriage should be between a man and a woman. This is 45 States out of 50 States. Only 5 States have not had that type of either statutory change or a constitutional amendment.

When you look at the percentages, it is very true that a very large percentage of people believe marriage should be between a man and a woman.

Let me mention something that has not been mentioned quite enough in this debate. A lot of people are not as emotional about this issue as I am. For those who are not, if you look at just the numbers, look at what is going to happen in this country if we follow some of these countries such as the Scandinavian countries. In those societies, they have redefined marriage. In Denmark, as well as Norway, where they have now had same-sex marriages legalized for over a decade, things that are happening there in terms of the society—it has nothing to do with emotions.

According to Stanley Kurtz's 2004 article in the Weekly Standard, a majority of children in Sweden and Norway are born out of wedlock.

Kurtz says:

> Sixty percent of first-born children in Denmark have unmarried parents.

That is in Denmark.

Not coincidentally, these countries have had something close to full gay marriage for a decade or more.

Stop and think. What is going to be the result? The result is going to be very expensive. Many of these kids are going to end up on welfare, so it goes far beyond just the current emotions. I think my colleague, Senator SESSIONS, I believe it was yesterday, said:

> If there are not families to raise children, who will raise them? Who will take the responsibility? It will fall on the State. Clearly it will become a State responsibility.

I am not sure. I have listened to many of my colleagues, for whom I have a great deal of respect, talk about some of the ways the language should be legally changed in one way or another to perhaps accomplish something or avoid another problem.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. INHOFE. I ask if I could have a minute and a half more?

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

Mr. INHOFE. Maybe this isn't worded exactly right. But this is the only show in town. It is the only opportunity that we will have to do anything. Again, I said maybe I am the wrong person to talk about this. I was talking to my brother, Buddy Inhofe, down in Texas. He is a Texas citizen, I say to my friend from Texas over here. He and his wife Margaret—he is 1 year older than I am—they have been married for 53 years. Every time they have a wedding anniversary, it is just like getting married again.

As you see—maybe this is the most important prop we will have during the entire debate—my wife and I have been married 47 years. We have 20 kids and grandkids. I am really proud to say in the recorded history of our family, we have never had a divorce or any kind of a homosexual relationship. I think maybe I am the wrong one to be doing this, as I come with such a strong prejudice for strong families.

When we got married 47 years ago, there were a couple of things that were said. In Genesis 2:24 it is said:

> Therefore a man shall leave his father and mother and be joined to his wife, and they shall become one flesh.

Matthew 19 says:

> Have you not read that He who made them at the beginning made them male and female, and for this reason a man shall leave his father and mother and be joined to his wife, and the two shall become one flesh? So then, they are no longer two but one flesh. . . .

I can assure you that these 20 kids and grandkids are very proud and very thankful that today, 47 years later, Kay and I believed in Matthew 19:4, that a marriage should be between a man and a woman.

Thank you for the additional time.

Mr. BURNS. Mr. President, I am generally hesitant to amend the Constitution; there are few things as permanent as a constitutional amendment, and it is something that clearly should not be done lightly. However, when activist judges repeatedly take steps to overrule the clear voice of a majority of the people, we are left with very few options. As we have seen over the past several years, Federal and State judges have time and time again struck down traditional marriage protections laws—laws overwhelmingly approved by voter ballot initiatives. This is simply unacceptable, and therefore I will vote in favor of the Marriage Protection Amendment in order to ensure that traditional marriage laws approved by the voters in a majority of the States are protected.

In my State of Montana, the people have overwhelmingly spoken on this issue on more than one occasion. In 1997, the Montana Legislature passed a State law defining marriage as between a man and a woman. Then in 2004, the people of Montana approved a ballot initiative by 67 percent which amended the Montana Constitution to state: ''Only a marriage between one man and one woman shall be valid or recognized as a marriage in this State.'' Nationally, 19 States have adopted similar State constitutional amendments, and 26 more have statutes designed to protect traditional marriage.

Unfortunately, the overwhelming consensus of the people is not good enough for some. As we have seen over the past several years, a handful of activist judges have taken it upon themselves to decide what should constitute marriage. By now, we are all well aware of the actions taken by the judges of the Supreme Judicial Court of Massachusetts. In that State, the court essentially mandated same-sex marriage. More recently, a Federal district court invalidated a Nebraska constitutional amendment protecting traditional marriage that had earlier been adopted with over 70 percent approval by Nebraska voters. As we debate this amendment, legal challenges are currently being brought against democratically approved traditional marriage laws in nine States. I fear it is only a matter of time before similar challenges are brought against the marriage protections approved by the voters of Montana.

Personally, I have always believed that marriage is between one man and one woman. However, the ultimate decision in an issue as important as what constitutes marriage must fully reflect the desire of the people, not just those of us in Washington and certainly not that of a handful of judges. Therefore, the solution is clear: we must send the States a constitutional amendment that protects traditional marriage laws, protects the will of the people, and prevents judicial activism. No other process is guaranteed to prevent the redefinition of marriage.

Mr. OBAMA. Mr. President, today, we take up the valuable time of the Senate with a proposed amendment to our Constitution that has absolutely no chance of passing.

We do this, allegedly, in an attempt to uphold the institution of marriage in this country. We do this despite the fact that for over 200 years, Americans

have been defining and defending marriage on the State and local level without any help from the U.S. Constitution at all.

And yet, we are here anyway because it is an election year—because the party in power has decided that the best way to get voters to the polls is not by talking about Iraq or health care or energy or education but about a constitutional ban on same-sex marriage that they have no chance of passing.

Now, I realize that for some Americans, this is an important issue. And I should say that, personally, I do believe that marriage is between a man and a woman.

But let's be honest. That is not what this debate is about. Not at this time.

This debate is an attempt to break a consensus that is quietly being forged in this country. It is a consensus between Democrats and Republicans, liberals and conservatives, red States and blue States, that it is time for new leadership in this country—leadership that will stop dividing us, stop disappointing us, and start addressing the problems facing most Americans.

It is a consensus between a majority of Americans who say: You know what, maybe some of us are comfortable with gay marriage right now and some of us are not. But most of us do believe that gay couples should be able to visit each other in the hospital and share health care benefits; most of us do believe that they should be treated with dignity and have their privacy respected by the federal government.

We all know that if this amendment were to pass, it would close the door on much of this—because we know that when similar amendments passed in places such as Ohio and Michigan and Utah, domestic partnership benefits were taken away from gay couples.

This is not what the majority of the American people want. And this is not about trying to build consensus in this country; it is not about trying to bring people together.

This is about winning an election. That is why the issue was last raised in July of 2004, and that is why we haven't heard about it again until now. And while this is supposedly a measure that the other party raised to appeal to some of its core supporters, I don't know how happy I would be if my party only talked about an issue I cared about right around election time—especially if they knew it had no chance of passing.

I agree with most Americans, with Democrats and Republicans, with Vice President CHENEY, with over 2,000 religious leaders of all different beliefs, that decisions about marriage, as they always have, should be left to the States.

Today, we should take this amendment only for what it is—a political ploy designed to rally a few supporters and draw the country's attention away from this leadership's past failures and America's future challenges.

There is plenty of work to be done in this country. There are millions without health care and skyrocketing gas prices and children in crumbling schools and thousands of young Americans risking their lives in Iraq.

So don't tell me that this is the best use of our time. Don't tell me that this is what people want to see talked about on TV and in the newspapers all day. We wonder why the American people have such a low opinion of Washington these days. This is why.

We are better than this, and we certainly owe the American people more than this. I know that this amendment will fail, and when it does, I hope we can start discussing issues and offering proposals that will actually improve the lives of most Americans.

Ms. COLLINS. Mr. President, I rise to speak on S.J. Res. 1, the Marriage Protection Amendment to the Constitution. Let me begin my remarks by stating my position on the issues raised by this amendment.

First, it is my strong personal belief that marriage is between a man and a woman. Second, principles of federalism dictate that the responsibility to define marriage belongs to the States. Third, the proper role of the Federal Government is to ensure that each State can exercise that right and responsibility by preventing, as the Defense of Marriage Act does, one State from imposing its view on others.

The constitutional amendment under consideration would potentially affect two types of relationships that are fundamental to our society. The first is the union between a man and a woman. The second is the compact between the States and the Federal Government. In our zeal to protect the former, we must not do unnecessary harm to the latter, as it is the bedrock principle of our country's highly successful Federal system.

When the Senate considered this amendment in July 2004, the Massachusetts Supreme Court had only recently issued its 4-to-3 decision in the Goodridge case. I urged that we should not overreact to the single decision of a State court and rush to amend the Constitution in such a way as to strip away from our States a power they have exercised, wisely for the most part, for more than 200 years. I also opposed efforts to amend the Constitution without evidence suggesting that States could not be trusted to make decisions in this area for themselves.

During the period since our last debate, many States have taken steps to define marriage within their borders. Currently, 45 States have enacted laws or constitutional amendments protecting marriage. Nineteen States have State constitutional amendments limiting marriage to a man and a woman, with 15 States passing State constitutional amendments since our last debate. Twenty-six other States, including Maine, have statutes limiting marriage in some manner. Maine law explicitly states that ''[p]ersons of the same sex may not contract marriage,'' and further provides that Maine will not recognize marriages performed in other jurisdictions that would violate the legal requirements in Maine. Thus, even if lawfully performed in another State, a same-sex marriage will not be valid in Maine.

Voters in at least seven States will consider State constitutional amendments in 2006 and another four State legislatures are considering sending constitutional amendments to voters in 2006 or 2008. And it is still the case, as it was 2 years ago, that no State law has been enacted to allow same-sex couples to marry. Nor has a popular referendum to that effect passed in any State.

I respect the right of the people of Maine and the citizens of other States to define marriage within their boundaries. Were I a member of the Maine Legislature, I would vote in favor of a law limiting marriage to the union of a man and a woman.

This does not mean that Congress can play no role in this area. To the contrary, Congress has two very important roles. The first is to protect the right of each State to define marriage within its own borders, and the second is to define marriage for Federal purposes.

To its credit, Congress did both of these when it enacted the Defense of Marriage Act, or DOMA, in 1996. Signed into law by President Clinton, DOMA enjoyed broad, bipartisan support in both Chambers of Congress, passing by a margin of 85 to 14 in the Senate and 342 to 67 in the House. The statute grants individual States autonomy in deciding how to recognize marriages and other unions within their borders, and ensures that no State can compel another to recognize marriages of same-sex couples. Of equal importance, DOMA defines marriage for Federal purposes as ''the legal union between one man and one woman as husband and wife.'' I strongly endorse both of the principles codified by DOMA.

Even though DOMA has not been successfully challenged during the nearly 10 years since its enactment, many supporters of the marriage amendment point to the Supreme Court's decision in Lawrence v. Texas as presaging DOMA's ultimate demise on constitutional grounds. They argue that DOMA's vulnerability necessitates approving the amendment under consideration.

I reject that argument. The conclusion that DOMA is inevitably destined to die a constitutional death is inconsistent with language in the Lawrence decision. In striking down a Texas statute criminalizing certain private sexual acts between consenting adult homosexuals, the majority opinion written by Justice Kennedy was careful to note that the case before the Court ''does not involve whether the government must give formal recognition to any relationship that homosexual persons seek to enter.''

In her concurring opinion, Justice O'Connor was even more explicit when she observed that the invalidation of the Texas statute ''does not mean that other laws distinguishing between heterosexuals and homosexuals would similarly fail. . . . Unlike the moral disapproval of same-sex relations—the asserted State interest in this case—other reasons exist to promote the institution of marriage beyond mere moral disapproval of an excluded group.'' These statements persuade me that the Supreme Court is, in fact, unlikely to strike down DOMA. In fact, in August 2004, a Federal bankruptcy court in Washington State ruled to uphold the constitutionality of DOMA, finding that there was no fundamental constitutional right to marry someone of the same sex.

Let me end where I began. This amendment is not just about relationships between men and women but also about the relationship between the States and the Federal Government. I would not let a one-vote majority opinion of a single State court lead us to ascribe to Washington a power that rightfully belongs to the States. To the contrary, our role should be to safeguard the ability of each State to exercise that power within its own borders.

Ms. MIKULSKI. Mr. President, today I will vote against cloture on the motion to proceed to the Marriage Protection Amendment. This amendment is unneeded and unnecessary. It is divisive and it is a distraction from what the Senate should be doing, which is making families stronger and safer. First, I will vote against this amendment because it is unnecessary. Congress has already spoken on the issue. There is a Federal law and a State law in Maryland that defines marriage as between a man and a woman. I supported the Federal law because it allows each State to determine for itself what is considered marriage under its own State law. And no law—not a Federal law, not a State law—can force a church, temple, mosque, or any religious institution to marry a same-sex couple.

I am also opposing this amendment because I take amending the Constitution very seriously. In the entire history of the United States we have only amended the Constitution 17 times. Seventeen times in over 200 years—that's it. We have amended the Constitution to extend rights, not to restrict them. We have amended the Constitution to end slavery, to give women the right to vote, and to guarantee equal protection of the laws to all citizens. We have never used the Constitution as a weapon against a minority of the population, to condone discrimination, and we should not embark on that path today. It is wrong and it undermines the integrity of our Constitution.

This amendment is about politics; it is not about strengthening families. It is about helping Republicans get reelected. If Republicans were serious about helping families they would focus on jobs, health care, the raising cost of energy, and the cost of college tuition. This proposed amendment does not create one new job, pay for one bottle of prescription drugs, lower prices at the gas pump, or send one child to college. This amendment does not help a family pay for the health care of a sick child. It does not make sure that the parent of that child has a job with health care coverage. What it does is divide. Americans don't want to see this divisive debate as part of this year's elections. It is a dangerous distraction; it is an election year ploy.

What do the American people want? They want to see how the Congress is fighting to make families stronger and safer. They want to see how we are standing up for all families. Families are stronger when we create jobs, control the costs of health care, and when we make sure that kids and schools have the resources they need to learn and educate. Families are stronger when we make sure our children have the best education we can offer and when we put these values in the Federal lawbooks and the Federal checkbook. And families are safer and stronger when they have help raising healthy children, when we build communities where they can thrive and when we create a family friendly Tax Code. Those are the actions that help to strengthen families and family values, not this amendment.

Finally, I believe that we need to recognize the rights of gays and lesbians and their families. We should be focusing on helping to strengthen their families and all families. That is where we need to be putting our energy and devoting our attention, instead of on this divisive constitutional amendment.

Mr. BYRD. Mr President, today I voted to invoke cloture on the motion to proceed to debate the constitutional amendment to ban same-sex marriage. Let me be clear: I have always strongly opposed same-sex marriage. I believe that there is much confusion about the role of the Federal Government and the institution of marriage, and that the public should have the benefit of a debate on the matter. It is my belief that the State of ''marriage'' can exist only between a man and a woman. The Bible tells us that marriage must be defined this way, and that the marriage vow between a husband and wife, meaning between a man and a woman, is sacred. I believe it. I have lived it. My darling wife Erma and I were married for nearly 69 years.

I also believe that any substantive debate on this issue must examine not only the marriage relationship between a man and a woman but also the constitutional relationship between States and the Federal Government. It is the role of the Federal Government to preserve each State's prerogative to make laws concerning marriage and the family, since this is an area of the law traditionally left to the States. This is the essence of federalism. The job of the Congress is to preserve and protect the legislative authority of each State, so that, for example, unions legal in another State cannot be foisted onto the God-fearing people of West Virginia.

Largely because I believe so strongly in protecting West Virginia's ability to legislate in this area, I have been, and continue to be, an ardent advocate of the Defense of Marriage Act, DOMA. This law, which was passed by a bipartisan majority of the U.S. Congress and became law in September 1996, makes it clear that no State, including West Virginia, is required to give legal effect to any same-sex marriage approved by another State. DOMA also defines marriage for Federal purposes as being ''a legal union between one man and one woman as husband and wife,'' and a spouse as being only ''a person of the opposite sex who is a husband or a wife.''

I strongly endorse the principles codified by DOMA. Not surprisingly, in 2000, West Virginia enacted its own law against same-sex marriage, similar to DOMA. Thus, title 48 of the West Virginia Code now precludes the State of West Virginia from giving legal effect to unions of same-sex couples from other jurisdictions.

As a consequence, both State and Federal law now prevent same-sex marriage in West Virginia. With these laws on the books, I do not believe it is necessary to amend the U.S. Constitution to address this issue. States such as West Virginia already have the power to ban gay marriages. State marriage laws should not be undermined by the Federal Government. Thus, our goal should not be to lessen the power of the several States to define marriage, but to preserve that right by expressly validating the role that they have played in this arena for more than 200 years.

Mr. President, throughout the annals of human experience, the relationship of a man and woman joined in holy matrimony has been a keystone to the stability, strength, and health of human society. I believe in that sacred union to the core of my being.

Mr. ENZI. Mr. President, I rise in support of S.J. Res. 1, the Marriage Protection Amendment. This important legislation, which was introduced by my distinguished colleague from Colorado, is simple and straightforward. It amends the U.S. Constitution to clearly define marriage as the union between one man and one woman.

It is important to have this debate because the institution of marriage is under attack by some rogue local officials and activist judges who wish to push their agenda onto the majority of Americans. We need to have this debate to give the American people the opportunity to define marriage as they see fit. We need to remove the definition of marriage from the courts and return the decision making power to the American people.

Marriage has traditionally been considered the union between a man and a

woman. State common law practices have always assumed this to be the case. In addition to that, 45 States have some form of protection for the traditional marriage of a man and a woman. These States have done so with strong support from their citizens. Nineteen States have gone so far as to enact State constitutional amendments to define marriage as the union between one man and one woman. Those amendments have passed with support averaging more than 71 percent.

What do these statistics make clear? The vast majority of Americans want the institution of marriage to be protected. They want to keep it as it has been: a union between one man and one woman.

How can we be certain that the American people support defining marriage as the union between one man and one woman? By using the ultimate democratic tool: the constitutional amendment.

Amending the Constitution is a rigorous task, and when our Founding Fathers drafted the Constitution, they worked to ensure that any decision to alter it was a decision that would be made by the American people. In order to amend the Constitution, we must get a two-thirds vote in each body of Congress, which as my colleagues know, is no simple task. After that vote has taken place, the proposed amendment is sent to the States, where three-fourth's of State legislatures must vote to ratify the proposal. That means that 38 of the 50 States must support this amendment.

This is how the Framers of the Constitution intended our government to operate. A constitutional amendment places the final decision with the people, where it should be. Courts will no longer have the power to legislate the definition of marriage. Local officials will no longer have the ability to arbitrarily change the rules. The people will make the final call. Considering this amendment and sending it to the States for ratification is, in my opinion, the closest we can get to a truly democratic self-government.

Why is such an amendment necessary? Opponents of S.J. Res. 1 argue that this is a State issue and that our Nation is governed by the Defense of Marriage Act. According to the Defense of Marriage Act, no State can be forced to recognize the marriage laws of another State. Although this is true, the Defense of Marriage Act is not exempt from the Constitution, and therefore, is not exempt from the political rulings of activist judges.

The Defense of Marriage Act will not prevent an activist judge in State court from ignoring the will of that State's citizens if that judge forces them to redefine marriage. It does not prevent an activist judge in Federal court from ignoring the will of the people and forcing them to recognize a definition of marriage that is not their own.

The only way to ensure that the American people define marriage is to pass a constitutional amendment. If the definition of marriage is clearly laid out in the Constitution, neither an activist judge nor a rogue local official can ignore that definition and impose his or her will on the American people.

It is important to note that the Marriage Protection Amendment deals only with the institution of marriage. It does not alter a State's right to recognize civil unions or domestic partnerships. It does not deal with a State's ability to confer benefits upon same-sex couples, and so State governments can continue to grant those benefits if they so choose.

Congress must enact the Marriage Protection Amendment to stave off the fragmentation that is sure to happen if different definitions of marriage exist. Passage of the Marriage Protection Amendment is necessary to the end judicial activism that has surrounded the marriage debate. It is necessary so that the American people can define marriage for themselves. And so, in closing, I strongly urge my colleagues to vote in favor of the Marriage Protection Amendment.

Mr. MCCONNELL. Mr. President, I rise to support S.J. Res. 1, the Marriage Protection Act, because any change to an institution as fundamental to our society as marriage should be made by the people, not unelected judges. The constitutional amendment process, being the closest process we have to a national referendum, is the best way for the people to speak on this important issue.

By supporting this amendment, I in no way intend to question or slight the value and dignity of any American. Nor, in my judgment, do my colleagues who join me in supporting this amendment. Anyone who claims otherwise is wrong. The question that faces this Senate is a question of means—when something as profound as changing the institution of marriage arises, how should it be addressed?

I submit that a handful of judges in a few States are not empowered and should not be permitted to make this decision for the entire country. But if we do not pass the Marriage Protection Act, that is precisely what may happen.

Today, nine States face lawsuits challenging their traditional marriage laws. State supreme courts in New Jersey, Washington, and New York could decide same-sex marriage cases as early as this year. In California, Maryland, New York and Washington, State trial courts have already struck down marriage laws and found a right to same-sex marriage in their States' constitutions. Those decisions are awaiting appeal.

Same-sex marriage advocates also have made Federal constitutional claims. In Nebraska, a Federal district court struck down that State's popularly enacted State constitutional amendment protecting traditional marriage, and the case is on appeal to the U.S. Court of Appeals for the Eighth Circuit. Challenges to the Defense of Marriage Act—DOMA—are also pending in federal district courts in Oklahoma and Washington, and before the U.S. Court of Appeals for the Ninth Circuit.

These attempts to redefine marriage through the courts have not gone away since this body last voted on a constitutional amendment to protect marriage in 2004. Since then, state courts in Washington, New York, California, Maryland, and Oregon have found traditional marriage laws unconstitutional.

Every time they have been given the opportunity, the American people have strongly supported a traditional definition of marriage—the union of a man and a woman. Forty-five States currently have statutory protection for that very definition of marriage—all but Massachusetts, New Jersey, New Mexico, New York, and Rhode Island. Only four States had such statutory protection 12 years ago. The American people have made their wishes known to their State legislators: they are clearly and overwhelmingly for protecting marriage as we have always known it.

I believe that traditional marriage, the union between a man and a woman, is the cornerstone of our society and the best possible foundation for a family. I believe that traditional marriage, the union between a man and a woman, should be the only form of marriage recognized by law. And I believe most Americans agree with me. But if nothing else, they deserve a chance to be heard.

Mr. AKAKA. Mr. President, I rise today to oppose S.J. Res. 1, the Marriage Protection Amendment, which would bar same-sex marriages and prohibit the Federal Government and all States from conferring ''the legal incidents'' of marriage on unmarried couples. I oppose this amendment on several grounds. First, if passed, this amendment would restrict the rights of an entire class of people. Second, the amendment would turn back the clock on the Supreme Court's decisions guaranteeing the right to privacy. Third, this amendment would abridge the traditional jurisdiction of State governments. Finally, the amendment would compromise the welfare of children currently being raised by same-sex parents.

The proposed Marriage Protection Amendment directly contradicts one of the Constitution's fundamental principles—the guarantee of equal protection for all. Since the adoption of the Bill of Rights in 1791, the Constitution has been amended only 17 times and, with the exception of prohibition, each time it has been to expand the rights of the American people. Adoption of the Marriage Protection Amendment would tarnish that rich tradition by targeting a specific group for social, economic and civic discrimination. I

believe that, as government leaders, it is our responsibility to protect individual liberties, not to take them away or restrict them.

The Marriage Protection Act also undermines the numerous Supreme Court decisions which ensure individuals' right to freedom from government interference with regard to their personal lives. The Supreme Court has repeatedly reaffirmed that the Constitution protects an individuals fundamental freedom to make decisions regarding private matters such as marriage and family. The Marriage Protection Act would go a long way toward eroding these constitutional guarantees to the right to privacy.

Customarily, marriage law has been left to the jurisdiction of the States. Passage of the Marriage Protection Amendment would define marriage at the Federal level and would prohibit States from exercising their authority over family law issues. As such, it would clearly violate the traditions of federalism and local control that have been a proud part of our national heritage. Allowing the Federal Government to co-opt what historically has been a prerogative of the States sets a dangerous precedent with regard to the erosion of States rights. My vote against the Marriage Protection Amendment is a vote for the preservation of State sovereignty.

Given the Marriage Protection Amendment's broad and ambiguous language, it would have a potentially devastating effect on existing same-sex families. In particular, I am concerned how this amendment would impact the children currently being raised by same-sex parents. Not only would it curtail States from granting equal marriage rights to same-sex couples, it could also, through their parents, deprive children of access to health insurance, life insurance benefits and inheritance rights. According to the 2000 Census, more than one-half of the same-sex households in the United States have children under the age of 18. Passage of the Marriage Protection Amendment could place the current well-being and future security of these children at risk. This is a chance I am unwilling to take.

I urge my colleagues in the Senate to reject this divisive bill. With so many problems currently facing our Nation such as the ongoing threat of terrorism, soaring gas prices and the high cost of medical care, now, more than ever, we need to work together as an ohana—a family. This amendment will only serve to segregate a portion of our population and prevent them from participating as full citizens. Instead I urge us all to work together to ensure that the freedoms enumerated by the Constitution can be equally enjoyed by all.

Mr. SANTORUM. Mr. President, the Catholic Charities case in Boston, just 2 years after the introduction of same-sex marriage in America, highlights the growing concerns and indicates that the impact of this development on religious freedom has ceased to be a hypothetical discussion.

As Maggie Gallagher wrote in her Weekly Standard piece ''Banned in Boston,'' ''[w]hen religious-right leaders prophesy negative consequences from gay marriage, they are often seen as overwrought . . . [and that the] First Amendment . . . will protect religious groups from persecution for their views about marriage.''

So who is right? Is the fate of Catholic Charities of Boston an aberration or a sign of things to come? Some say we are overreacting, but the truth is that while the ramifications in the battle for social policy, procreation, and even protecting children may be clear, the real—but hidden—battlelines are for the religious liberty of all faiths. Recently the Becket Fund convened a group of scholars to discuss the implications of same-sex marriage on religious liberty. This group was from all parts of the political spectrum and had varying viewpoints, but all agreed on one thing—the legalization of same-sex marriage posed a real threat to the free exercise of religion.

As I mentioned before, one of the participants, Maggie Gallagher, went on to write a prescient account of the participants' views on this issue, and I admit it was disturbing to read.

In times past, it would have been unthinkable for a Christian or Jewish organization that was opposed to same-sex marriage to be treated as racists or bigots. But today the unthinkable may have become the inevitable. As Anthony Picarello summarizes, ''All the scholars we got together see a problem; they all see a conflict coming. They differ on how it should be resolved and who should win, but they all see a conflict coming.'' Why? Because of cases like that of Catholic Charities in Boston.

As I discussed a little bit on the floor yesterday before I ran out of time, Catholic Charities in Boston has been the adoption provider in Massachusetts for many of the hardest to place children, including children with special needs. Following the legalization of same-sex marriage in Massachusetts, the Boston Globe reported that Catholic Charities of Boston had placed a small number of children with same-sex couples. Cardinal O'Malley of Boston responded that Catholic Charities would adhere to the Vatican statement prohibiting such placements in the future. That produced a hubbub with the Catholic Charities Board that was later quelled, but if Catholic Charities thought that was the end of the issue it was wrong.

Like many States, Massachusetts requires that an entity be ''licensed'' by the State in order to do adoptions. And to get the State license, the entity must agree to obey State laws barring discrimination—including in Massachusetts the prohibition on discrimination based on sexual orientation. When the Massachusetts Supreme Court legalized same-sex marriage, discrimination against same-sex couples was also prohibited. These requirements juxtaposed with Catholic doctrine put the Catholic Church-affiliated Catholic Charities into a bind—one that legislatures, including this one, have often solved by allowing faith-based and religious organizations to maintain their integrity.

Knowing that, Cardinal O'Malley and Governor Romney tried to get a religious exemption for Catholic Charities from the Massachusetts legislature. The silence from the politicians in that State was deafening. Without that protection, the bottom line is that the legislators in Massachusetts chose to put Catholic Charities out of the adoption business.

Some say that the rightwing is pushing to pass this amendment, but I take you back to the scholars from the Becket Fund conference. Marc Stern, the general counsel for the center-left American Jewish Congress can hardly be called a rightwinger, but when asked what he would say to people who dismiss the threat to free exercise of religion as evangelical hysteria his quote was—''It's not hysteria, this is very real . . . Boston Catholic Charities shows that.'' He went on to say that ''in Massachusetts I'd be very worried.'' Stern noted that while the churches themselves might have a first amendment defense if a State government or State courts tried to withdraw their exemption, ''the parachurch institutions [affiliated organizations such as Catholic Charities and United Jewish Communities] are very much at risk and may be put out of business because of the licensing issues, or for these other reasons—it's very unclear. None of us nonprofits can function without [state] tax exemption. As a practical matter, any large charity needs that real estate tax exemption.''

Anthony Picarello of the Becket Fund sounded a more ominous note, that this change could fundamentally alter our view of religious liberty. ''The impact will be severe and pervasive,'' Picarello says flatly. ''This is going to affect every aspect of church-state relations.'' Recent years, he predicts, will be looked back on as a time of relative peace between church and state, one where people had the luxury of litigating cases about things like the Ten Commandments in courthouses.''

Picarello points out something I discussed yesterday—that the church is surrounded on all sides by the government, and often the boundaries are hidden because of the ease with which they are navigated. However, as he notes, ''because marriage affects just about every area of the law, gay marriage is going to create a point of conflict at every point around the perimeter.''

But not all of these scholars agree on the intensity or imminence of these consequences. Doug Kmiec of Pepperdine law school argued that the public could tell the difference between

racial discrimination and the differentiation of traditional and same-sex marriage, saying that racial discrimination is ''irrational, and morally repugnant'' and the issue of same-sex marriage is ''at least morally debatable.'' Doug Laycock, a religious liberty expert at the University of Texas law school, noted that the legal situation is a long way away from equating sexual orientation with race in the law. However, Stern and Feldblurn were much more clear on the coming legal issues that religious organizations will face in the wake of same-sex marriage.

And it is that distinction that is important—if sexual orientation is like race, then anyone, religious or otherwise, who opposes same-sex marriage will be viewed as and likely treated in the same way as the bigots who opposed interracial marriage. It is the political pressure—and in some cases the legal pressure—that will ''punish'' those of differing opinions.

For Chai Feldblum, a Georgetown law professor who refers to herself as a leader in the movement to advance LGBT—lesbian, gay, bisexual, transsexual—rights, the emerging conflicts between free exercise of religion and sexual liberty are real. '''When we pass a law that says you may not discriminate on the basis of sexual orientation, we are burdening those who have an alternative moral assessment of gay men and lesbians.'' Raised an Orthodox Jew, Feldblum argues that ''the need to protect the dignity of gay people will justify burdening religious belief, [b]ut that does not make it right to pretend these burdens do not exist in the first place, or that the religious people the law is burdening don't matter.''

What effects could this ''sea change'' have on religious liberty? Let's consider a few examples.

A religious educational institution could have its admissions policies, employment practices, housing rules, and regulation of clubs challenged. For example, Marc Stern is concerned about a California case where a private Christian high school expelled two girls who according to the school announced they were in a lesbian relationship. Will the schools be forced to tolerate both conduct and proclamations by students they believe to be acting in a sinful manner?

Public accommodation laws can be used to force commercial enterprises to serve all comers, which begs the question of whether religious camps, retreats, or homeless shelters are considered places of public accommodation. Could a religious summer camp operated in strict conformity with religious principles refuse to accept children coming from same-sex marriages? What of a church-affiliated community center, with a gym and a Little League, that offers family programs? Must a religious-affiliated family services provider offer marriage counseling to same-sex couples designed to facilitate or preserve their relationships?

Licensing issues will continue to be a bone of contention in not only adoption but psychological clinics, social workers, and marital counselors. We had to face this issue already in the Access to Recovery Program where program administrators were interpreting language in a way that sought to penalize faith-based providers such as Teen Challenge.

And there are probably a plethora of other areas of friction that will emerge.

Will speech against same-sex marriage be allowed to continue unfettered?

Will anyone be able to again say that marriage should be between a man and a woman without being branded a bigot?

Will a minister be able to preach from I Corinthians 6:9 that the unjust and immoral such as adulterers, prostitutes and sodomites will not inherit the earth?

Will our local Catholic Charities lose their tax-exempt status if they do not bend their religious faith to the new norm?

Will a rabbi or priest be forced to preside over same-sex marriages in order to continue to be able to consecrate traditional marriages?

The scope of the ramifications of this debate are unclear, but there is no doubt that very serious issues arise. As Maggie Gallagher noted in her article, ''Marc Stern is looking more and more like a reluctant prophet: 'It's going to be a train wreck,' he said 'A very dangerous train wreck.' ''

I urge my colleagues to think carefully about the implications of doing nothing to protect the sanctity of marriage. If we do not act, then not only are we leaving this important issue in the hands of unelected judges, we are leaving the fate of all of these faith-based organizations in their hands as well. I urge my colleagues to support this amendment. Let's move forward in the democratic process and let the people decide.

Mr. President, I yield the floor.

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

Mr. ALLARD. Mr. President, how much time do I have?

The ACTING PRESIDENT pro tempore. One minute 43 seconds.

Mr. ALLARD. Mr. President, I yield 1 minute 15 seconds to the Senator from Alabama.

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

Mr. SESSIONS. Mr. President, the people of the United States do care about marriage. Marriage is important. Our culture and the quality of life of our people in this Nation are important.

Just yesterday, the people of my State, by an 81-percent majority, approved a constitutional amendment to the Alabama Constitution which said that no marriage license shall be issued in Alabama to parties of the same sex and the State shall not recognize a marriage of parties of the same sex that occurred as a result of the law of any other jurisdiction. But that amendment is in jeopardy by the court rulings in the United States, and a ruling that the U.S. Constitution requires that same-sex marriage be recognized just like other marriages will trump Alabama's constitution and that of the 19 other States which passed such resolutions by a vote of 71 percent.

The only reason to oppose this amendment would be to deny the States the right to make this decision without having it overruled by the Supreme Court.

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

Mr. ALLARD. Mr. President, you just heard the latest report from Alabama, a state constitutional amendment protecting marriage just passed with 81 percent of the vote. That is what my amendment is all about—to protect that vote conducted in Alabama from being subverted by a minority of activists going to court to try to overturn a vote like we just saw in Alabama.

I ask my colleagues to join me in voting for S.J. Res. 1.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. ALLARD. Mr. President, I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

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

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

Mr. DURBIN. Mr. President, the ranking member of the Judiciary Committee, Senator LEAHY, is on his way to the Chamber. I know the time is running. I will speak until he arrives. I wanted to make a point or two based on arguments used in this debate.

Mr. President, 45 of 50 States passed either a constitutional amendment or a law defining marriage as between a man and a woman—45 of 50 States. There is only one State in America where same-sex marriage is legal, and that is Massachusetts. No other State, county, city, or anyplace in America permits same-sex marriage.

Incidentally, it is ironic that the State with the lowest divorce rate in America happens to also be Massachusetts. There is simply no crisis or controversy before us today that requires amending the Constitution.

Another reason I oppose this amendment, as I indicated earlier, is that the language is vague and overbroad. The reference to ''legal incidents'' of marriage is troubling. The Senate Judiciary Committee held hearings on the meaning of the term ''legal incidents'' of marriage. I attended those hearings and questioned witnesses. There was

simply no consensus on how the courts might interpret that.

Some of the witnesses predicted courts would read it to ban civil unions. Some even think this amendment would be read by the courts to prohibit other efforts to equalize benefits, such as domestic partner benefits, adoption rights, and even hospital visitation rights.

Is that what we want to do in the Senate, ban those who have a loving relationship from visiting their partners who are sick in a hospital? Passage of the Federal marriage amendment may well have that effect. We don't know.

It is also a bad idea because it exemplifies the excessive overreaching by Congress into the personal lives and privacy of American citizens. How many times will the Republican majority march us into this question as to whether we can protect and defend the privacy of our rights as individuals and families?

As I mentioned earlier, it is a sad reminder of the debate over the tragedy of Terri Schiavo, a woman who was sustained with medical care for some 15 years, and when the decision was made not to provide additional care for her through the courts, there was an effort made by the Republican leadership in Congress to bring the Federal courts into the picture to overturn the family's personal decision and the decision of the Florida courts. Congress tried to impose its own morality and its own will over the most personal, private, and painful decision any family can face. This amendment would impose the morality of some on the lives of all.

A few months ago, this Nation lost one of its most famous and foremost civil rights leaders, Coretta Scott King. Upon Mrs. King's death, Majority Leader FRIST submitted a Senate resolution to honor her life and commitment to social justice, and it was adopted unanimously.

I wonder if the majority leader is aware of what Mrs. King had to say about the constitutional amendment that Senator FRIST has brought to the floor this week. Here is what she said in 2004:

> A constitutional amendment banning same-sex marriages is a form of gay-bashing and it will do nothing at all to protect traditional marriages.

I hope the Republican leadership, I hope every Senator, takes to heart the words of the civil rights hero they were so quick to honor a few months ago.

It has been my experience in life that some members of my family, many of my acquaintances and friends are people of different sexual orientation. Most of them want to be left alone. They want the privacy of their own lives. They want to make their own decisions. And here we have an effort to impose in our Constitution a standard which reaches into the legal incidents of marriage, a standard which could deny to them some of the most basic things which we treasure, such as access to health insurance, access to visitation in hospitals, and the common decency of the social relationship which is all they are asking.

Under those circumstances, I think it is important for us to reflect on the fact that when it comes to amending this Constitution, we should be ever so careful because a change in a few words in the Constitution can have a dramatic long-term negative impact on this great Nation.

I see that my colleague, Senator LEAHY, has arrived. I yield the floor to him.

The ACTING PRESIDENT pro tempore. The Senator has 1 minute 15 seconds remaining.

Mr. LEAHY. Mr. President, I thank my distinguished colleague from Illinois.

This morning we will be voting on whether to proceed to a proposed amendment to the Constitution. I strongly oppose this divisive exercise.

At a time when the Senate should be addressing Americans' top priorities, including ways to make America safer, the war in Iraq, rising gas prices, health care and health insurance costs, stem cell research, the erosion of Americans' privacy and the reauthorization of the Voting Rights Act, the President's political strategists and the Republican Senate leadership, instead, try to divide and distract from fixing real problems by pressing forward with this controversial proposed constitutional amendment.

Rather than seek to divide and diminish, the Senate could be working against discrimination. I was honored to sponsor the Mychal Judge Police and Fire Chaplains Public Safety Officers' Benefit Act of 2002 to ensure that the survivors of 9/11 were treated fairly regardless of sexual orientation. If we really want to do something that the Senate can do, we should join together in a bipartisan way to pass the hate crimes bill that would help stamp out and punish violent crimes against those attacked because of the color of their skin or their nationality or sexual orientation. If we really want to do something worthy of the Senate we should debate and pass legislation to end discrimination in employment based on sexual orientation. If we want to recognize the dignity and worth of others we should consider S. 1278, the Uniting American Families Act, a bill I introduced to bring fairness to our immigration laws.

The Constitution is too important to be used for partisan political purposes. It is not a billboard on which to hang political posters or slogans seeking to stir public passions for political ends.

I want all Americans to appreciate that if this proposed amendment became part of our Constitution, it would represent a dramatic departure from this Nation's history of expanding freedom and individual rights. We have only amended the Constitution seventeen times since the Bill of Rights was ratified in 1791. None of these amendments has served to limit the rights of an entire class of Americans. Furthermore, none of these amendments has dictated to the States how they should interpret their own constitutions. This proposal not only enshrines discrimination in the Constitution, it usurps what has always been the function of the States with regard to defining marriage. When each of us became Senators we swore an oath ''to support and defend the Constitution of the United States.'' I will honor that oath by opposing this effort to inject discrimination into the Constitution.

This attempt will once again fail to garner the necessary votes to proceed. But that should not excuse the Republican leadership's turning away from the legislative agenda of the Senate for this election year adventure. I hope that the American people will object to this misuse of the Senate's time and authority the way they did when the Senate injected itself into the Schiavo matter not so long ago. The American people want their leaders to unite this country and to solve real problems that they face every day. This constitutional amendment is a divisive political effort to shore up sagging poll numbers. I believe the American people will not be fooled and will see through this exercise.

I look forward to moving on to the Nation's real priorities. The Senate should return to a place where we consider solutions to the problems that plague hardworking Americans, from soaring gas prices and high health care costs to corporate and Government corruption, from national security to effective fiscal and trade policies. We might consider taking action to preserve and improve rather than pollute the environment. Someday this Chamber might even debate the ongoing pandemic of AIDS or protect against the impending pandemic from bird flu. We might join in effective action seeking to halt the genocide in Darfur or oversight of the allegations of Government violations of the rights of Americans. I look forward to that time.

Mr. President, I mentioned Monday at the start of this debate that over the last several years I have repeatedly written to the President about this issue and have yet to receive a response. I have already included in the RECORD a copy of my most recent letter to him on this constitutional amendment in which I asked what precise language it is that he supports and what it means.

I noted that President Bush said in 2004 that ''States ought to be able to have the right to pass laws that enable people to be able to have rights like others,'' but no such thing is guaranteed by the proposed amendment that we are considering.

The appearance of the President this week, where he reread what appeared to be a longer draft of his Saturday radio address to a handpicked audience of those seeking to amend the Constitution to write discrimination into it and create a constitutional intrusion

into family law issues that have always been left to the States, was troubling in so many ways. At least that event was moved out of the White House Rose Garden, for which I am grateful. Sadly, the audience, which the White House described as a diverse cross section of community leaders, scholars, family organizations and religious leaders, was selected apparently to exclude gays and lesbians. That is hardly the way to engender fair and open debate or to show tolerance or to honor the dignity of all Americans.

As this debate opened, I quoted the President's thoughtful words from the immigration debate. He said: ''We cannot build a unified country by inciting people to anger, or playing on anyone's fears, or exploiting the issue of immigration for political gain. We must always remember that real lives will be affected by our debates and decisions, and that every human being has dignity and value. . . .'' I wish that yesterday the President had honored that thought and merely substituted the issue of ''marriage'' for ''immigration''. The President is seeking to show leadership in the immigration debate and I have commended him for it. I cannot commend him for what he did yesterday.

Just before the last election, President Bush said that ''States ought to be able to have the right to pass laws that enable people to be able to have rights like others.'' He cannot square that position with his and his administration's recently announced support for a proposed constitutional amendment that prohibits States from conferring the ''legal incidents'' of marriage on same-sex couples. In January 2005, after he was reelected, President Bush himself recognized that this proposed constitutional amendment was not going to be adopted and that no good purpose was served by forcing more Senate debate on it. Yesterday, the President did not well serve this Nation or its diverse population. Our Nation would be better served if we refrained from divisiveness to score political and emotional points before an election.

Moreover, yesterday the President's activities demonstrated how the Republican leadership's misplaced priorities and politics have diverted the Senate from matters that concern and affect the American people. By way of contrast, the Democratic leader went to the Senate floor to urge that we proceed to conference on the recently passed immigration bill. Senate Republicans objected to a usual practice of taking of a House-passed bill and inserting the language passed by the Senate so that we can proceed to a House-Senate conference. Instead of spending time pandering to a segment of Republican's political base, the President could have worked with us to make progress on our bipartisan immigration initiative. Republicans and Democrats have said that we will need the President's help to make comprehensive immigration reform a reality. Yesterday the President was AWOL on the issue. He was not expending his efforts urging comprehensive immigration reform on the recalcitrant Republican House leadership or helping us in the Senate overcome threats of procedural objections to proceeding to conference.

Another consequence of the Republican leadership's misplaced priorities is that the Judiciary Committee has yet to complete hearings on reauthorization of the Voting Rights Act. This is bipartisan, bicameral legislation on which I had hoped hearings would be complete. The final hearing on the reauthorization of important minority language provisions was scheduled for tomorrow. It has been postponed, and the excuse is that the Senate debate on this proposed constitutional amendment takes precedence. So our efforts to enact meaningful, comprehensive immigration reform with strong border security and a path to earned citizenship and our efforts to reauthorize the protections of the Voting Rights Act have both been adversely affected as a consequence of the Republican leadership insisting on proceeding to this extended debate.

The demagoguery in the President's rally this week and the Statement of Administration Policy are sad to see. It is not the institution of marriage that is under attack but the Constitution and our system of federalism. They seek to justify their attack by demonizing judges. The comment the President added to his radio address was to ratchet up the rhetoric against judges by proclaiming that judges ''insist on imposing their arbitrary will on the people.'' This President just appointed Chief Justice Roberts to lead the U.S. Supreme Court and the judicial branch of the Federal Government. He has appointed approximately 250 Federal judges, including 2 Supreme Court Justices and 45 judges on the courts of appeals. The majority of Federal judges have been appointed by Republican Presidents. Any judicial decision that was a dramatic departure from the status quo on this issue would certainly be appealed to the U.S. Supreme Court where seven out of nine justices have been appointed by Republican Presidents. Does anyone really believe that Chief Justice Roberts is going to preside over a U.S. Supreme Court that imposes same-sex marriage as an act of ''arbitrary will''?

I agree with the Senior Senator from Virginia who recently voiced his ''grave concerns'' about the proposed amendment because it fails to ''speak with the clarity to which the American People are entitled.'' I too have significant concerns about the vague prohibition of ''the legal incidents'' of marriage for same-sex couples. That ambiguity raises serious questions whether State laws allowing civil unions and civil partnerships would be overridden and rendered ''unconstitutional.'' Numerous witnesses at our committee hearings testified that the proposed language would or could invalidate civil unions or prevent States from enacting laws that closely mirrored the rights of marriage couples.

Although the President and some Senate supporters contend that this proposed amendment binds only judges and not State legislatures and that it prohibits only marriage but not civil unions or partnerships, that is not clear in the language of the proposed constitutional amendment. Ironically, it will be judges who have the last word in determining the meaning of words used in a constitutional amendment. So the very ''boogeymen'' that the proponents of this proposed constitutional amendment seek to create by demonizing judges will be those who will be forced to decide the effect of its intentionally ambiguous wording.

I trust the American people will see through these escapades. I trust they will abhor the attack on the Constitution as I do. I believe they have bigger hearts and compassion of the families of committed same-sex couples. I hope they will hold accountable those who are expending the Senate's time on this futile exercise by denying them partisan gain.

I have previously noted that the news accounts and editorials characterizing this effort as crassly political are too numerous to include in the CONGRESSIONAL RECORD. On this occasion, I ask unanimous consent to have printed in the RECORD a sampling from a variety of newspapers and outlets from around the country including editorials from the Arkansas Democrat-Gazette from May 24, 2006, the Atlanta Journal-Constitution from May 28, 2006, the Berkshire Eagle from May 23, 2006, the Chicago Sun-Times from June 6, 2006, the Pittsburgh Post-Gazette from May 22, 2006, the Salt Lake Tribune from April 29, 2006, and a commentary by CNN's Jack Cafferty from June 2, 2006.

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

[From the (Little Rock) Arkansas Democrat-Gazette, May 24, 2006]

DEMOCRATS MUST CONFRONT GOP STRATEGY

(By Gene Lyons)

So here's the big Republican agenda for the 2006 elections: Other people's sex lives (a.k.a. gay marriage), flag-burning, illegal Mexican immigrants, tax cuts and Chicken Little.

There's no surprise about the first few. A GOP campaign resembles a traveling tent show. White House sideshow barker Karl Rove expects that the rubes who line up every two years to see the two-headed calf and the bearded lady will fall for flag-burning again. Never mind that Republicans have done nothing about it since President Bush's father visited a flag factory during his 1988 campaign. Flag burning as a protest all but disappeared after 9/11. Sen. Hillary Clinton, D–N.Y., also has joined this crusade, the surest sign that she's contemplating running for president in 2008.

Amending the Constitution to forbid gay marriage is another election-year shell game. Finessing it shouldn't be too hard for

Democrats. If your church refuses to solemnize same-sex marriages, that's its undeniable First Amendment right. Forbidding people to enter into domestic partnership contracts due to sexual orientation, however, would be un-American.

No, that won't persuade obsessive homophobes, but they're fewer all the time. Illegal immigration's something else Republicans have ignored for six years. Ironically, Bush's stance reflects the ''compassionate conservatism'' he campaigned on in 2000 but abandoned, maybe because Mexican immigration is a very old story in Texas that he actually knows something about.

Ironically, that's got the GOP's Knothead faction all riled up, helping GOP congressmen in safe districts distance themselves from an increasingly unpopular White House, but also hurting Republicans among Hispanic voters in swing districts.

Ditto tax cuts. Even the most credulous are getting uneasy with the GOP's ongoing war on arithmetic and worried about spiraling debt caused by Bush's profligate spending.

Influential conservative author-activist Richard A. Viguerie recently wrote a Washington Post op-ed predicting that ''without a drastic change in direction, millions of conservatives will . . . stay home this November. And maybe they should. Conservatives are beginning to realize that nothing will change until there's a change in the GOP leadership. If congressional Republicans win this fall, they will see themselves as vindicated, and nothing will get better.'' Which brings us to the Chicken Little theme on which Republican hopes appear to hinge. Sen. Elizabeth Dole, R–N.C,, first raised it in a recent fund-raising letter on behalf of the party's Senatorial Campaign Committee. If Democrats regain Congress, see, they'll act the way Republicans acted toward Bill Clinton, calling for ''endless investigations, congressional censure and maybe even impeachment of President Bush.'' And then the terrorists would win!

Many pundits who helped publicize the 1,000-odd subpoenas that congressional Republicans dispatched to the Clinton White House find the prospect of Democrats issuing subpoenas terribly alarming. Slate's John Dickerson worries that a Democratic-led House might ''get bogged down with investigations and embrace the worst Bush-hating tendencies of its members.'' Time columnist Joe Klein, a.k.a. ''Anonymous,'' author of the novel'' Primary Colors,'' who's grown adept at advancing Gap themes while affecting to deplore them, laments that the likely succession of Rep. John Conyers, D-Mich., to chair the House Judiciary Committee if Democrats win in November gives Republicans a chance to play the race card.

Because Conyers is African American and has sometimes used the words ''Bush'' and ''impeachable offense'' in the same sentence, Klein fears that Rove will have a field day depicting the veteran Detroit congressman as Kenneth Starr in blackface.

The idea that irrational hatred of Bush motivates most Democrats is a favorite topic on the talkradio right. Psychologists call it ''projection,'' attributing to others motives that mirror your own.

The best way for Democrats to deal with this Chicken Little theme is straight on, as Conyers has attempted to do. In a recent Washington Post column, he correctly identified the ''straw-man'' logical fallacy that underlies it: attacking arguments your adversary has never actually made.

Years of one-party government, Conyers said, have left Americans with many unanswered questions, such as ''whether intelligence was mistaken or manipulated in the run-up to the Iraq war . . . the extent to which high-ranking officials approved of the use of torture . . . whether the leaking of the name of a covert CIA operative was deliberate or accidental'' and who did it.

Any alert citizen can add particulars: the legality of National Security Agency's warrantless wiretaps and the constitutionality of Bush's 740 ''signing statements,'' as reported by The Boston Globe, in which the president claims the power to ignore laws with which he disagrees.

Conyers wisely stresses that the GOP-led House impeachment of Clinton proved ''that partisan vendettas ultimately provoke a public backlash and are never viewed as legitimate.'' Nobody wants a government that does nothing but investigate itself. But the Republican Congress has completely abdicated its constitutional responsibilities. Our democracy cannot long survive a president who claims the prerogatives of a king.

That's an argument the Democrats must win.

[From the Atlanta Journal-Constitution, May 28, 2006]

ON GAY UNIONS, PANDERING RISES ABOVE PRINCIPLES

(By Cynthia Tucker)

In 1964, just one congressman from the Deep South, Atlanta's Charles Weltner, voted for the Civil Rights Act. For all practical purposes, his righteous leadership on civil rights—he also supported the Voting Rights Act—cost him his congressional career.

In 1966, he resigned his seat rather than sign an act of loyalty to the segregationist Lester Maddox, as Georgia Democrats insisted. But some analysts believe he would have lost the race for re-election.

Doing the right thing is difficult because it often means losing. And the typical politician is willing to lose anything—honor, integrity, dignity—but an election.

That helps explain why, during this election season, so few politicians have stepped forward to denounce initiatives against gay marriage as the cynical and opportunistic tactics that they are. They know that playing on prejudice and fear can rally a certain constituency and provide the winning margin in tight races.

It certainly worked two years ago. Republican tacticians maneuvered to add amendments against gay marriage to the ballots in 11 States, including Georgia. The result was to lure religious conservatives to the polls in large numbers, probably giving President Bush the boost he needed in the battleground state of Ohio.

This year, conservative Republicans—struggling against voter discontent over Iraq, health care and high gas prices, among other things—are desperate to bring those religious conservatives back to the polls. So they've resurrected the same tired tactic. Next month, the Senate is expected to vote on an amendment to the U.S. Constitution banning same-sex unions.

Senate leaders haven't made much of an effort to disguise the initiative as anything other than the base political ploy that it is. After a frenzy of gay-bashing during the 2004 campaign season—they thundered against gay marriage as a threat to just about every family tradition, from man-woman marriages to peanut-butter-and-jelly sandwiches—Republican leaders hadn't even mentioned the issue again. The threat disappeared for two years. Until now, when they're facing the prospect of losing control of Congress.

Given the stakes, prominent Republicans won't get in the way of a good wedge issue. Oh, first lady Laura Bush has pointed out the unfairness of a constitutional amendment. So has Mary Cheney, the vice president's gay daughter, who lives openly with her partner of 14 years, Heather Poe, and has recently published her memoirs. This month, Cheney told CNN that ''writing discrimination into the Constitution of the United States is fundamentally wrong.''

But it's unlikely you'll hear the vice president arguing against the amendment so pointedly on the campaign trial. While he has said in the past that he opposes it, he'd rather remind his right-wing supporters of his staunch support for the invasion of Iraq. President Bush, for his part, has spent his last pennies of political capital trying to pass a humane policy on immigration. He may not fight for an amendment banning gay marriage, but he's unlikely to get in the way of it, either.

In Georgia, meanwhile, even progressive politicians have been cowed by the state's overwhelming consensus against gay marriage. Though 76 percent of Georgia voters approved the ban two years ago, a Superior Court judge recently struck down the amendment on technical grounds. After the ruling, Gov. Sonny Perdue, a Republican, quickly announced plans for a special session of the legislature to rewrite the ban and place it before voters again in November. His two Democratic opponents, Lt. Gov. Mark Taylor and Secretary of State Cathy Cox, rushed to support the move.

Cox's awkward leap onto the bandwagon was especially disappointing. While Taylor had supported the ban, Cox had pointed out two years ago that the amendment is ''unnecessary.'' Georgia law, like federal law, already bans same-sex unions. But many analysts have noted that Cox is desperate to draw black voters away from Taylor in the Democratic primary for governor; black Georgians, like their white neighbors, gave their unabashed support to enshrining bigotry in the stare Constitution.

Cox, like most other politicians, would rather pander to the prejudices of voters than stand by her principles. It's a perfectly human inclination—doing the safe thing, rather than the right thing.

There are never more than a handful like Wettner, who preferred losing a campaign to sacrificing his conscience. In his resignation speech, he declared, ''I love the Congress, but I will give up my office before I give up my principles . . . I cannot compromise with hate.''

His courage is as rare now as it was then.

[From the Berkshire Eagle, (Pittsfield, MA) May 23, 2006]

MORE AMENDMENT POLITICS

Senate Republicans want to make gay marriage an issue this election year, but the issue should be less gay marriage itself than a congressional leadership so hypocritical and devoid of real ideas that it must again resort to the politics of distraction out of desperation. Gays are not a threat to America, but congressmen who would tinker with the Constitution to protect their seats assuredly are.

By a 10–8 vote that fell strictly along party lines, the Senate Judiciary Committee last week approved a constitutional amendment that would ban gay marriage. The constitution has been amended 27 times, but always to protect civil liberties or to provide them to groups that didn't have them. This would be the first time that the Constitution was amended specifically to deprive a group of civil liberties, adding to the general assault by Washington on the rights of Americans.

The full Senate is expected to vote on the amendment when it returns from its Memorial Day recess, and while it will be difficult for the measure to win the necessary two-

thirds majority required to begin the amendment process, passage is not the primary goal of the GOP. By simply proposing the amendment, it hopes to gain support of a religious right that puts social issues above all else. A party with nothing but domestic and foreign policy failures on its résumé can't afford to lose its rabid rightwingers if it hopes to maintain power in Congress this November. It's a strategy that for all its cynicism worked two years ago when gay marriage was on several state ballots.

First Lady Laura Bush, often the voice of reason in the White House, went on Fox News earlier this month to urge Congress to abandon these efforts on the grounds that the gay marriage issue is too complex to be handled legislatively and civil rights should not be deprived by a governmental body. Ms. Bush's stance is a traditional conservative one, but the ''conservatives'' who hold sway in the modern Republican Party are in fact radicals whose affection for big government and disregard for the civil rights of Americans should be abhorrent to true conservatives. A question to be answered Election Day is whether true Republicans will reclaim their party and principles.

[From the Chicago Sun Times, June 6, 2006]

SENATE SHOULD FOCUS ON REAL ISSUES

Even by Congress' smoke-blowing standards, the insistence of Republicans on debating a constitutional amendment to ban gay marriage reeks of politics—election-year politics, whatever White House press secretary Tony Snow's doubts about this not being ''a big driver among voters.'' You would think more pressing issues would command attention in the Senate. Such a ban has failed before there, with all but one Democrat opposing it. You would think its scant chance of passing—it would require a two-thirds majority in both chambers and then approval by three-quarters of the states—would take the hot wind out of the anti-gay-marriage faction's sails.

But with public approval of the president low, Republicans are convinced restirring the emotions of this issue will rally support for him and those GOP hopefuls looking to November. President Bush is right about not wanting judges, ''activist'' or not, to decide this issue. It should, as he said, be left ''where it belongs: in the hands of the American people.'' But the last time we looked, most Americans were more concerned about national security, immigration and the avian flu than they were the supposed threat of wedded gays. The federal government should honor states' rights and let them make this call.

[From the Pittsburgh Post-Gazette, May 22, 2006]

FAMILY FEUD; SPARKS FLY IN THE SENATE OVER GAY MARRIAGE

Something petty—a shouting match in the U.S. Senate Judiciary Committee last week—nevertheless echoes strongly with a warning for any thoughtful American concerned about the temper of the times. The spat occurred as the committee considered a constitutional amendment to ban same-sex marriage.

In part, the clash between Pennsylvania Republican Sen. Arlen Specter, the committee chairman, and Sen. Russ Feingold, a Democrat from Wisconsin, was about a change in venue for the committee meeting. But the overarching context was the Democratic belief—well-founded, as it happens—that this amendment is all about currying political favor with the Republicans' rightwing base and in the process painting Democrats as the defenders of gay marriage.

This worked a treat for those supporting President Bush in the 2004 presidential election, when 11 states had initiatives on gay marriage or civil unions to inflame the voters' prejudices at the polls.

The scene in the Judiciary Committee was childish and undignified, perhaps as befitting the nonsense before it. After Sen. Feingold declared his opposition to the amendment and his intention to walk out, Sen. Specter said: ''I don't need to be lectured by you. You are no more a protector of the Constitution than am I.'' He bid the Democrat ''good riddance.''

Actually, Sen. Feingold has a better claim to be a protector of the Constitution; he doesn't want to see it larded up with a piece of bigotry in which a majority motivated by religious belief seeks to deprive a small minority of the benefits of matrimony. Ironically, Sen. Specter is ''totally opposed'' to the bill but thinks it should go to a vote. And it will—probably in the week of June 5—as the result of the committee's 10–8 party-line vote.

As a practical matter, the amendment is not needed. A majority of conservative justices on the U.S. Supreme Court can be expected to support the existing federal Defense of Marriage Act of 1996—so states such as Pennsylvania do not have to recognize any same-sex marriages granted elsewhere. Indeed, if protecting the sanctity of marriage was the real goal, the amendment would ban divorce, or at least ban divorced people from marrying again. Of course, we don't propose that ourselves, but the backers of the gay marriage amendment would do so if they were consistent.

But consistency and logic are not the point. The political power of the amendment, like the proposed effort to do something similar in Pennsylvania, resides in its bullying and hypocrisy. This is about selecting convenient scapegoats and feeling righteous as the administration pursues a sort of anti-Gospel in which social programs are cut and policies are pushed to favor the rich over the poor.

Sadly, any shouting matches—as in the Senate Judiciary Committee—are to be expected because promoting rancor and division are the real point. We can only hope that wiser heads will prevail in Congress as this amendment proceeds.

[From the Salt Lake Tribune, April 29, 2006]

BILL OF WRONGS: NO NEED FOR FEDERAL MARRIAGE AMENDMENT

It's hard to claim you are campaigning for states' rights when the measure you are promoting would rewrite all 50 state constitutions in one stroke.

And it's hard to claim you are campaigning for individual rights, or for religious rights, when the proposal you back would impose a federalized definition for the very personal and, usually, religious institution of marriage.

The proposed ''Marriage Protection Amendment'' has drawn support from The Church of Jesus Christ of Latter-day Saints and a spectrum of other faiths, known collectively as the Religious Coalition for Marriage. That group argues, as unconvincingly as everyone else who makes the point, that the growing acceptance of same-sex unions threatens the institution of marriage.

This unwise move to amend the basic law of the United States follows successful campaigns to change a few state charters, including Utah's, to ban same-sex marriage. But, beyond being merely redundant to those state efforts, the proposed federal amendment also picks up a serious flaw that was part of 2004's Utah Amendment 3.

Utah's constitution does not merely bar same-sex couples from the legal institution of marriage. It prevents them from crafting any ''other domestic union, however denominated,'' That, despite the misleading reassurances of the measure's supporters before the vote, has since been shown to be a useful tool for knocking the pins out from under simple and reasonable domestic partnership agreements that should be the right of any adult to enter, and within the purview of any religious order to sanctify, or not, as it chooses.

Likewise, the federal proposal would reasonably preserve the term ''marriage'' for the traditional arrangement of ''a man and a woman.'' But, again, it would unreasonably go on to dictate that every state read its own constitution to deny any constitutional protection to the notion that marriage ''or the legal incidents thereof' should be extended to same-sex relationships.

Such an overbroad, if not downright nasty, attack on domestic partnerships is not necessary to reserve the title of ''marriage'' to its traditional understanding. It doesn't belong in any state's constitution. And we certainly don't want it cluttering up the Constitution of the United States.

[From the Situation Room, June 2, 2006]

Jack Cafferty, CNN anchor: Hi, Wolf.

Guess what Monday is? Monday is the day President Bush will speak about an issue near and dear to his heart and the hearts of many conservatives. It's also the day before the Senate votes on the very same thing. Is it the war? Deficits? Health insurance? Immigration? Iran? North Korea?

Not even close. No, the president is going to talk about amending the Constitution in order to ban gay marriage. This is something that absolutely, positively has no chance of happening, nada, zippo, none. But that doesn't matter. Mr. Bush will take time to make a speech. The Senate will take time to talk and vote on it, because it's something that matters to the Republican base.

This is pure politics. If has nothing to do with whether or not you believe in gay marriage. It's blatant posturing by Republicans, who are increasingly desperate as the midterm elections approach. There's not a lot else to get people interested in voting on them, based on their record of the last five years.

But if you can appeal to the hatred, bigotry, or discrimination in some people, you might move them to the polls to vote against that big, bad gay married couple that one day might move in down the street.

Here's the question: Is now the time for President Bush to be backing a constitutional amendment to ban gay marriage?

In conclusion, Mr. President, we should be addressing America's top priorities, including ways to make America safer, the disastrous war in Iraq, rising gas prices, health care and health insurance costs, stem cell research, erosion of America's privacy, the reauthorization of the Voting Rights Act, but now we are going to talk about something that is here simply for politics. Rather than seeking to divide and diminish, the Senate could be working against discrimination.

Why are we amending the Constitution to do something the States can do? Every State can pass and has passed laws about what will be the marriage laws in their State. No State is able to pass a law that is going to force another State to accept something they do not want. We passed the Defense of Marriage Act in the Congress for that.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. LEAHY. Mr. President, I think we are doing what we did in the Schiavo matter: We are playing politics with the basic rights of people, and it is wrong.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. LEAHY. Mr. President, what is the parliamentary situation?

The ACTING PRESIDENT pro tempore. The time until 10 o'clock is reserved for the majority leader or his designee.

Mr. LEAHY. Mr. President, obviously, I am not going to take the majority leader's time. Certainly, if anybody on the Republican side seeks recognition, I will immediately yield the floor to them. I was hoping they would be here.

I note the chairman of the Judiciary Committee and I are in an asbestos hearing. I was asked by somebody the other day if I felt that marriage would be threatened if we didn't pass this. I have been blessed to be married to the same woman for 44 years. I don't feel threatened by it.

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

Mr. REID. Mr. President, I rise once again to express my strong opposition to the motion to proceed to this constitutional amendment. There are so many other issues we should be debating instead of this divisive and deeply flawed proposal.

We should be debating the raging war in Iraq. We should be debating our staggering national debt. We should be debating global warming. We should be debating stem cell research.

But we should not be debating a vague and unnecessary proposal to amend the U.S. Constitution. This week's debate is a textbook illustration of misplaced priorities.

As Chairman SPECTER has said, the Federal Marriage Amendment is a solution in search of a problem. The 1996 Defense of Marriage Act, which I supported, remains the law of the land. It defines marriage for purposes of Federal benefits as the union of a man woman, and provides that no State shall be required to recognize same-sex marriages performed in any other.

DOMA has been challenged three times, including in the Ninth circuit, and each time it has been upheld.

DOMA is consistent with principles of federalism and the longstanding tradition in our system that matters of family law should be left to the States and not dictated by the Federal Government.

In my home State of Nevada, we passed a State constitutional amendment in 2002 making clear that only a marriage been a man and a woman can be recognized and given effect in Nevada. I supported that measure.

Supporters of the Federal Marriage Amendment say that State laws like Nevada's are under ''assault'' by ''activist judges.'' The Nevada law is not under ''assault'' by anyone. There are no court cases regarding marriage for same-sex couples in Nevada.

The decision about how to define marriage was made by the people of Nevada for themselves, and it wasn't dictated to them by politicians in Washington. That's how it should be.

In contrast, this Federal amendment would dictate to each State how to interpret its own State laws. This is an unwarranted intrusion into the autonomy of State legal systems.

In any event, this is not an appropriate subject for a constitutional amendment. For over 200 years, the Constitution has had no provision on marriage, and we have left this and other family law issues to the states and to this Nation's religious institutions.

Our Constitution has only been amended 17 times after the Bill of Rights was adopted in 1791. Only 17 times in 215 years.

Several years ago the nonpartisan Constitution Project convened a committee of constitutional scholars, civic leaders, and other prominent Americans to develop criteria for when a constitutional amendment is justified. They wrote that our Constitution should be ''amended only with the utmost care, and in a manner consistent with the spirit and meaning of the entire document.''

This amendment fails that test. It does not make our system more politically responsive. It does not protect individual rights. As James Madison wrote in Federalist No. 49, the Constitution should only be amended on ''Great and Extraordinary Occasions.'' This is not such an occasion.

Earlier this year, former Republican senator John Danforth of Missouri spoke about this amendment and this is what he had to say:

> Maybe at some point in time there was one that was sillier than this one, but I don't know of one. . . . Once before the Constitution was amended to try to deal with matters of human behavior, that was prohibition, that was such a flop that that was repealed 13 years later.

I agree with my distinguished former colleague that this is not an appropriate subject for a constitutional amendment.

I hope the American people will see this amendment for what it is. This amendment is not about whether any of the Members in this body support or oppose same-sex marriage.

This amendment is about raw election year politics. It has zero chance of passing, and everybody knows that.

Those who would use the Constitution as a political bulletin board should be ashamed of themselves. Our Constitution deserves better. And the American people deserve better.

Mr. FRIST. Mr. President, over the past couple of days, we have had a good, rigorous debate on the future of marriage in America. I thank Senator ALLARD and Senator BROWNBACK for managing the debate and my colleagues who have come to the floor to very thoughtfully and thoroughly lay out the legal and cultural issues that are at stake.

Throughout human history and culture, the union between a man and a woman has been recognized as the cornerstone of society. Marriage serves a public act, a civil institution that binds men and women in the task of producing and nurturing children—husband and wife, father and mother—building a family in a community over a lifetime.

At its root, marriage is and always has been a public institution that formalizes that family bond. Some on the other side have said that the strength and stability of marriage is a distraction of little concern to the broader public. And I couldn't disagree more.

As it so happens, they used the very same argument 2 years ago. They said the States had little interest in preserving traditional marriage; voters didn't care; other issues were more important. That argument wasn't true then, and it is even less true now.

Marriage, as we know it, is under assault. Activist courts are attempting to redefine marriage against the expressed wishes of the American people. And if marriage is redefined for some, it will be redefined for all.

Last year, voters in 13 States passed by enormous margins State constitutional amendments to protect marriage. Mr. President, 19 States now have State constitutional amendments. Another 26 have statutes doing the same. Alabama voters, yesterday, endorsed an amendment to protect marriage. In total, 45 States have either State constitutional amendments or State laws to protect marriage.

Tennessee, which will give voters the opportunity to voice their opinion this November, is one of six States with similar amendments to its constitution that are pending. No State—no State—has ever rejected an effort to protect traditional marriage when it has been on the ballot.

Voters across the country, from red States to blue, have voted overwhelmingly to protect traditional marriage. But that has not stopped the same-sex marriage activists from taking their campaigns not to the American people but to the courts. Indeed, their losses at the ballot box have only fueled their judicial activism.

Currently, nine States have lawsuits pending. In five States, courts could redefine marriage by the end of the year. In California, Maryland, New York, and Washington, State trial courts have already followed Massachusetts and declared their State constitution's definition of marriage unconstitutional. All of these cases are on appeal.

A Federal judge in Nebraska overturned a democratically enacted State constitutional amendment protecting marriage. That ruling is now under appeal in the Eighth Circuit.

Another Federal court case in Washington challenges the constitutionality of the Federal Defense of Marriage Act. That case is stayed pending resolution of litigation in the Washington State Supreme Court. Court watchers are expecting a ruling soon.

With all of this litigation pending, there is little doubt that the Constitution will be amended. The only question is whether it will be amended by Congress working the will of the people or by judicial fiat. Will activist judges override the clear intention of the American people or will the people amend the Constitution to preserve marriage as it has always been understood?

In Massachusetts, the people have never had a say. The State's supreme judicial court demanded the State sanction same-sex marriage. A majority of the court substituted their personal policy preferences for that of the people, and the consequences of that activism spread far beyond same-sex marriage itself.

I wish to read from a letter from Governor Romney sent to me as we opened the debate on this issue. In it he warns us that Massachusetts is only just beginning to experience the full implication of their court's decision. He writes:

> Although the full impact of same-sex marriage may not be measured for decades or generations, we are beginning to see the effects of the new legal logic in Massachusetts just 2 years before our State's social experiment.

In the letter, Governor Romney relates the following account:

> In our schools, children are being taught that there is no difference between the same-sex marriage and traditional marriage.
>
> Recently, parents of a second grader in one public school complained when they were not notified that their son's teacher would read a fairy tale about same-sex marriage to the class.
>
> The parents asked for the opportunity to opt their child out of hearing such stories. In response, the school superintendent insisted on ''teaching children about the world they live in, and in Massachusetts same-sex marriage is legal.''

Now second graders are being indoctrinated to accept a radical redefinition of marriage against their parents' wishes. That is the reality today in Massachusetts.

It doesn't stop there. Already religious organizations in Massachusetts are feeling the pressure to conform their views as well. In March, the Catholic Charities of Boston discontinued their work placing foster children in adoptive homes. Why? Because they concluded the new same-sex marriage law would require them to place children—require them—to place children in same-sex homes. Clearly, this is an irreconcilable conflict.

So while we have advocates denying that same-sex marriage poses any conflict with religious expression or with traditional views, we are already seeing in Massachusetts that simply is not the case. We don't know yet the range and the extent of the religious liberty conflicts that would arise from the imposition of same-sex marriage laws, but we do know the implications are serious, that religious expression will be challenged, and that it is a matter of deep public concern. That is why we seek action in the Senate on this important issue.

As I have said before, it is only a matter of time before the Constitution will be amended. The only question is by whom. Is it going to be a small group of activist judges or by the people through a democratic process? I believe the people should make that decision.

We talked about the specific wording of the marriage protection amendment. Nothing in the amendment intrudes on individual privacy. Nothing stops States from passing civil union laws or curtails benefits that legislatures establish for same-sex couples.

It simply protects the States from having civil unions imposed on them from activist courts. It protects the legislative process by letting people speak and vote. It ensures that their voices are heard and their votes are respected.

My own views on marriage are clear. I believe that marriage is the union between a man and a woman for the purpose of creating and nurturing a family. We know that children do best in a home with a mom and a dad. Common sense and overwhelming research tell us so. Marriage between one man and one woman does a better job protecting our children—better than any other arrangement humankind has devised. I believe it is our duty to support this fundamental institution.

Now we will vote on proceeding on the marriage protection amendment. We will vote on whether we believe traditional marriage is worthy of protection, and we will vote on whether the courts or the people will decide its fate.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The bill clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 435, S.J. Res. 1, a joint resolution proposing an amendment to the Constitution of the United States relating to marriage.

Bill Frist, Wayne Allard, Jim Bunning, Conrad Burns, Richard Burr, Tom Coburn, Jon Kyl, Craig Thomas, George Allen, Judd Gregg, Johnny Isakson, David Vitter, John Thune, Mike Crapo, Jeff Sessions, John Ensign, Rick Santorum.

The ACTING PRESIDENT pro tempore. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that the debate on the motion to proceed to S.J. Res. 1, an amendment to the Constitution of the United States related to marriage, shall be brought to a close?

The yeas and nays are mandatory under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Nebraska (Mr. HAGEL).

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. DODD) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

The yeas and nays resulted—yeas 49, nays 48, as follows:

[Rollcall Vote No. 163 Leg.]

YEAS—49

Alexander	DeMint	McConnell
Allard	DeWine	Murkowski
Allen	Dole	Nelson (NE)
Bennett	Domenici	Roberts
Bond	Ensign	Santorum
Brownback	Enzi	Sessions
Bunning	Frist	Shelby
Burns	Graham	Smith
Burr	Grassley	Stevens
Byrd	Hatch	Talent
Chambliss	Hutchison	Thomas
Coburn	Inhofe	Thune
Cochran	Isakson	Vitter
Coleman	Kyl	Voinovich
Cornyn	Lott	Warner
Craig	Lugar	
Crapo	Martinez	

NAYS—48

Akaka	Feinstein	Menendez
Baucus	Gregg	Mikulski
Bayh	Harkin	Murray
Biden	Inouye	Nelson (FL)
Bingaman	Jeffords	Obama
Boxer	Johnson	Pryor
Cantwell	Kennedy	Reed
Carper	Kerry	Reid
Chafee	Kohl	Salazar
Clinton	Landrieu	Sarbanes
Collins	Lautenberg	Schumer
Conrad	Leahy	Snowe
Dayton	Levin	Specter
Dorgan	Lieberman	Stabenow
Durbin	Lincoln	Sununu
Feingold	McCain	Wyden

NOT VOTING—3

Dodd	Hagel	Rockefeller

The PRESIDING OFFICER (Mr. VITTER). On this vote, the yeas are 49, the nays are 48. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until 12 noon.

Thereupon, the Senate, at 10:33 a.m., took a recess, and the Senate, preceded by the Secretary of the Senate, Emily Reynolds, and the Sergeant at Arms, William H. Pickle, proceeded to the Hall of the House of Representatives to hear the address by Her Excellency Dr. Vaira Vike-Freitberga, President of the Republic of Latvia.

(The address delivered to the joint session of the two Houses of Congress is printed in the Proceedings of the House of Representatives in today's RECORD.)

Whereupon, at 12 noon, the Senate reassembled when called to order by the Presiding Officer (Ms. MURKOWSKI).

DEATH TAX REPEAL PERMANENCY ACT OF 2005—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the hour of 12 p.m.

having arrived, the Senate will proceed to consideration of the motion to proceed to H.R. 8, which the clerk will report.

The bill clerk read as follows:

Motion to proceed to the consideration of H.R. 8, to make the repeal of the estate tax permanent.

The PRESIDING OFFICER. Under the previous order, the time from 12 p.m. to 3 p.m. shall be divided for debate as follows: From 12 to 12:30, the majority will have control; from 12:30 to 1 o'clock, the minority has control, alternating between the two sides every 30 minutes until 3 p.m.

The Senator from Arizona.

Mr. KYL. Madam President, today and tomorrow could be historic days in the Senate—indeed, in the history of our country—because we have an opportunity to eliminate what some have called the most unfair tax of all. I speak of what has been called the estate tax, or the inheritance tax, or more recently has become known as the death tax.

Just a word of the history of this tax would be interesting to my colleagues before I discuss the process by which this consideration will occur and some of the reasons why we need to proceed with it.

It is very interesting that the history of the estate tax actually can be traced back to ancient times and the Roman Empire, but the more relevant history for purposes of the United States, because we borrowed this concept from England, came from the Middle Ages when the sovereign or the state, of course, owned all of the assets—the land and even the personal property—within the country.

What would happen is, when the king owned all of the feudal property in England, he would grant the use of that property to the people within the kingdom. Certain individuals during their lifetimes—let's say a farmer—would have the land to till and the farm animals to take care of. When that farmer died, in effect, his family would have to buy back that property from the king in order to continue to farm that land, to raise those farm animals and so forth. When the king died, the king would let the estate retain the property on which the payment of an estate tax, called a relief, existed. That would then enable the family to continue to run the family farm or the family business, to put it in modern-day terms.

It seems very strange indeed in the 21st century we would retain this odd and clearly out-of-place custom of having to buy back our property from the king. We do not have a king anymore. There has never been a king in the United States of America. Our right to property is guaranteed in the Constitution. So it seems strange, indeed, that we should be following a custom which required us to buy back from the king our property when our father or our mother dies, for our children to have to buy it back when we die. Yet that is the etiology of the estate tax, that you pay the state to continue to enjoy the right to the property that you always thought was yours.

It is a very expensive price, indeed. In recent years, it has been 55 percent for the largest estates. Clearly, a lot of people could not afford this, people who put their life savings into their farm or their business.

I had a friend from Phoenix who owned a printing company. He started it himself, and after 40 years built it up to a prosperous printing company. He took a modest sum out for he and his family but basically plowed everything back into the company because to stay ahead in the printing business you had to buy the most modern printing equipment and technology.

On paper, his family had a lot of wealth. He had a lot of wealth when he died. But it was literally tied up in the company. His family looked at the estate tax. They had spent a lot of money buying insurance and so on. They found they were going to basically have to pay over half of the value of this company to the Government. They did not have that money. They did not have that liquid cash. So they had to sell this printing company in order to collect the money to pay the Government about half of it in the form of an estate tax.

What happened? This particular man was one of the most generous people in the city of Phoenix. He contributed millions of dollars. In fact, there is a Boys and Girls Club named after him. Every year his wife and his daughter would be involved in charitable activities. I know because my wife is one of the best friends of his daughter. They headed up charity events and raised millions of dollars for our community. When his family had to sell the business to pay the estate tax to the Government, they were no longer in a position to do the things for the community they had always done. They have remained very active and very giving but not to the same extent when they had a business to rely upon.

So this community lost in many ways. It lost a great, locally owned, family-owned business. It lost the patriarch of that business, a very generous person, who supported the community, and the family, of course, has not been able to employ those people. Over 200 people were employed in the business.

One of the modern-day rationales for the estate tax is that it prevents the concentration of wealth in just a few families. If there is any Nation that you don't have to worry about that, it is the United States of America. We are a Nation in which anyone can make wealth—and you can lose it quickly. Everyone aspires to get higher on the economic ladder. The notion that somehow there are just a few rich families in this country controlling everything is, of course, a wild myth. So it is not necessary to break it up.

But what happened when people like my friend Jerry, when he passed away and his family had to sell his printing company, what happened to the concentration of wealth? It sure took it away from his family, all right, though no one would contend they were really among the elite of this country. He was a poor Jewish kid from New York who came out west, made good, employed a lot of people and did a lot for his community. No, they sold to a big corporation, a public company. So the concentration of wealth, of course, was enhanced, not lessened, as a result of the application of the estate tax.

It is very hard for small businesses these days, or even small farms, to compete with publicly-owned businesses. When the CEO of a publicly-owned business passes on, nothing happens. The corporation simply goes chugging right along. But when the patriarch of a family-owned business passes away and half of the money in the business has to be paid to Uncle Sam, it can crush that small business. It is one of the reasons we need to eliminate this tax. The small family-owned business or family-owned farm cannot compete with the giant corporation which does not suffer the same kind of tax.

We should not have to buy back the estate from the king any longer. We need to end this most unfair tax of all, the death tax.

It is interesting that even though most Americans will not have to pay the death tax because their estates would fall within the amount that is exempted, by very large numbers, they recognize it is a very unfair tax. So when public opinion surveys ask people their opinion of the tax, the majority of people in this country say they would like to end the tax, that it is unfair and it should be eliminated. As a matter of fact, this applies to liberal and conservative voters.

According to a Gallup poll from April of this year, 58 percent of the respondents said that the inheritance tax is unfair. It is interesting, this poll was taken when Americans were filing their taxes. The death tax was called unfair by more people than the despised alternative minimum tax. Only 42 percent of the AMT said it was fair. Yet, of course, we know that also to be a very unfair tax. It was never intended to apply to average Americans. It was put in there to make sure that even the wealthiest Americans with all of their deductions, exemptions, credits and places to park their money that even they would have to pay some tax—even if they did not owe any income tax, they would owe an alternative minimum tax.

Now, that alternative minimum tax, much like the death tax, is reaching down to take money from more and more and more Americans. So we are recognizing that whatever its good intentions originally, it is an unfair tax.

It is interesting that even though more Americans will be hit with the AMT, a greater number of Americans believe the death tax is more unfair

than even the alternative minimum tax. Of course, they are both unfair. They both need to be eliminated. It shows the sense of fairness that Americans have.

There was a poll taken not long after the Presidential election last year. It was interesting to me that while 89 percent of people who identified themselves as Bush voters believed the death tax is somewhat or very unfair, 71 percent of the Kerry voters also found the death tax at least somewhat or very unfair: 25 percent, somewhat; 46 percent, very unfair. So this reaches across the economic spectrum; it reaches across the political spectrum. Americans know an unfair tax when they see it, and they think it ought to be eliminated.

Of course, the economic theory backs them up. They say it is unfair because, among other things, it is a tax on hard work. It is a tax on thrift over consumption. It is a tax on assets that have already been taxed at least once when they were earned and sometimes multiple times as that money has been invested and then returned a profit.

Americans understand we should have a tax policy that encourages savings and encourages working more. When people know that the next dollar they earn is going to be taken by the Federal Government or that half of everything that is left in this estate could be taken by the Federal Government, what is the incentive for them to continue to work?

Dr. Edward Prescott, a Nobel Prize winner in economics from Arizona State University, got that prize by proving the phenomenon that there is a direct relationship in how much more people will work and how much they have to pay in taxes. When they know most of what they earn, they can put back into their business, save, invest or give to their kids, they will continue to work. When they know it will go to Uncle Sam, guess what. They don't work anymore. That is lost productivity. It is lost productivity that damages our entire country, our economy. It obviously hurts in job creation. It hurts in our ability to continue to enjoy the kind of growth we have.

The studies verify this. The studies verify, according to the Joint Economic Committee, for example, which has done one of these recent reports, that the estate tax has reduced the stock of capital in the economy by about $847 billion over the last several decades, the last 60 years. That is almost $1 trillion in lost capital that could have been put to work creating jobs and creating products.

In comparison, the estate tax raised $761 billion in inflation-adjusted dollars over this same period of time. The bottom line is, this is a destructive tax. It is not a tax that helps taxpayers very much. It is about 1 percent of the revenues we collect, and, according to estimates, Americans actually pay about the same amount in money every year to avoid paying the death tax as it brings into the Federal Treasury.

Alicia Munnell, an economist, has made that point. She was a member of President Clinton's Council of Economic Advisers. She estimated that the costs of complying with the estate tax laws are about the same as the revenue raised. It is expected to raise about $28 billion in this fiscal year.

The bottom line is, therefore, it is a very inefficient tax. It costs, actually, twice as much as we think it does. It does not bring in that much revenue. And certainly it is very detrimental to economic growth and to capital formation.

There is a way we treat this phenomenon in the Tax Code. It really tells us how we should treat the estate tax. Think about the unintended events that occur in your life. Obviously, death is the chief among them. You cannot choose when you die. Everyone knows they are going to die, but it is not an event that is a voluntary event or that we decide when we are going to do it, certainly not for tax-planning purposes.

It is much like a couple of other things that are recognized in the Tax Code as involuntary events. One of them is what happens when there is a theft. Someone breaks into your home and steals a lot of your property. You might get the insurance company to give you that money back. Should that money be taxed as income when you get it back from the insurance company? Of course not. It is merely a replacement for what was stolen from you. The Tax Code recognizes this in what is called an ''involuntary conversion,'' and they do not force you to pay the ordinary income tax on the money you get back when you suffer that loss.

It is the same thing for death. Death is not a planned event. Death is not something like a sale of property for which you would expect to pay a capital gains tax but, rather, something that occurs to you involuntarily; certainly you should not suffer a price when the estate is passed to you from your loved one, let's say. It comes, of course, at the worst possible time in people's lives to begin with, when they are grieving the loss of a loved one and now are going to have to pay the king to get that loved one's estate. This is not something which Americans believe is fair or right or just.

There is a way we treat this in the Tax Code—involuntary conversion. You don't get taxed on it. The same philosophy ought to apply to the estate tax. There are a lot of reasons. There are the purely economic reasons. There is American public opinion. There is the philosophy of the Tax Code. All of these things mitigate against having this unfair death tax today.

What we have done is to, therefore, set up a process by which we can take up the House bill which voted overwhelmingly to eliminate the death tax. That is H.R. 8. What we are debating now is the taking up of H.R. 8 so that we, too, can vote to repeal this fundamentally unfair tax. We will have a cloture vote. It will occur presumably sometime tomorrow. I urge colleagues to vote yes on cloture so that we can take up the House bill.

Some of my colleagues do not want to support the House bill for full repeal. I understand that. They are well aware of the fact that since there may not be support for that to get 60 votes, a lot of work has been done to develop an alternative which would end the most pernicious impact of the tax but still allow some revenue to be collected from the most wealthy estates each year. I will discuss that in a moment.

The bottom line is that in order for us to vote on full repeal or to vote on an alternative to full repeal, we will have to support the first cloture motion to proceed so that we can take up the House bill. Presumably, then, the majority leader would have a cloture vote on that underlying bill and people can vote yes or no on that as they please. I will vote to repeal the estate tax. Should that fail, we will then have the opportunity to vote on an alternative. That alternative has been relatively widely discussed, and we will have an opportunity to discuss it more later.

In general terms, what it would do is provide that most people won't have to spend the $30 billion a year that is spent on insurance policies, lawyers, accountants, estate planners, and the like to try to avoid paying most of the estate tax. For most people, under this alternative compromise, the exempted amount will be large enough that they won't have to worry about it, or if even after the exempted amount, their estate will be covered—and with the increase in real estate prices today and with the value of businesses and farms going up, frequently, simply because of the value of the land or the personal property, a lot of estates could get caught even with a generous exempted amount. We have a plan that only the capital gains tax rate would apply. If that is the case, then, whether you choose to sell the property before death or you are willing to pay whatever you have to after the exempted amount after death, it is the same. It would be 15 percent today; after 2010, it would be 20 percent, if that is not changed. Everybody knows, therefore, that the penalty, in effect, to the Government is the same. You pay on the gain if you sell the property before death. If your heirs inherit the property, they would pay that same 15 or 20 percent. There may be an addition to ensure that the very wealthiest estates pay at a higher rate. That is something we are discussing with colleagues.

The bottom line is, what we will do is make clear that for most people, they won't have to worry about the death tax anymore. For the very few who do, it would be only the very largest estates which would clearly have the financial means of doing something about it.

We are not going to be able to get to either a vote on full repeal or the alternative unless we vote for cloture to

take up the House bill. That is the critical vote which will occur tomorrow.

We have a series of speakers. I believe the Senator from Texas, Mr. CORNYN, is next. Then we have Senators TALENT, SHELBY, BUNNING, ALLEN, THUNE, and GRASSLEY on the Republican side. I urge them to be here to ensure their place in line so that they have an opportunity to speak for the allotted time on this important issue, laying the foundation for what is going to be a historic vote tomorrow to finally get on the process for getting rid of this most unfair tax.

I urge colleagues' support and yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Madam President, I congratulate Senator KYL, who has been a true champion of this effort and a leader on a bipartisan basis, for his good work. I know we were delayed a little bit because we thought we were going to come to the floor with this important legislation about the time that Mother Nature sent us Hurricanes Katrina and Rita. But we are back here through no small effort on the part of Senator KYL. I thank him for his leadership.

This is an issue which affects my constituents in Texas a lot and concerns Americans, as we know, across a broad political spectrum, as a result of public opinion polls. It goes back to 2001, when Congress passed the Economic Growth and Tax Relief Reconciliation Act which included a phaseout of the death tax. Eliminating the death tax was an important part of that overall tax relief package which has played no small part in the incredible economic expansion we have seen in America since that time: 2 million new payroll jobs in the past year; more than 5 million new payroll jobs since May of 2003; unemployment is at 4.6 percent, the lowest in almost 5 years; home ownership has reached alltime highs, including among those categories of minority owners who traditionally have lagged behind in terms of their pursuit of the American dream. The economic growth and expansion we are seeing today would not have been possible but for the important tax relief this Congress passed with President Bush's leadership in 2001 and 2003.

Unfortunately, because of our budget rules, because of our inability to get 60 votes for permanent repeal, Congress has been unable to completely eliminate the death tax. The death tax will amazingly disappear in 2010 but then rear its ugly head in 2011 and revert to its pre-2001 level. In other words, unless we act, the American taxpayer will see a huge tax increase.

This debate is about whether Members of the Senate truly believe that death should remain a taxable event for American taxpayers, especially those who are hit in a disproportionately disadvantageous way—ranchers, farmers, and small business owners. I favor eliminating the death tax because, fundamentally, it is an unfair tax. Once you earn income and pay taxes on your income, then Uncle Sam comes along, when your loved one is lying on their deathbed, and says: We want another bite out of your savings and assets that have accumulated due to your hard work and industry.

There are those who say this is just to benefit the rich and wealthy. That ignores the reality on the ground. The death tax brings the hammer down on Texas farmers and ranchers whose most valuable asset is their land. To pay this double tax, farmers and ranchers are threatened with the prospect of selling just to pay their tax. This is true of small business owners who have chosen perhaps not to incorporate or form a business organization such that they can take advantage of other tax exclusions and exemptions but, rather, this affects small business owners in a disproportionately negative way as well.

The death tax discourages savings. By taxing bequests, the death tax discourages small business owners and family farms from saving and reinvesting in their business. Many economists bemoan the fact that Americans don't save enough compared to other countries. Eliminating the death tax would lower the barrier to savings that so many Americans face.

Not only does the death tax discourage small businesses and farmers and ranchers from saving, it also hinders their ability to operate from generation to generation. The current death tax burden especially makes it progressively more difficult for each succeeding generation to keep an agricultural operation going. The death tax reduces the inheritance available to heirs, again discouraging people from working, saving, and investing. We are all familiar with the stories of sons and daughters having to sell the family farm their parents gave them so they could merely pay the tax bill upon the demise of their loved one.

The death tax also discourages entrepreneurial activity, which is the key to keeping America competitive in the global economy. As ironic as it may seem, the former Soviet Union, our opponent in the Cold War, understands the positive economic benefits of eliminating the death tax. Last year, Russia eliminated its own death tax. In fact, 414 Members of the Duma, the Russian Parliament's lower house, voted in favor of the proposal, a record at the time.

Dying should not be a further burdensome, expensive, and complicated event because of the death tax. Right now, it is. IRS data indicates that more than half of the estates of those who die in America are required to file a death tax return even though they never owe any death tax to begin with. In addition, complying with one or more of the complicated parts of the Internal Revenue Code can be crushing when you consider that taxpayers need to hire attorneys and accountants, appraisers, and other experts to make sure that all their t's are crossed and their i's are dotted. Many taxpayers are not lucky enough to afford the armies of accountants and tax lawyers needed to avoid the death tax through the use of legal and reasonable trusts or foundations. The IRS interacts with American taxpayers every day in one way or another. It should not be there on the day those taxpayers leave this Earth.

I know there are concerns expressed by some colleagues with regard to the budget deficit. There is no doubt that Congress needs to do all it can to responsibly control the rate at which we spend on mandatory programs which are the primary cause of our deficit, growing as they are at the rate of 8 percent or more a year—Medicare, Social Security, and Medicaid. Earlier this year, I offered an amendment to the budget resolution that would have built on the successes of the Deficit Reduction Act and further reduced the growth in mandatory spending. Unfortunately, it was not accepted.

Some advocate keeping the death tax in the IRS Code as the key to opening the door of fiscal discipline. I disagree. Following this path will lead to nowhere and lead there fast. What it will do, instead, is slam the door on ranchers and farmers and family-owned businesses. That is not something I am prepared to do. To ensure the economy's continued momentum, we need to make sure the permanent elimination of the death tax is included in this legislation. We have to end the death tax once and for all as a matter of fundamental fairness.

The fact is, by cutting taxes, we spur economic activity, which, in part, accounts for why the budget deficit is actually lower than had been projected earlier, because the revenue to the American Treasury has increased with the burst and expansion of economic activity. With more people working, more people paying taxes, there is more revenue into the Treasury. We have been through a recession, national emergencies, corporate scandals, and a war. Yet because of the President's leadership and the leadership of this Congress in passing important tax relief, we were able to put money back in the pockets of ordinary Americans so that they could then invest and help grow the economy that has benefited us all. Let us not get in the way of that important progress by failing to take the necessary action to end the death tax once and for all.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Madam President, the Book of Proverbs says:

> A good man leaves an inheritance to his children's children.

Tomorrow, the Senate will vote on whether the Government should have a part in that transaction. Tomorrow, the Senate will vote on whether to move to the consideration of a repeal of the estate tax.

During a particularly tumultuous time in American history, President Ford said:

Truth is the glue that holds government together. Compromise is the oil that makes government go.

We are not confronted with the same level of rancor today as when President Ford said that. But both of these institutional virtues—truth and compromise—are as essential today as they were then. To achieve true estate tax relief for our constituents, we will need a heavy dose of each.

The estate tax is a difficult issue. Members on both sides of the debate have strong feelings. Back home, many of us meet with ranchers, farmers, family businesses, and others who feel passionately about the estate tax. Some believe that it is an unfair tax. Others believe that it is an important source of revenue for government programs.

Personally, I believe that the estate tax has caused significant hardship for families in my home state of Montana. I often hear from ranchers and farmers who own land that has become very valuable. Often, they have little cash in their pockets to pay the estate tax when passing their land on to their children. In Montana, like many other places in the West, people are committed to their land. They are committed to their way of life.

Many of my constituents want to pass their ranch or farm on to their children. They do not want it divided up. They do not want it spoiled by developers. Their children want to stay on the land. They want to keep the lifestyle that is so important to them. They love the land. They are stewards of the proud western heritage of ranching and farming. They take their attachment to the land very seriously. And they do not take kindly to the government interfering with their link to the land. This is why I support repeal of the estate tax. From my view, from Montana's view, a tax that forces ranchers to break up their land is a bad tax.

This is my strongly held belief. But I realize that some of my colleagues believe just as strongly that inheritances over a certain value should be subject to tax. I understand that anything is possible. But it appears unlikely that we are going to change many Senators' minds on this issue. Each side is pretty well dug in.

As a consequence, we are short of the votes required to repeal the estate tax outright.

That is why I have been working together with Republicans and Democrats to achieve a compromise on the estate tax. Senator KYL, in particular has made an important effort to reach a compromise. I commend him.

My goal is to pass a repeal of the estate tax. But if we are not able to reach that goal, at the very least we should reach a resolution that will protect as many Montanans as possible from the estate tax.

I think that we can accomplish that. But we will need time. It will take real effort. It will take concessions. I am committed to that work.

I have met with many Senators from both parties on this issue. Our staffs have been meeting for months. We have been working to address the details, if we reach an agreement. After meeting with Republicans and Democrats on the estate tax, we have considered several proposals that will both increase the exemption for estates subject to the tax, and lower the rates of taxation.

These proposals will not eliminate the estate tax altogether. But they will—at the very least—eliminate the tax for 99.7 percent of Montanans and Americans alike. Only 3 tenths of 1 percent of Americans would have to worry about the tax again. That is a very small number. Only 31 out of nearly 9,000 estates in Montana would be subject to an estate tax in 2006 under the proposals we are discussing.

We are discussing proposals that amount to roughly half of the cost of full repeal. That is the ultimate consensus position. That is the middle.

I think that Senator KYL and I have made good progress. But I am willing to listen to other ideas that Members have. We should keep this process going. We should continue the work of negotiation. We have not finished our work on a compromise. But even so, the majority leader has decided to hold a vote on the estate tax.

Let's be honest. Tomorrow's vote is thus not a constructive step to actual reform. It is a political exercise. It is a reward to the noisy Washington interest groups that pray on resentment and discord. Both Democrats and Republicans are guilty, on occasion, of forcing votes just to score political points. But that is not a productive way to run the Senate. So what will we be left with tomorrow at the end of this vote? Perhaps more distrust of one side from the other. But we will not have accomplished the goal that many of us in this body seek: true estate tax relief for our constituents.

As our former Majority leader George Mitchell used to say said: ''Do you want to make a statement, or do you want to make law?'' I am committed to making law. I will work together with Republicans and Democrats alike. I will work with anyone in this body to reach a consensus on the estate tax that gives real estate tax relief to Montana families, and importantly, has the votes to pass.

But such a compromise will take time. My hope is that we can return to negotiations after this vote. I hope that then we can bring to those negotiations a renewed sense of purpose and drive to accomplish a true compromise—consistent with the best traditions of this body. We owe this spirit of cooperation to the Senate as an institution. More importantly, we owe it to the ranchers and farmers and families in Montana and across America who expect us to work together for a compromise on the estate tax that will provide real relief—not political statements.

Madam President, let us not just make statements. Let us negotiate. And let us make the law that will end this tax once and for all.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. DAYTON. Madam President, today, we are witnessing another display of Republican anguish for America's oppressed minority, the rich and the super-rich. They suffer from a terrible injustice: They have to pay taxes on their millions and multimillions and even billions of dollars in accumulated wealth.

Thanks to my Republican colleagues, the rich and super-rich pay far less in taxes than they did 5 years ago. But their sympathy knows no bounds. So today we are debating eliminating taxes—not just lowering them but eliminating them—on only the wealthiest one-half of 1 percent of all Americans, taxes they don't even pay themselves but their estates pay after they die.

This debate is not about saving family farms or small businesses, although I personally favor exempting them from all estate taxes.

This proposal is about eliminating a tax that falls only on the rich and the super-rich. When it comes to tax cuts for them, the Republicans just cannot do enough. They have done so much already. They lowered the top personal income tax rates by more than any other categories. They reduced the tax rate for capital gains to 15 percent. President Bush wanted to eliminate taxes on dividends, but Congress settled on a 15 percent rate for that income as well.

Republicans and a few Democrats—but mainly Republicans—have created a Federal Tax Code where a working person with taxable income above $28,400, or a head of household with taxable income above $38,400, pays much higher tax rates than rich people pay on millions of dollars of income from dividends and capital gains.

Let me say that again. A working American pays a tax rate of 25 percent or higher on every dollar of earned taxable income above $28,400, or $38,400 for a head of a household. A multi-millionaire or a billionaire pays a tax rate of only 15 percent on any amount of unearned taxable income. Now, there is a tax injustice to the middle class working Americans that we should be doing something about.

But, no, what do my Republican colleagues propose today? More tax cuts for only the wealthiest people in America. They don't seem to care that they are sacrificing the financial strength and stability of our Federal Government to continue these tax giveaways. They are addicted to what the nonpartisan Concord Coalition has called the ''most reckless fiscal policy in our Nation's history.''

When George Bush became President, the Federal Government's operating

budget had just been balanced for the first time in nearly 40 years. Now, it is running deficits of $500 billion a year. The entire Social Security trust fund surpluses are being spent to cover part of those operating deficits. The rest of it is being borrowed. President Bush's own budget projects that in fiscal year 2011, the year this proposed repeal would become permanent, the on-budget deficit will be $415 billion.

Total Federal debt will have grown to $11.5 trillion. Over $3 trillion of that debt will be owed to the Social Security trust fund. That is the amount of the trust fund surpluses the Republican tax giveaways will squander to pay for them.

The Federal financial situation only gets worse during the following years. According to the Social Security trust fund's trustees, that fund will start to run annual deficits in 2016—that is 10 years from now—as more and more baby boomers retire. Those annual Social Security trust fund surpluses will be gone. Those previous surpluses that President Bush and most Members of Congress once promised would be saved in a lockbox until needed to pay Social Security benefits will be gone, too—gone to pay for part of the tax cuts for the rich and super-rich. So then the Federal Government's operating budget will be running huge deficits.

The Social Security trust funds will start running big deficits. The operating fund will owe the trust fund over $3 trillion, and yet this Senate is talking about eliminating a tax on the richest one-half of 1 percent of Americans.

This is beyond fiscal irresponsibility. This is fiscal insanity. These projections are right from the President's own budget office and the Social Security trust fund trustees. The revenue shortfalls are catastrophic. We are standing on the look-out tower of the Titanic and all we have to do is open our eyes and look at the financial iceberg that is dead ahead. My Republican colleagues want to keep going full speed ahead. They also want to pour more coal on the fire. The people in the first-class cabin will get to enjoy their extra champagne and caviar for a short while longer.

Nobody likes to pay taxes. This country was founded by anti-tax rebels. But once it became our country and our Government of we, the people, most Americans willingly paid their fair share of the taxes necessary for the public services that we collectively want, like national defense, education, highways, and the rest.

There used to be an ethic in this country that if you made more money as an individual or a corporation, you paid more taxes. That was your fair share. That was a reasonable price to pay for living in the greatest country in the world and for being successful in it. Now that ethic has been lost. Now too many people and companies want to make more and more money and pay less taxes or pay no taxes or get rebates.

Politicians pander to those desires by offering more and more tax cuts because they are popular and they help them get re-elected—while still increasing Government spending, because that is popular, too. But the result of that lost ethic and the insatiable desire for more and more tax cuts in the last year—setting aside Social Security—total Federal tax revenues amounted to only three-fourths of expenditures. Under existing tax policies, it won't get much better. Under this estate tax proposal, it will get worse.

So the question before us is: Who cares about the future of this country? Who will say no to the demands for more money by its most privileged people who apparently don't understand or don't care what they are doing to the financial future of everyone else? But we do know, we, the 100 elected representatives of all the people of this great and still strong Nation, we, the stewards of its financial treasures and the trustees of the public trust, we do know. It is our responsibility to know what eliminating the estate tax would do to our Nation's future financial solvency, and there is no possible way to responsibly adopt this proposal. There is no way to justify placing the financial interests of a few Americans ahead of the financial interests of all the rest of America.

If we eliminate this tax, we might as well eliminate all Federal taxes starting in the year 2011 and start over again because the Federal tax system will have been irretrievably broken, and it will be just a matter of time before everyone finds out and discovers that this country's financial future has been squandered by a few in here to benefit a few out there. Then there will be hell to pay.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Madam President, we are debating the question of whether the estate tax ought to be eliminated. It has been fashionable to call this tax the death tax. That is a name conjured up by some PR people for a handful of wealthy families whom the New York Times revealed this morning have spent $200 million over the last several years trying to convince people there is a death tax.

There is no death tax. None. We do have a tax on the wealthiest estates in the country. Currently, the exemption levels of $2 million per person or $4 million a couple mean that only one-half of 1 percent of estates are taxed.

To eliminate the estate tax would cost the Treasury $776 billion from 2012 to 2021. That is the time it would be first fully in effect. That doesn't count the interest lost. The interest lost would be another $213 billion. So the total cost to the Treasury would be nearly $1 trillion in the time 2012 to 2021.

Let's look at our current budget condition because that should inform what we do here. Do we have this money? And the answer is clearly no, we don't have the money. We already can't pay our bills. This is what has happened in the last 5 years. These are the deficits that have been run up. They are the biggest deficits in the history of our country. This year they are anticipating a deficit of $325 billion. That doesn't accurately describe our fiscal condition because what is going to get added to the debt this year is not $325 billion. What is going to get added to the debt this year is over $600 billion.

In the midst of this sea of red ink, what our colleagues are talking about doing is eliminating another trillion dollars. Let's just stack it on the debt. They are not proposing cutting spending to offset this amount. They are not proposing other taxes to offset this amount. They are proposing borrowing the money. This is our pattern of borrowing since this President took over.

In the last part of his first year, the debt of the country stood at $5.8 trillion. We don't hold him responsible for the first year because that was a budget determined in the previous administration. But here is what is happening to the debt under this President in 10 years—the first 5 years we have already seen and the 5-year budget that is before us now.

If the 5-year budget that has been passed in the House and the Senate goes forward pursuant to the President's proposal, this will be the debt at the end of that period—almost $12 trillion. This President will be responsible for doubling the debt of the country.

Already he has more than doubled the amount of American debt held by foreign entities. It took all these Presidents—42 Presidents—224 years to run up $1 trillion of external debt. This President has more than doubled that amount in just 5 years. This is an utterly unsustainable course, debt on top of debt.

The result is, we now owe Japan over $600 billion. We owe China over $300 billion. We owe the United Kingdom almost $200 billion. We owe the oil exporters almost $100 billion. And now Mexico has gotten on to our list of top 10. We owe Mexico $40 billion.

Most of the added borrowing we have done to float this boat, most of the money has not come from our own country. We have borrowed more from abroad in the last 5 years than we borrowed from America to finance these deficits.

Our colleagues are saying: Let's go out and borrow another trillion dollars, primarily from Japan and China, in order to give a tax reduction to one-half of 1 percent of the estates. This makes no earthly sense.

Under current law—here we are in 2006—a couple can shield $4 million. In fact, with any kind of estate planning, they can shield far more than that. In 2009, that will go up to $7 million. That is under current law.

Under current law, in 2009, 99.8 percent of estates will pay zero. There is no death tax. There is no death tax.

There is a tax on wealthy estates, and if we don't get some help from the very wealthiest among us, guess what. We are either going to have to ask middle-class people to pay more, or we are just going to keep running up the debt.

The proposal of our friends on the other side is just stack it on the debt, stack it on top of the debt that has already doubled under this administration's watch.

Already under current law, the number of taxable estates has dramatically fallen. In 2000, we had 50,000 estates that were taxable. That was down to 13,000 this year. By 2009, it will be further cut to just 7,000.

What is this really about? This is really about a handful of wealthy families who, according to the New York Times in this morning's paper, have spent more than $200 million over the last several years to convince people there is a death tax. I just had a colleague tell me a baggage handler stopped him and urged him to end this death tax because he was deathly afraid he was going to get taxed. That baggage handler doesn't have to worry. One has to have $4 million in their family before they pay a penny of tax. With any kind of estate planning, you can shield far more than that.

I recently spoke with a North Dakota estate lawyer. He does more estates than any lawyer in my state. I said: Is this estate tax with a $4 million exemption per family a problem?

He said: Kent, it is a nonissue. Not only do you have $4 million, but in addition, you have a whole series of things you can do to further reduce your tax liability, and on top of that, if you do have any liability, you have 14 years to pay if you have a closely held business or a farm.

You have 14 years to pay. People say there is a liquidity problem. There is no liquidity problem. The only people who have an issue are very wealthy people.

I would love to be able to say to them that we can dramatically reduce your tax burden, but the problem is we can't pay our bills now. People say it is the people's money. Absolutely it is. It is also the people's debt, and this debt that is going to be added to is in all of our names. This is in all of our names. Are we really going to take on $1 trillion of additional debt in order to help a handful of very wealthy people who really don't need the help?

We have already heard many of them say: Please, don't do this. Warren Buffett, the second wealthiest man in the world, said this makes no sense at all. Mr. Gates, the father of the richest man in the world, has come before us and said: We don't need this kind of help. We have been blessed by being in America. We have had the opportunities of being here. We expect to make an additional contribution.

There is something else that should be mentioned, and that is, we have other tax relief we need to consider, and this should be the priority over estate tax repeal. Repeal costs $369 billion from 2007 to 2016. During that same period it would cost $286 billion to extend the 10-percent bracket. That really does affect people, middle-class people. It would cost $183 billion to extend the child tax credit. That really does affect middle-class people. And it would cost $46 billion to extend the marriage penalty relief.

I submit these are priorities. These are the issues—extending the 10-percent bracket, extending child tax credit, extending marriage penalty relief—to which we ought to pay attention.

Finally, this is a quote from the chairman of the Finance Committee last year:

> It's a little unseemly to be talking about eliminating the estate tax at a time when people are suffering.

The chairman of the Finance Committee had it right last year. It is unseemly. It is unseemly to be eliminating the estate tax when our country is in deep debt, when our country is at war, when our country is running up record deficits, and when there are so many other needs that are the real priority for the people of this country.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. TALENT. Madam President, is it in order for our side to speak now?

The PRESIDING OFFICER. Without objection, the Senator from Missouri may proceed.

Mr. TALENT. Madam President, I wish to speak a few minutes today about the repeal of the death tax and why we ought to do it and, the very least, why we ought to vote on it. I do this with a background of somebody who chaired the Small Business Committee in the House for two terms and had occasion to have hearings on this proposal and on the death tax. And more than that, I have spoken over the years with scores and scores of small business people and farmers who are penalized by this tax in a particularly demoralizing way. I think it is time to get rid of it or at least to vote on getting rid of it. We owe that to them.

These are the people who drive America's economy. These are the people who create the jobs, who create the technical innovations on which we depend. They are particularly hard hit by our death tax, which is the most onerous estate tax or death tax in the world.

Keep in mind that death taxes work on estates that have already been taxed. There isn't anything in an estate that hasn't already been taxed as a lot of it has already been taxed several times, and our death tax allows the Government to come in on the demise of a person and collect up to 55 percent of what they have worked for, what they have earned, and what they saved in the hope they could benefit their children.

The death tax is punitive. It costs the economy. It is directed precisely at the kind of activity that we need for economic growth and at precisely the kind of people who drive economic growth. Repeal of the death tax would increase nonresidential investment capital by $25 billion, an average of 100,000 to 200,000 jobs a year, greater disposable income for American workers, and stronger economic growth. That is what the economists say when they study it.

I believe the impact of the death tax is far greater than just what the economists have been able to estimate and monetize because it is a particularly demoralizing tax. It says to the small businesspeople and the farmers, indeed, to everybody who saves and invests, that you can do everything you can to build up your business, you can do everything you can to build up your farm, you can do all that with a view toward benefiting your community, your employees, and making the kind of success we want you to make out of your life, you can be successful at the American dream, and then the Government comes in and takes more than half of it and often takes more than half of it under circumstances which have the impact of destroying the whole enterprise. This is not speculation; this is what small businesspeople are saying and what they have said year after year after year. I know because I have had them before my committee.

Many in Missouri are affected by this tax. Renee Kerchoff is the second-generation owner of Rudroff Heating and Air-Conditioning, started in Belton, MO. Because her family worked hard, because they were willing to take risks, because they reinvested what the business earned instead of keeping it for themselves, the business has done well. Her father is no longer living. Renee's mother is living. She is going through the dilemma thousands and thousands of family businesspeople go through in this country every day: she is trying to figure out how to save the business when her mother passes away because she will owe a huge financial liability to the Federal Government.

When I was chairing a committee in the House, I had one woman—not Ms. Kerchoff but a different woman—break down in front of the committee trying to explain how she and her brother were unable to save the family business. ''Mr. Chairman,'' she said, ''if we have to sell the business, what is going to happen to the employees?'' What happens to employees when you have to liquidate a business? What happens to employees when you have to sell out to a big company? They get laid off.

Farmers, in the view of this tax, are often considered to be wealthy because they have farmland maybe near a suburban area that has gone up in value. There are farms in Missouri where the land is valued at $1 million or more. Those farmers would be surprised to hear that the Federal Government believes they are wealthy. A lot of that land is near St. Louis or Kansas City. It has gone up in value, but they don't

have the cash to pay the tax. They are going to have to sell the farm to pay the tax instead of passing it on to their heirs.

This is a common story all over the United States. What are these family businesspeople and farmers trying to do? They are reacting to this. They don't want to sell the business. They don't want to sell the farm. They are spending enormous amounts of time and effort and money on lawyers and accountants trying to figure out how to preserve what they have built up for their whole lives. Do we want them meeting with their brothers and sisters and other family members and spending hours and hours on an estate plan, or do we want these innovative and hard-working people spending hours and hours figuring out how to grow their business and create jobs and grow the economy so that the rest of us will benefit?

To me, the answer is clear. We can unleash this layer of people around this country by telling them: Look, when you earn money, yes, you are going to pay a substantial amount to the Federal and State government—and many of them pay 50 percent or more of their income in Federal and State taxes—but once you have paid that, what is left is yours. It is yours and your family's. You can reinvest it in the business, you can build up the farm, and you don't have to have this hanging over your head year after year. We are not going to penalize you for succeeding at the American dream.

Heaven knows, enough small businesspeople and farmers fail. They try their best, but they don't succeed. And here we have a tax which dates back decades and decades, an out-of-date tax which punishes people for doing what we want them to do. That is what is wrong with this tax. It is economically wrong. It has bad impacts. The think tanks can study it and monetize all that and figure out all the bad, negative impacts of this tax, but it is just wrong. It is wrong, when a person has spent their whole life trying to build something up so they can leave something to their kids and their grandkids, for the Government to come in and take it all, and that is what it amounts to, especially when they have paid taxes on it already.

We have a weird tax system. We have a tax system that says to people: If you spend everything you earn, if you are a small businessperson and you take the money out of the business and you consume, if you go out and you draw the biggest salary you can draw, you don't expand the business, you don't build it up, you don't try to help your employees by creating more opportunity for them, you don't try to do anything for your community by expanding the economic base of the community, if you spend it all, the Tax Code favors that, we think that is OK. But if you try to do what my parents and the people of my parents' generation routinely did, which is live up to your responsibilities of the next generation, you try to save it and invest it and grow it because you believe in America, you believe in the future of the country, and you want to help your kids or your grandkids or somebody else's kids or grandkids, the Government doesn't like that. The Government is going to come in and take all of that. Why? Because we are afraid we are going to lose revenue.

I am a believer that if you trust in the American people, in the hard work, the decency, the foresight of the American people, we are going to do OK with revenue. If we grow this economy, the Government will have plenty of revenue.

At the very least, we ought to vote on this. I believe it is time for us to ask, as a body, are we going to filibuster everything? I mean, is there no bill we can just allow to come to a vote? If you don't like this, vote against it. Now we are filibustering the motion to go to the bill. I hope everybody in the country understands that this is a filibuster of an attempt just to debate the bill. We are not even going to allow that. Despite the expressed wishes of small business organizations and farm organizations, despite the trend in the rest of the world, we are not even going to debate it. We don't trust the American people with their money. We don't trust the small businesses and the farmers to expand the economy and to create jobs, and we don't even trust ourselves to vote on something. No wonder people are frustrated.

There is still time to do the right thing here. Let's vote on the motion to proceed, pass the motion to proceed, debate the bill, and then I hope pass the bill—if not a permanent repeal, at least a substantial permanent reform that lowers this tax substantially, creates simplification, and says to our entrepreneurs, our small businesspeople, our investors, our farmers: We trust you, and we believe in you. Go out and do what you want to do because we think that is good for America.

We still have the chance to do that. I hope we will.

I yield the floor.

Mr. SHELBY. Mr. President.

The PRESIDING OFFICER (Mr. THUNE). The Senator from Alabama.

Mr. SHELBY. Mr. President, I rise today to voice my strong and unwavering support for a full repeal of the estate tax, or the death tax, as we often refer to it.

Until World War I, the Government only imposed an estate tax or inheritance tax to raise revenue to fund expenses directly related to the necessities of war. Even then, the rate was measured. However, that practice changed after World War I, and unlike four previous occasions, the tax was not repealed once a peace agreement was reached. In fact, the tax continued to increase until it reached 70 percent during Franklin Roosevelt's administration.

What was once a means to finance war eventually became a significant revenue stream that funded all aspects of a growing Federal bureaucracy. Today, the estate tax continues to provide a significant revenue stream to the Federal coffers and functions as a redistribution of personal wealth and punishment, basically, to those successful business owners seeking a better way of life.

The death tax places an undue burden on our Nation's family-owned farms and small businesses. These individuals work tirelessly day in and day out to make their own way, to contribute to society and the economy, only to be told their loved ones will be punished when they die. Too often I hear sons and daughters forced to sell a piece—if not all—of the legacy their parents worked to create and sustain simply to pay the estate tax. That scenario is wrong. We should not punish hard work and entrepreneurship; we should reward it. We should reward those who choose to continue their family businesses rather than shut them down. These people work hard to promote prosperity and growth in their local communities, only to be told by the Federal Government that in addition to the taxes they have paid each and every year, they must now pay an additional tax, the death tax, because someone died.

Taxing death has a negative impact on the desire of Americans to invest and to save. A basic economics class will teach you that savings and investment are positive for individuals, families, and our economy. Punitive taxes such as the estate tax, capital gains tax, dividend tax, and the gift tax all have a negative impact on our overall economic growth.

In 2001, as my colleagues well know, Congress acted to eliminate the estate tax by January 1, 2010. Unfortunately, this provision sunsets in 2011, just 1 year after it is fully repealed. As it currently stands, in 2011 the Tax Code is set to completely reverse all progress we have made to reduce the tax burden on our Nation's entrepreneurs. So those who are not fortunate enough to die, can you imagine, in 2010 will be faced with the prospect of their loved ones being responsible for as much as 55 percent of the estate's assets.

Whether it is a construction company, a cattle farm, a medical practice, or any of 100 other businesses, they all require significant capital investment in land, equipment, and materials that quickly overcome the threshold we will return to in 2011. These investments are not part of the business; in most cases, they are the business.

I am also concerned that, like other taxes I mentioned earlier, the estate tax serves as a second bite at the apple. Our current tax system too often taxes income and then asks for more. The estate tax or death tax is one of the more egregious examples of this situation.

I believe the Federal Government should work to minimize the burden on the American taxpayer and to simplify our tax system. The estate tax is contrary to both of these purposes. It not

only taxes assets a second time, it also is one of the more complicated taxes to comply with in our bloated Tax Code.

I believe repeal of the estate tax is one of the many steps we as elected representatives of our respective States and people should take to spur economic growth, remove the burden on small business, and simplify our tax system, and I urge my colleagues to support immediate and full repeal of this tax.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. BUNNING. Mr. President, I rise today in strong favor of abolishing one of the most unjustified taxes we have in America today: the death tax. Americans should not have to talk to their undertaker and their tax man on the same day. Small businesses and family farms should not be forced to close down in order to pay the Government money because a loved one has passed away. Unfortunately, I see this happening when I travel back to Kentucky every week. We are not looking out for our economy or our very own people when we charge them for inheriting the American dream.

The mom and pop diner on the corner of our town squares and third-generation farms in our rural areas are being unduly burdened by a repressive Tax Code. In fact, many are forced to close their doors or sell out, just so they can afford what the Government says they owe.

America's prosperity was created by our entrepreneurial spirit, but today it is estimated that 70 percent of all businesses never make it past the first generation, while 87 percent do not make it to the third generation, and only 1 percent make it to the fourth generation. Why? One of the big reasons is the burden of the death tax.

We call this tax the death tax not only because of the time that it strikes often unsuspecting families but also because it kills American businesses and jobs. The ridiculous complexities of the death tax actually favor individuals whose tax lawyers and accountants plan for years to shield money from estate taxation. The real people who are affected by the estate tax are often small businesses and farms, when death catches them unprepared.

The estate tax is equal to an unfair double tax on savings and investment. In short, it is a tax on the American dream, the dream that if you work hard and save money you can leave your children with the opportunity to live a happier and more prosperous life than you yourself did.

Estate taxes give taxpayers an incentive to save less and spend more. We all know that is not what we need in today's economy. The Commerce Department reported recently that Americans' personal savings fell into negative territory at minus ½ percent last year. We ought to be doing all we can to encourage savings, not to penalize people for it. We should give grandparents and parents an incentive to leave their children with the fruits of their lifelong labors. It is time for the Senate to wake up and realize the death tax, which raises only a very small portion of our revenue, is ready for its own death.

Poll after poll has shown us that this is what the American people want us to do. Please, let us join the House of Representatives in repealing this unneeded, burdensome tax.

Distinguished colleagues, I urge you to join me in supporting the repeal of the death tax today. The time for talk is over. Today is the time to take an action that can really make a difference. This is the only way we can ensure that our fellow citizens experience the American dream, not the American nightmare. I urge my colleagues to vote in favor of cloture.

I yield the floor.

I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. THOMAS. Mr. President, I want to make a couple of comments with respect to the bill before us now. I just came from meeting with Wyoming youngsters who were here with the National Guard, helping young people finishing up with their GEDs, and so on. It was very impressive, very impressive to have young people moving forward and being able, hopefully, to be successful. That has a little to do with what we are talking about here today.

The fact is, the question of how we treat people who have been successful, in terms of their business, in terms of their operations, is something we are talking about here. We have had, of course, a number of discussions on the matter of estate taxes. It seems like we have been back and forth on it for a very long time. The problem is still there. I think this is a great opportunity for us to do something significant about that.

I have to tell you, in a State such as Wyoming where a lot of people are in small businesses and ranches and farms, this is a particularly important one. A family works all their lives—several families. They put together an operation—not wealthy families, but the value of the property is such that when the time comes that the older members of the family pass away, they have to sell the property in order to pay the tax. It takes it away from the continuation in that family and the business.

I know that is not a brand new idea. I think it is the important aspect here, that people have paid taxes all through their processes—whenever there is a profit, there is a tax; whenever there is a sale, there would be a tax. But to force the family to have to sell to accommodate the tax as an estate tax seems to me effectively a death tax, and that is not the way it ought to be.

Here is an opportunity for us to do something. I hope we can eliminate the tax. If we can't, we need to at least make a reasonable agreement as to how it might be done in a way that allows people to continue to pass their businesses and their farms and their ranches on to their families, and to be able to do it without being forced to dispose of the property before their family can continue to do it.

Mr. President, I yield the floor.

Mr. ALLARD. Mr. President, I rise to offer my strong support for permanent repeal of the death tax.

It is said that ''a penny saved is a penny earned.'' Unfortunately, that is not the case for many Americans—especially those who have family businesses and farms. Instead of being rewarded for their initiative and determination, entrepreneurs are penalized for taking advantage of all this country has to offer.

For much of the 21st century, the death tax has burdened this country's hardest working citizens. It is finally time for Congress to permanently repeal this unfair tax. That is why I am pleased to support the Death Tax Repeal Permanency Act. Death should not be a taxable event.

Fortunately, the Economic Growth and Tax Relief Reconciliation Act of 2001 increased the amount that taxpayers can exempt from estate and gift taxes and slowly reduced the rate over the period 2002 through 2009. This act will fully repeal the death tax for 1 year in 2010.

However, if Congress does not act to make this repeal permanent, then the death tax will return to its pre-2001 levels. Failure to permanently repeal this tax results in estate-planning uncertainty for family-owned businesses and farms that are not sure whether or not to anticipate the return of the tax in 2011. Furthermore, failure to permanently repeal this tax would reinstate an unfair regime that taxes people twice—once on their income and again at their death.

One of the tenets of a fair tax system is that income is taxed only once. Income should be taxed when it is first earned or realized, it should not be repeatedly re-taxed by Government. The death tax violates this tenet. At the time of a person's death, much of their savings, business assets, or farm assets have already been subjected to Federal, State, and local tax. These same assets are then unfairly taxed again under the death tax.

One of the most disturbing aspects of the tax is that it can destroy a family business, or force the sale of a family ranch or farm. Despite what the opponents may claim, this can and does happen. To prove this point, I would like to share the story of some of my constituents. The Laurence family was forced to sell their 1,810 acres of ranch

land just north of Carbondale, CO. The daughter of the late Rufus Merrill Laurence explained that the death tax forced the sale of the family's ranch, land Mr. Merrill had hoped to keep in the family for generations to come.

No American family should lose its business or ranch because of the death tax. The problem is that the death tax fails to distinguish between cash and non-liquid assets, and since family businesses are often asset-rich and cash poor, they can be forced to sell assets in order to pay the tax. This practice can destroy the business outright, or leave it so strapped for capital that long-term survival is jeopardized.

Similarly, more and more large ranches and farms are facing the prospect of break-up and sale to developers in order to pay the estate tax.

The death tax also discourages savings and investment. Former Federal Reserve Board Chairman Alan Greenspan repeatedly warned about the dangers of a low national savings rate, and current Fed Chairman Ben Bernanke has continued to raise the same concerns. Yet the death tax sends the message that it is better to consume today than invest and make more money in the future.

The death tax also undermines job creation. The Heritage Foundation estimates that the death tax alone is responsible for the loss of between 170,000 and 250,000 potential jobs each year. These jobs are never added to the U.S. economy because the investments that would have resulted in higher employment are simply not made.

The death tax also holds back overall economic growth. The Joint Economic Committee found that the tax reduces the stock of capital in the economy by $497 billion, or 3.2 percent. Permanent repeal of the death tax would allow individuals to save more money, spur job creation, and allow business resources to be put toward productive economic activities.

America is a nation of tremendous economic opportunity—opportunity for ownership that is available to all who go in search of it. Success is determined principally through hard work and individual initiative. Our tax policy should focus on encouraging greater initiative rather than on attempts to limit inherited wealth. The death tax is a relic, and should be treated as such. It constitutes double taxation, damages family businesses, and harms the overall economy. It is time for the death tax to go—and this time, for good.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I rise today to express my deep concern about efforts by the President and some in Congress to repeal or all but eliminate the estate tax.

The estate tax is an important component of our progressive Federal tax system, it is the Federal Government's only tax on wealth, and by 2009 less than one-half of 1 percent of all estates will be subject to the tax. Far from being a ''death tax,'' the tax falls on heirs who seldom had any real role in earning the wealth built up by the estate holder.

The estate tax is simple: when a very wealthy person dies, the decedent's estate pays a portion of the total assets to the Federal Government and the remainder is then passed on to heirs. Capital gains that have built up in the estate tax free are passed on to the heirs on a ''stepped up'' basis, and the heirs are not liable for any income tax on these gains. No tax is levied if the estate passes to a spouse or is donated to charity. The overwhelming majority of estates pay no Federal estate tax.

This tax raises significant revenue, it is highly progressive, and it provides an important backstop to the income tax.

Today, only estates worth more than $2 million are subject to the estate tax and an individual will be able to pass along up to $3.5 million tax-free by 2009. A couple can pass along twice that amount. And let's not forget that estate planning often shields even greater sums of wealth from taxation.

The House Committee on Government Reform estimates that the heirs of Lee Raymond, former ExxonMobile CEO, and the current CEOs of the five largest U.S. oil companies would receive a windfall of up to $211 million if the estate tax were permanently repealed. The committee has also calculated that estate tax repeal could save the heirs of President Bush, Vice President CHENEY and 11 Cabinet members as much as $344 million.

It would be hard to call this a middle class tax cut without pretending a great deal.

Indeed, the Congressional Research Service reports that in 2004 when the exemption was $1.5 million, 99 percent of estates paid no estate taxes whatsoever. It bears repeating that less than one-half of 1 percent of estates will pay any tax at all as the estate tax exemption climbs to $3.5 million by 2009.

Despite the concerns expressed by some farm and small business groups, the vast majority of taxable estates are those of multimillionaires and billionaires who made their fortunes through their business and investments in securities and real estate or were born into extremely wealthy families.

After the President's tax cuts passed in 2001, he took a victory lap through Iowa where the New York Times quoted the President as saying:

> I heard somebody say, ''Well, you know, the death tax doesn't cause people to sell their farms.''

He added:

> I don't know who they're talking to in Iowa.

Perhaps it was Neil Harl, an Iowa State, University economist whose tax advice has made him a household name among farmers throughout the Midwest. He has searched far and wide but has never found a case in which a farm was sold to pay estate taxes. ''It's a myth,'' says Professor Harl, who has only found heirs who wanted to sell the family farm.

Even the American Farm Bureau Federation, one of the leading advocates of estate tax repeal, can not provide a single example of a farm lost due to estate taxes.

The reality is that only a small fraction of taxable estates consists primarily of family-owned farm or small business assets. The Tax Policy Center estimates that in 2004, only 440 taxable estates—2 percent of all taxable estate—were primarily made up of farm or business assets. And the Congressional Budget Office found that the vast majority of family farms and small business estates would have sufficient liquid assets—such as bank accounts, stocks, bonds, and insurance—to pay the tax without having to sell any farm or business assets. CBO also found that with a $3.5 million exemption—$7 million per couple—only 13 or fewer farms would encounter any liquidity constraints.

Moreover, there are already special provisions in place to ease tax burdens for family-owned small businesses and farms, such as allowing additional sums to be bequeathed tax free and permitting estate taxes to be paid in installments over 14 years at favorable interest rates.

So if saving family farms and small businesses is not the real root of the repeal effort, you would think that there would be some sound economic rationale. However, claims by proponents that eliminating the estate tax would encourage saving and investment, reward entrepreneurship, and contribute to economic growth turn out to be myths as well.

Repeal advocates argue that capital assets have already been taxed during the taxpayer's lifetime, so a tax at death is gratuitous. But the reality is that a large share of capital assets has never been taxed. Under current law, we have a provision called the ''step-up'' in basis that allows capital gains from the appreciation of assets—such as a house or stocks—during the decedent's lifetime to escape taxation through 2009. In 2010, the lone year in which full repeal is currently slated to be in effect, we switch to a ''carry-over basis'' in which heirs of large estates would inherit the potential capital gains liability that is realized only when the asset is sold.

In effect, today under the pretax law, the heirs receive the estate but on a stepped-up basis—the current value of the home. So for the home the father purchased for $30,000 and is now worth $1 million, they receive the estate based on the value of a million dollars. No taxes were ever paid on that appreciation other than the estate tax.

The Small Business Council of America opposes the full repeal of the estate tax because they estimate that a great number of small business owners will be worse off due to the loss of step-up

in basis and only an extraordinary few will be better off. Four years from now, the Halls of Congress will be filled with heirs who won't want to pay taxes that they have inherited with repeal of the estate tax.

But any economic rationale for repeal falls apart when you learn that it will reduce national saving and hurt economic growth. According to the Joint Committee on Taxation, making estate tax repeal permanent would cost an additional $369 billion over 10 years. This estimate, however, dramatically understates the true cost of repeal. The full cost of repeal would not be felt until the second decade, beyond the time period of the budget estimates. In that decade, the cost of repeal could reach nearly $800 billion, plus debt service costs that would bring the total to nearly $1 trillion.

A compromise plan currently circulating in the Senate would permanently raise the exemption to $5 million and cut the top estate tax rate to 15 percent, which would cost nearly as much as full repeal, and it is not much of a bargain.

Rising federal budget deficits make the cost of repeal or ''repeal-lite'' even more unpalatable. The drain on the budget would occur at the very time that the baby boom generation enters retirement and rising Social Security and Medicare costs would strain our budget.

The President's tax cuts were passed at a time of huge projected surpluses in the Federal budget. The surpluses have been squandered by this administration and with deficits as far as the eye can see, it is simply irresponsible for the President and Republicans in Congress to press for full repeal of this tax.

By financing repeal with debt, we would be replacing the so-called ''death tax'' for a few very wealthy heirs with a ''birth tax'' for all, an action that seems neither wise nor fair. The cost of estate tax repeal will be paid for with borrowed money. Future generations of taxpayers—who will make significantly less than the deceased multimillionaires and billionaires whose estates would no longer owe taxes—will have to repay those funds. Estate tax repeal would raise the per-person debt burden by about $3,000 in just the first 10 years after the tax disappears.

In 2005, the CEO of ExxonMobile earned $9.1 million. Contrast that with the fact that the typical firefighter, police officer, or soldier today makes less than $50,000 a year and the inequity of this repeal is inescapable.

Clearly, estate tax repeal will predominately benefit the heirs of a handful of very wealthy estates. According to the Forbes 2005 ''World's Richest'' list, three members of the Mars family have $10.4 billion each and four members of the Walton family have nearly $20 billion each. These heirs still rank among the world's wealthiest people even after taxes.

Jamie Johnson, heir to the Johnson and Johnson fortune, put it this way, ''I was always told that the American Dream is about getting a bigger and better life than your parents have. But that dream was accomplished by my great-grandfather. ''

In their book about the history and politics of the estate tax, Death by a Thousand Cuts, Yale professors Michael J. Graetz and Ian Shapiro provide an eye-opening account of how a few very wealthy individuals and families have been working long and hard behind the scenes on repeal efforts. In the meantime, some of the wealthiest Americans—including Warren Buffett, William Gates, Sr., George Soros, and Ted Turner—have warned about the corrosive effect of eliminating the estate tax.

When Teddy Roosevelt endorsed the idea of an inheritance tax, he said that its ''primary objectives should be to put a constantly increasing burden on the inheritance of those swollen fortunes, which it is certainly of no benefit to this country to perpetuate.'' Indeed, our Founding Fathers abandoned an economic aristocracy—where large fortunes were handed down generation after generation, concentrating wealth and power—to create a meritocracy based on the ideal of equal opportunity for all. Underlying the estate tax is the notion that because our government provides a stable environment for wealth to be created and flourish—our financial markets, legal system, regulatory system, and strong national defense—society is owed a modest return on those investments.

Television ads last year depicted a World War II veteran supporting the repeal of the estate tax, the underlying message being that the tax is somehow unpatriotic. Ironically, the estate tax was first adopted in the nineteenth century to pay for government shortfalls due to wartime spending.

Today, we are at war and yet there is no sense of the shared sacrifice that has united this country in past conflicts. Our military families are making tremendous sacrifices, and too many of them have made the ultimate sacrifice in service to our country. With $320 billion appropriated or pending for Iraq operations to date and nearly 2,500 service men and women killed, the human and financial tolls are both more staggering than imagined.

With mounting war costs, the impending retirement of the baby boom generation and deficits as far as the eye can see, it is unconscionable to think that we are going to vote on repealing one of the most progressive taxes on the books.

There has been a lot of discussion about the death tax. It is not the death tax. It is the estate tax. But there is a death tax that is paid by Americans to sustain and support this country—and it is terribly unfair because it falls on a few. In Iraq, it has fallen upon 2,480 of our soldiers. In Afghanistan, it has fallen upon 299. It also falls upon the police and fire officers who each day risk their lives and some who give their lives. They truly pay the death tax. They will never be touched by this estate tax.

The average base pay of a specialist in the U.S. Army is $24,000. He won't be worried nor will his family be worried about the estate tax. Firefighters make about $40,000; police officers, $47,000 on average in this country. Yet, sadly, too many of them each year for their country pay the ultimate death tax. It is more debilitating than any check one sends to the IRS.

What do they need? What do their families need? They certainly need a strong, robust economy that will support their families in the future.

For those young Americans who are wounded in action—and right now in Iraq, 17,869—they need a strong Veterans Administration to support them years from now just when this repeal of the estate tax burden would take its toll and take more and more money away from the Federal revenue.

They are the ones who really pay the cost. If we pass this measure, we won't be able to help them when they need the help. We won't be able to support the Veterans' Administration system. We won't be able to provide the kind of support for education, for opportunities for higher education that will be so necessary for their children.

This repeal vote misses the point. The death tax was a slogan thought up by Republican operatives to sell an idea that does not have a compelling economic rationale. But there is a real death tax, and sadly, Americans in uniform must pay it for this country every day. They will receive no benefit from this repeal. Indeed, our ability to help them and their families will be limited in the years ahead.

I don't think this is just bad policy, it is unconscionable.

I yield the floor.

Mrs. LINCOLN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mrs. LINCOLN. Mr. President, I come to the Senate today to discuss the issue of estate tax with a little bit of a different perspective from some of my Democratic colleagues who have spoken so very passionately on this issue already today.

I respect many of their approaches and concerns, but I come to this issue from a little bit of a different perspective. That perspective is because I believe the estate tax in its current form is unfair.

Outright repeal of the estate tax for family-owned businesses and farms has been a goal of mine since I entered Congress 14 years ago. I have grown up on a seventh generation Arkansas

farm. I have watched as small communities and family-owned businesses have dwindled from their inability to maintain their competitiveness in the ever-growing global community, but also with the unbelievable challenges they face of the cost of health care, the cost of doing business, real estate costs, and others.

I have seen too many small business owners and farmers in my home State restrict the growth of their enterprises in order to avoid facing the impossible choice of leaving their families with an up to 55 percent Federal tax burden or the other option of selling off portions of their assets when they die in order to pay that tax.

However, because of our current budgetary constraints, I do recognize outright repeal is not feasible. Not at this time. With that said, it is more important than ever that we do what we can now to provide some certainty and relief for those who are so drastically impacted by this tax.

Last week, I received a phone call from a constituent who owns a family trucking and farming equipment business. The business was started by the family in 1927. Over the years and through much hard work they have grown from a small dealership into a thriving family business that now employs more than 450 Arkansans.

I hope many of us will continue to focus on the issue that small businesses are the No. 1 employer in this country and are the least likely to send their jobs overseas. They are the foundation, in many instances, of our communities. Whether it is the sponsor of our Little League teams or the group that is sponsoring the Cub Scout campout, we know they are the heart of our communities in rural America.

Seeing this business grow, we all are thrilled to hear these stories. I am particularly thrilled to hear stories of families, families who have invested their capital, their hard work, ideas, and their lives in their trade, and are ultimately successful in realizing that American dream we all talk about.

This same story is repeated all over our great State of Arkansas, whether it be the jewelry store owner in Fayetteville, the meatpacker in Morrilton, the car dealer in Springdale, or the timber farmer in Monroe County.

Indeed, these stories can be heard across our entire Nation. Family businesses are the engines of our small communities. It is the family-owned businesses that provide the jobs, the wages, and the health care, in most instances, for our constituents. It is the family-owned business that sponsors our Little League teams or pays our local State and Federal taxes. They are an intricate part of the community. They live in our rural communities. They care about what happens to them.

Yet because of the estate tax, we are forcing them to spend valuable assets on estate planning and life insurance rather than creating more jobs by investing and expanding their businesses. We are putting them at a disadvantage with their publicly traded competitors.

What kind of risk do major publicly traded corporations have to mitigate against with the death of a CEO? None. But a family-owned business has to spend tremendous amounts of resources in mitigating against that risk.

I, for one, intend to fight for these family businesses, fight for these communities, and fight for these jobs in rural America. Unfortunately, as this businessman from my State was quick to point out to me, we in Washington have left far too many of these family businesses in a quagmire as a result of the erratic estate tax policy we set in 2001. Under the Economic Growth and Tax Relief Reconciliation Act of 2001, the estate tax will be phased out in 2010 only to come back in full force in 2011 at a 55-percent rate.

For the family-owned business and farms which comprise more than 80 percent of all business enterprises in America, and which spend tens of thousands of dollars each year in planning for this tax, the status quo is unacceptable. It is not acceptable because many of our mom-and-pop shops are having to lock a significant portion of their capital resources into estate planning that may or may not be needed down the road. For small businesses with very limited liquidity, the uncertainty is paralyzing at a time when we should be giving them every opportunity to expand.

At the expense of our family businesses, this issue has been used by some as a political football for far too long. It should end now. It can end now. Since current policy was set in 2001, we have revisited this issue in the Senate on multiple occasions. However, each time we have had the opportunity to act, we have failed to reach a reasonable solution, a compromise, which is what most people in this country want Congress to do, to come together to bring results for the problems they experience, not an end-all-be-all solution but a compromise that gets them some results.

In this Congress, interested parties on both sides of the aisle have been at the negotiating table since early last summer. We have the information we need to form a compromise solution. We have that opportunity now. It is my understanding from leaders on the other side of the aisle that should a true compromise be forged on this issue prior to tomorrow's vote, a vote on that compromise would be allowed.

Let me emphasize again, the time for a solution is now. Our economy is yearning for the investment of these small businesses, these family-owned businesses, that can help regenerate what we need in our economy, the jobs in our community that we need them to expand on. The time for the solution is now, not later.

We have told these family businesses now is not the time far too many times already. I am so very hopeful this time we will do better. We know we do not have the perfect solution. But we also know if we do not seize the opportunity to provide them the certainty they need to continue their businesses, to take the money they are now spending on estate planning and reinvest those dollars into the job creation and the expansion of their businesses, we will have missed a great opportunity.

We have the opportunity to come together, to provide some certainty for these family businesses through the estate tax reform by raising the estate tax exemption, reducing that tax rate to a reasonable level. Let's not let that opportunity slip away.

I encourage my colleagues, come to the table. Look at what we have to work with. We have enthusiastic American family jobs and businesses that want desperately to be a part of making this country strong. We have an opportunity to offer them some solutions, some certainty, in order to be able to do just that, to give back to this great country that has given them the opportunity to create and build a family and a family business they are enormously proud of.

Let us not let this opportunity slip away. I encourage my colleagues to please take seriously this issue—not politically, but seriously, the issue of the relief that we can provide by coming together on a compromise.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, today we have another clear chance to see the priorities of the other side of the aisle. While my Republican colleagues claim to have a plan to address gas prices, college tuition, and middle-class tax breaks, today the American people can see what the true agenda is: another gift to the wealthiest Americans who need it the least.

Tomorrow, we will vote on whether we should consider permanently repealing a tax that only affects those who inherit estates larger than $4 million. We will be voting on whether repealing this tax should be a top priority for the United States Senate. And we will be voting on whether repealing a tax for those with multi-million dollar estates is a good way to spend the American people's tax dollars—$1 trillion of those tax dollars, to be exact.

In my State of more than 8 million, only 1,100 New Jerseyans paid any estate tax in 2004. Of those New Jerseyans who inherited an estate, a small 1.5 percent paid any estate tax when the exemption was $2 million. Today, that exemption has doubled, and in three years, it will have more than tripled, so even fewer New Jerseyans will be affected. I strongly support giving estate tax relief to family farmers, small business owners and others who need it, but that's not what this bill does. This bill showers a trillion dollars in benefits on the top half percent of Americans at a time of record debt and deficits.

By contrast, however, more than 120,000 New Jerseyans have benefited

from a tax deduction for college tuition that Republicans have let expire. We had the chance to extend this deduction in the most recent tax bill, but somehow, the tuition deduction just didn't make the list of priorities in a $70 billion bill of tax cuts.

We cannot honestly pretend that repealing this tax is a priority for the American people; 99.5 percent of Americans aren't affected by this tax. And 3 years from now, under current law, even fewer will be subject to it. Congress has already acted on the estate tax, increasing the exemption level from $1.3 million to $4 million, so that only a quarter of the estates taxed in 2000 pay a tax today. Under current law, those who inherit a $7 million estate in 2009 will pay no tax.

And yet, the American people are being told that this is about saving them from more taxation. Small businesses are being told that the estate tax could be the death of their business. The average American is now in fear that they, too, might have to pay a burdensome tax when a parent dies. But the American people should see these for what they are: scare tactics.

Instead, the American people should be up in arms that this is the issue their Senators think is a high priority. They should be furious that instead of dealing with any of the issues they are concerned about, instead of addressing energy prices, instead of providing a tuition deduction to help families with the cost of college, we are talking about repealing taxes for the super wealthy.

So let's not be swayed by a few stories or scare tactics.

Instead, let's look at the facts. The fact is that under the current exemption, only 135 small businesses Nationwide have to pay any estate tax. The fact is that while full repeal would help those with multimillion dollar estates—such as Vice President CHENEY, who would save up to $60 million from repeal or former Exxon Mobil Chairman Lee Raymond, who would save $164 million—full repeal would actually hurt most small businesses, according to the Small Business Council of America.

And the fact is, while this may save a few millions for a handful of multimillionaires, the American people will be paying off the cost of repealing this tax for years to come.

Let's see this for what it is. This is a tax that does not affect 99.5 percent of Americans. This is not a tax crisis, and it is not a family business crisis. Repealing it is irresponsible. Greater debt upon the next generation of Americans for the benefit of a wealthy few is morally wrong.

I yield the floor.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from Virginia.

Mr. ALLEN. Mr. President, I rise to strongly endorse H.R. 8, the Death Tax Repeal Permanency Act of 2005 and urge my colleagues to vote for it. This has been brought up year after year for decades. I hope my colleagues will vote in favor of giving the death penalty to the death tax. It is an unfair tax.

I like listening to all the different commentaries. The preceding speaker from New Jersey was acting as if it is the Government's money, that this is the taxpayers' money somehow going to those who have estates. It is individuals, human beings. Americans are the ones who are the owners of their property, not the Government. My view, as a matter of principle, is that death should not be a taxable event. The sale of an asset ought to be the taxable event.

This is an important tax policy that affects family businesses, small farms, people all over this country who would like to pass on their American Dream, what they worked on and worked for and accrued through their lives, to their children.

I was listening to the Senator from Arkansas who said she wanted a solution, fairness, and certainty. There is going to be a chance to have that fairness, that certainty and solution. Tomorrow we will vote on this measure, and we can repeal the death tax. That will bring a solution. It will bring fairness, and it will bring certainty.

In 2001, I proudly supported efforts to reduce taxes on families, individuals, and small businesses, and also to phase out over a period of time the death tax. We reduced the death tax in the strange way that they do things in Washington. The death tax was at 55 percent. It gets reduced over a period of years, until the year 2010, to zero. In 2006, it is one amount; in 2008, it is another. By 2010, it is down to zero. But then in the year 2011, it goes back up to 55 percent and a $600,000-something exemption. One would think in looking at this tax policy that the folks in Washington are incentivizing the American people to die in the year 2010. If they die that year, there is no death tax. If they survive, then they will be subjected to a 55-percent tax. This is a strange and odd policy. It hurts hard-working taxpayers who wish to leave their life's work to their loved ones.

It has harmed entrepreneurs and innovators who want to rely on a predictable, consistent tax system so that they can invest and create jobs and expand opportunity and spur economic growth. This absurd, complicated tax policy does not allow people to plan with a simple, stable, and certain tax law.

We have an opportunity to give the death penalty to the death tax once and for all. This is the right thing to do for a number of reasons. First and foremost is the issue of fairness. Talking about whose money is this, if an American man or woman earns money, they get hit with an income tax. If they invest it, they get hit with taxes on any interest. If they sell an asset that they have invested in, that ends up getting hit with a capital gains tax. Dividends are taxed. Interest is taxed. If they buy something with that earned money that has already been taxed once or twice before, they pay a sales tax. And as a practical matter, the Government taxes people to death. Then, after they do die, what happens? You have, in effect, the IRS, like a bunch of buzzards, hovering around at the funeral trying to get another chunk out of what is left from that person who is deceased.

I like to paraphrase Virginia's first Governor, Patrick Henry: There should be no taxation without respiration in the United States of America. We do need to get rid of this death tax.

Part of the American dream is to be able to pass on what you have worked for or the business you have started. You may have inherited it from someone else or bought it, but you built it up and would like to pass it on. A majority of Americans agree. About 70 percent of Americans, according to surveys, support it, even if they would not be subjected to this tax, because they recognize how unfair it is to be taxing death. This is a matter of fairness that the American people understand.

The second reason to eliminate the death tax is that it has a harmful effect on our economy. In many cases, the assets that are subjected to the death tax have already been taxed once or twice or three or four times before. That means the death tax is the fourth or fifth tax. It drains our economy. It provides little incentive to keep a farm and provides little incentive for a business to expand or to improve because its value would go up.

We have done a lot of things in the last few years that are beneficial for small business: For example, the $100,000 expensing for capital equipment as opposed to $25,000. That new equipment will make that company or that enterprise more productive, more efficient, and undoubtedly more profitable. But if you keep doing that year after year and improving it, you will improve the value of your business, making it subject to the death tax which is obviously counterproductive.

Another way this unfair tax hits people in the Commonwealth of Virginia is to look at the outer suburbs, Prince William County, Loudon County, the Piedmont of Virginia, the Shenandoah Valley. Someone may have farmland or forestry property in the hills and mountains. That property, when someone dies, is not taxed at what the value would be for running cattle on it or growing trees. It is taxed by the Federal Government at its highest and best use. The highest and best use of most of this property is not running cattle or growing soybeans or timber. It is going to be taxed at what the value would be if it were subdivided into a development or if it were along a highway commercially. So what happens so often is urban sprawl or suburban sprawl in the Piedmont, the Shenandoah Valley, the Richmond area, and elsewhere in Virginia and in the country because that forestry property will give you just the return when you harvest the timber. But to pay those

taxes, you will have to get a loan. You are not going to get enough income off of that property to be able to pay those taxes. So what happens is that that forestry property or that family farm gets subdivided to pay the Federal Government death taxes. And whatever remains of that farm, if any, after it is subdivided, is a less efficient farming or agricultural or forestry operation.

This does harm people in a variety of ways, not just fairness, not just impeding and countering incentives for improving a business. It also means for Virginia ending up with more suburban sprawl. Talk to developers when they develop a subdivision. It is usually and so often from an estate sale where that family cannot keep the family farm going, and it changes the nature of many communities.

I have listened to all the arguments: Gosh, why can't we do this, and why can't we do that. We can do a lot tomorrow. We can act. It is something that has been promised year after year. Some people may not think it is entirely how they would like it, but why not do something positive, constructive and useful and follow the will of the majority of the Senators. Those of us advocating this are not in the minority. We are in the majority. There is a supermajority needed to keep proceeding, but stop the obstruction. Let's follow the will of the majority of the American people, the will of a majority of the Senate, and for tax fairness, for tax simplification, for certainty and stability of tax policy, let's kill the death tax once and for all and provide new life to the American economy and the American Dream.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, I echo what my colleague from Virginia has said and rise in support of repealing the unfair death tax.

It is fair to say that death should not be a taxable event. There is decisive majority support in the Senate for repealing the death tax. And if you look at what happened in the House of Representatives, 272 votes in favor of repealing the death tax, a bipartisan vote in the House, and a big, bipartisan support vote in the Senate. What is happening is it gets filibustered. It takes 60 votes to end the filibuster. I hope my colleagues will join with the rest of us, those who have chosen to try to block this from consideration, and vote with us to at least allow us to proceed to consideration, to proceed to a vote, to allow the will of the Senate and what I believe is the will of the majority of the people in the country to be worked.

It is an unfair tax because the Donald Trumps and Paris Hiltons of the world, which are the examples most often used by our colleagues on the other side, are not going to pay it. They have a team of lawyers and accountants who are going to make sure that they pay little or no death tax. It is family-owned farms and small businesses that will end up paying the tax.

There are a lot of numbers being put up by both sides in this debate. After spending a little time in Washington, it becomes clear that just about everyone can find a statistic to support their particular point of view. I brought with me some real South Dakota stories that can help us understand who the death tax can hit and how it can hurt or even shut down a family farm or business.

Perhaps the most well-known example of a family-owned and operated business in my State of South Dakota is Wall Drug. I had hoped to have a poster to show it because people across this country, anybody who has traveled down interstate 90 in South Dakota has seen signs for Wall Drug. Although it currently draws thousands of people every day, Ted and Dorothy Hustead never imagined the success of their family-owned and operated business. Wall Drug wasn't always the tourist attraction it is today.

In fact in 1931, Ted and Dorothy Hustead and their son Bill moved to the prairie town of Wall, SD. Ted was a pharmacist and started his own drugstore with $3,000 left behind for him by his father. After a 5-year trial, the Husteads were ready to give up their family-owned business until Dorothy's extraordinary advertising idea.

The Husteads began advertising free ice water on the billboards to draw people in who were traveling across the hot, vast prairie of South Dakota.

The story is told that before they could get back to the store, after putting the signs up on what used to be highway 16 in South Dakota, there were already customers streaming into the store to get some of this free ice water. The first sign sprung up on highway 16 and it turned out to be the key to their success. Today, Wall Drug's advertisements are still along the highways of South Dakota, still advertising free ice water, along with other more modern draws. Their signs can also be seen all over the world, often with the mileage dutifully added. My office is 1,565 miles from Wall Drug.

This didn't happen overnight. In 1951, Ted and Dorothy's son, Bill Hustead, joined the business, working to create the family attraction that Wall Drug is today. The second-generation Husteads expanded the business and increased advertising spending.

In 1981, Bill's oldest son Rick became the first member of the third generation to join the business. Later joined by brother Ted, the third-generation owners continue to run the family business based upon the same western hospitality once embodied by their grandparents. Holding its reputation high, Wall Drug represents America's strong entrepreneurial spirit, built on innovation and perseverance and passed down through three generations of the Hustead family.

Why do I use this illustration to tell the Wall Drug story? Because it would be a shame to see family operations such as Wall Drug be sold off because of an untimely death in the family. That is what might happen to this business and these two other South Dakota stories that I will share with you. The effect of the death tax is very real on these family-owned operations, family-owned businesses.

In central South Dakota sits a 3,000-acre family farm. I will describe it as a medium-sized farming operation in South Dakota—not too big, not too small. Unfortunately, a death occurred in the family. As a result, $750,000 will likely be paid in taxes. This is a huge amount of money for a farm operation in my State, where land values can make an operation look a lot more valuable on paper than they are in reality. In other words, farmers like this can often be described as ''land rich'' and ''cash poor.'' All their value is in their land. When a massive death tax bill comes due, the only option is often to sell the land to pay this unjust tax. Thus, a family legacy comes to an end.

There is another operation in my State of South Dakota, with 10,000 acres in the north central part of the State. Like so many farms and ranches in South Dakota, the parents who have run the place for decades are now advancing in years. In this particular family, the mother passed away and the father is getting on in age. Their kids would like to continue in the business, but the tax on the farm would likely be $1.5 million. That might make it impossible for the kids to stay on and keep that family farm alive. I find it very disturbing that our Federal Tax Code could influence a family's ability to keep their farm from being broken up and sold off.

These are examples of real family farms that are facing the effects of the death tax. This is just not an exercise in the theoretical. Real farms, ranches, and real small businesses are watching how the Senate is going to act on this important issue. Our action, or inaction, this week will affect real businesses in each of our States.

Mr. President, in my State and other rural States, we are seeing the next generation leave for school and, too often, not coming back. We need to put in place incentives for our young people to keep rural America alive and strong. The death tax is an incentive for exactly the opposite effect. It can help push young people away from carrying on the family business in rural places. I hope the Senate will do the right thing and bring a permanent end to the unfair death tax.

I will offer one final thought on an argument we are hearing from the other side of the aisle. I have heard it said that repealing the death tax will add up to $1 trillion to the deficit. We heard a similar argument made when it came to reducing the tax rate on capital gains. The other side was wrong then, and they will be wrong again this time.

The analysts who have churned out figures in the trillion-dollar range are

not taking into consideration the nature of the death tax and its larger impact on the economy. With the death tax permanently killed, family business owners would then reroute tens of thousands of dollars from lawyers and accountants hired to avoid being hit by the death tax back into their business. There this capital would be used to hire another employee or add value to their operation.

In fact, repealing the death tax would remove the asterisk on the American promise of passing your hard-earned business or nest egg to your children or grandchildren. The death tax in its current form has a chilling effect on the creation of new family businesses that would be created if assets could be passed down to the next generation. How many next generation beneficiaries would have invested in a new business if only they had sufficient capital to do so? How often has the death tax prevented this? How many potential jobs were not created as a result?

The changes in economic behavior if the death tax was no longer a factor to consider is hard to determine. But the dividend and capital gains rate reductions serve as a good indicator. Those rate reductions have paid for themselves many times over in increased Government revenue.

Last month's budget report from the Treasury Department has tax receipts up by $137 billion, up 11.2 percent for the first 7 months of fiscal year 2006. The year before, if you look at 2004 to 2005, there was a $274 billion increase in Federal revenues, or 14.6 percent more Federal revenues for fiscal year 2005. Reducing those taxes spurred economic growth and increased Government revenue. That is exactly what I expect would happen if we were to eliminate once and for all the death tax.

So I ask my colleagues to take a look at the death tax and getting rid of it simply as a matter of bringing fairness to our Tax Code. That is how the American people view it; that is how South Dakotans view it. Even though many Americans might not have a substantial nest egg to pass on to their children, they understand the death tax to be unfair. For that reason, they oppose it. They also know that it is those very same small businesses, small farms, and ranch operations that are creating jobs and making it possible for young people to continue to stay in the rural areas of this country.

One recent poll suggests that 68 percent of Americans support repealing the death tax. It is simply unfair for death to be a taxable event. I urge my colleagues to allow us to vote, allow us to proceed to the debate, and to get an up-or-down vote on the floor of the Senate, and to join the House of Representatives, which passed it by a very big bipartisan vote—legislation that would repeal and end the death tax once and for all.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I speak in favor of doing away with the death tax. To follow a principle of taxation and not just for the sole purpose of doing away with the tax, but following on what the Senator from South Dakota said, an obvious one is that death should not be an incident of taxation—not because it is death, but because when you collect taxes in an instance like that, it is like a fire sale. When you force a sale at a particular time to pay taxes, the value is going to be less than if the marketplace works. So by letting the asset pass from one generation to the other and letting the succeeding generation sell it according to the willing buyer/willing seller, more money is going to come in. That is a principle that has been laid out by the Senator from South Dakota.

Another principle that hasn't been spoken about yet is when to tax for Government services—tax income the earliest it is made, and tax it once. Beyond that, you ought to let the marketplace decide the value of something and tax it accordingly. Under both circumstances, more money is going to come into the Federal Treasury.

So I believe that death should not be a taxable event. Since I have been in the U.S. Senate, I have been working on reform of the estate tax. Taxing people's assets upon their death is just plain wrong—not wrong to the heirs as much as it is wrong to think that you are going to get more money into the Federal Treasury that way than if you let the marketplace work and determine the true value of something with a willing buyer and a willing seller.

Heirs should not be forced to sell a single asset in order to meet an arbitrary tax due date—the due date caused by death. Assets should not have to be sold to pay taxes. The market should determine when things are bought and sold. That is the best measurement—when a willing buyer meets a willing seller and they agree on a price and a time when that asset should be sold.

Unfortunately, under existing law, we have it all wrong. Under current law, in 2011 when we will once again have an estate tax due and owing within 9 months of death of 55 percent, and even in some cases up to 60 percent, that is just not right. It is not right for the family involved and it is not the best thing for the Federal Treasury, because that is not going to bring in the massive amount of revenue that would come in if the marketplace were working. It is not right because we have forced many unwilling sellers to have to deal with a very willing shark of a buyer who is waiting in the murky waters of tax uncertainty.

Some people wonder why I care so much about this issue. I have reporters from big city newspapers calling me, because I am a U.S. Senator, to remind me that Iowa is somewhat economically poor compared to very so-called wealthy places, like New York City, and that land and companies in the Midwest are not worth much. They take great joy in calling up my constituents—probably very randomly—and maybe stopping by once or twice for a so-called investigation about the haves and the have-nots of our State. They do it trying to find out the grassroots feeling about this great tax debate.

I may not get to write on the front page of a fancy urban newspaper, but I do get to talk to a lot of my constituents because I visit every county every year to find out what is important to my constituents through my town meetings. I will give you, from those meetings, a couple of examples, as my colleague from South Dakota did for his State, of why I think this debate is so important and this bill is so important and this cloture vote should pass.

Unfortunately, we have it all wrong. Under current law, in 2011 we will once again have an estate tax due and owing within 9 months of death of 55 percent and even in some cases up to 60 percent. That just is not right. We have forced many unwilling sellers to have to deal with a very willing ''shark'' of a buyer waiting in the murky waters of tax uncertainty. These are real people who live in Iowa. They have devoted their entire lives, for multiple generations, to building businesses and creating good jobs for people of rural Iowa.

Over 40 years ago, Eugene and Mary Sukup started a grain handling and storage manufacturing company in Sheffield, IA. On my family farm, my son and I used Sukup equipment to store our corn and soybeans and to use drying equipment for drying corn for storage. So I know that the Sukups, as a family manufacturing business, have a quality product and they serve their customers well, and they serve all Iowa well in the sense of jobs. Today, the Sukup family and the next generation of two sons and their families are involved; they are still headquartered in this little community of Sheffield, IA, with a population of 968 people. But they employ over 300 people from 5 different counties, in good-paying jobs, with good retirement plans. In fact, the original employee team that started with them 40 years ago is still there today, and, in many cases, the next generation of that family has also joined the team.

In addition, the Sukups' facilities in other States, also contributing to the economy of those other States, like Defiance, OH; Jonesboro, AR; Arcola, IL; Aurora, NE; and Watertown, SD—places where good jobs and hard work that isn't flashy and doesn't make the scandal page of big city papers are valued as important ingredients of downhome, good living. These are the places where people invest in the local economy and contribute to the community as good taxpaying citizens.

Let me tell you about another little Iowa town, Shenandoah. That is where Lloyd Inc. is located. It, too, is not a flashy company. They started making

animal dietary mixes in 1958 and now is a significant provider of veterinary drugs. Eugene Lloyd is a doctor of veterinary medicine and the CEO of the company. He tells me that the company has never laid off employees due to poor business cycles and employs over 80 well-educated people in Shenandoah, a town of less than 6,000 people.

The company has also provided generous health care and retirement plans to their employees and, like I said, in rural America, those benefits are very important.

Unfortunately, even after vigilant estate planning, these two family-owned companies will be facing a combined estate tax bill of well over $40 million. That is $40 million that will leave the State of Iowa. The companies will probably face a fire sale and so often, it is sold to someone with no interest or desire to maintain the current location or contributions to the community. So there are two companies, two towns, 6 counties, 4 families and hundreds of employees, all of which will be hurt if we don't do something about the death tax. Businesses will be sold, locations will be shut down, and real people will lose good jobs and the State of Iowa will lose $40 million of hard capital invested for almost 90 years between the two companies. Not to even mention how much salary, retirement plans and charitable contributions they have made to those little Iowa communities.

So when the multinational or foreign companies come calling, we have no one else to blame but ourselves for letting these family owned companies committed to the community go away.

All of us from rural America are trying to battle what is called out-migration. If we leave the death tax in place in its punitive form in 2011, it will suck jobs, businesses, and people out of rural America.

That is why I care about this death tax debate—real people, in real Iowa counties that have entire communities that would care. It is strange, in New York City, how many multimillionaires live on any one block in Manhattan?

Those so-called multimillionaires seem a little different when you check out the Iowa corn crop, or you sit together at church or the grandson's baseball game. They are, as the popular book says ''the millionaire next door,'' they are the pillars that help hold up all those 99 counties that I visit every year. I know these are not the kind of stories that make the front page of the big city papers, but when family businesses get sold and shut down or moved out of State or even out of the United States, it certainly makes the front page of the newspapers about which I really care.

So when you hear about the number of estates affected, keep in mind, to some extent, that statistic is only a snapshot. The estate tax return is filed by the representative of the dead person. Those statistics, so often dwelled on by many of the proponents of the death tax, don't capture the full picture. The statistic is only a look at the dead person who owned the business or farm. It doesn't take into account the dead person's family, employees, or neighbors. All of those folks are affected if the death tax burdens that family business or farm.

I plan to vote for cloture, and I hope 60 other Senators also vote for cloture on Thursday. It is time we had a real debate on a reasonable solution to this problem. Kicking the can of tax uncertainty is draining dollars out of these family owned businesses, just as well as the estate tax, only the expense of planning for these uncertainties takes money every month and not just all of it within 9 months of death. Vote yes on cloture. We owe these folks an answer.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Delaware.

Mr. CARPER. Mr. President, I have asked my staff to see if they can find some charts—maybe the kind of charts prepared by our friend, Senator CONRAD.

Let's look at this first chart. One of the charts I asked to see if they can find is a chart that deals with what has happened in this decade under current law with respect to the amount of an estate that is excluded from the estate tax so we can see what it looks like over time and what the rates look like over time.

As I recall, the amount that could be excluded from the estate tax in 2001 was about $1.35 million. It went up to $2 million, $3 million, and this year it is about $4 million combined, two people in a family, husband and wife, and then I believe in 2009 there is $3.5 million excluded for each spouse, for a total of $7 million for a family in which there are two people. The amount of the tax, going back to 2001, I believe was about 55 percent. Over time it has been decreasing, so that in 2009 the amount of the estate that will be excluded from the tax is $7 million, and I believe the rate is 45 percent. The next year, in 2010, there is no estate tax, and then in 2011 we go back to where it was in 2001, which is again about a little less than $1.5 million, and the rate would be 55 percent.

People like to have some certainty in their lives so they can do planning for a whole lot of activities. Certainly businesses like to have certainty so they can do planning. That is especially true when folks are trying to develop business plans or estate plans. When we look at a tax that goes from an exclusion of $7 million at a rate of 45 percent to the next year having no tax, and the year after that we will be back where we were in 2001, that certainly doesn't provide the kind of certainty under which businesses or families like to operate.

My hope is that during the course of this debate or this year, we can come up with some certainty. There are folks who would like to see the estate tax go away altogether. When I was Governor of Delaware, we actually eliminated the inheritance tax. We cut taxes 7 out of 8 years. Can you believe that, Mr. President? We reduced taxes 7 out of 8 years. We also balanced the budget 8 years in a row.

The concern in getting rid of the estate tax altogether is we didn't balance the budget last year or the year before that, and we are not going to balance the budget this year or for as far as the eye can see. In fact, the way to come closest to reducing the deficit, as the administration would have us believe, to cut it in half, is to assume we are not going to spend any more money in Iraq the next year and the year after and we are not going to spend any more money in Afghanistan or do anything to fix the alternative minimum tax, which is likely to cost us some money—in fact, a whole lot of money. If we ignore all those items, we can pretend the deficit will be cut in half, but I don't think we can in good faith ignore them.

Let me see what else we have in charts that might be worth looking at. This chart gives us some idea of the percentage of the estates that are going to be taxed in 2009. Again, this is if we consider a $7 million exclusion with a rate of about 45 percent. It says that in 2009, only 0.2 percent of estates will be subject to that tax. If we exclude everything up to $7 million, that doesn't leave very many estates. That is 2 estates out of 1,000 which would have to pay anything at all. And even in 2009, the rate would be down from 55 to 45 percent. This chart shows a pie. That is a pretty small sliver out of that pie. Actually, it would probably be a lot slimmer than that if we really wanted to show it in proportion.

Let's take a look at one more. This chart shows how many estates were being taxed in 2000—roughly 50,000. When we go up to the $7 million exclusion for a husband and wife, the number of taxable estates is down to about 7,000.

I wish we had another chart that actually showed what the value of the estate tax is in revenues to the Treasury. I don't know if we have a chart showing that information. If we can take a look, that would be good.

Some folks like to call the estate tax the death tax. That is actually pretty clever. But I always think of it as the estate tax.

I think of something I call the birth tax. It is a tax that every child born in the country this year inherits upon their birth because it is the amount of our debt that accrues to them and, frankly, to the rest of us. The amount of money we owe as individuals as a personal obligation—again, take the total amount of our debt divided by the total number of people, and we are talking about tens of thousands of dollars. In fact, if we look not just at the money that is accumulated debt but if we look at that more on an accrual

basis, we are looking at a birth tax that is not $20,000 or $30,000 per person but maybe 10 times that amount of money.

This is the cost of the estate tax repeal. We generally only look ahead 5 years. We have been raising the amount of estates that are excluded and lowering the tax rate for the last couple of years—actually, the last 5 years—and the amount of money lost to the Treasury is actually pretty small.

Starting right about 2010, it jumps rather considerably, and it looks like it is $60 billion a year starting in 2012, and it just climbs to 2021 and almost $100 billion a year. This wouldn't concern me if we had a balanced budget. This wouldn't concern me if we had a reasonable prospect for a balanced budget. This concerns me because we don't have a balanced budget and we don't have any prospect for a balanced budget going forward. For us to go willy-nilly into eliminating the estate tax altogether is just imprudent—woefully imprudent.

Should we do nothing? Should we just let the clock continue to tick, so we get to 2009 with a rate of 45 percent and $7 million excluded from the estate tax, and then in 2010 it all goes away, no estate tax, and then in 2011 it comes back to where it was 10 years earlier? Does that make sense? I don't think that makes much sense, either. Rather than simply criticize those who make the estate go away, we ought to find a middle ground, a third way, and the third way says: What can we do that is fair and reasonable to farm businesses, families, and so forth, and at the same time will not make the budget deficit look like this or this much worse going forward?

The approach I like is we go back to where we will be in 2009 if we don't change the law. There are several of us who are going to introduce legislation to do this. I am not sure who will be in the lead. I will be one of the cosponsors. It says: Let's think about providing continuity and certainty. Let's acknowledge the fact that moneys should be excluded from the estate tax. And what is a reasonable level? Right now, we are at $4 million for a family, and in 2009 it will be at $7 million. We are going to suggest we exclude not just in 2009 but in 2010 and 2011 at least $7 million.

I believe we should index that amount going forward, just stay at $7 million for the next 10, 20, 30 years, but it will go up every year in conjunction with some deflator, the CPI or something such as that, and say the rate that is going to be effective in 2009 on the money in excess of the $7 million that can be excluded is 45 percent and lock it in at 45 percent for a while. So not only in 2009 will the amount excluded be $7 million, but in 2010 we will exclude $7 million, maybe with a CPI adjustment, and in 2011, $7 million, again adjusting according to inflation, but the rate would stay the same at 45 percent.

I wish I had a chart that actually shows how that would affect this accumulation of debt, our deficit. It would reduce by about 70 percent the amount of red ink. It wouldn't eliminate it entirely, but we wouldn't be looking at numbers of close to $100 billion a year in 2021. We might be looking at $30 billion. We wouldn't be looking at $50 billion a year in lost revenues to the Treasury; we would be looking at something more like $15 billion.

If people don't think we should have the estate tax where it was in 2001, that is not going to make them too happy because it is still a fair amount of loss to the Treasury, but it is not this huge loss to the Treasury. As long as we are running these huge deficits with little prospects of things getting better anytime soon, we need to find a middle ground, something more fiscally responsible and something responsive to what has been expressed to me by our farm families and small businesspeople.

We are going to have a chance to vote on a cloture motion on the motion to proceed tomorrow. I understand those who want to eliminate the estate tax entirely would like to prevail tomorrow and they would like to go forward. I don't know if the cloture motion on the motion to proceed tomorrow is going to pass. If it doesn't pass, rather than throwing up our arms and saying that is it for another year or two, I hope we will actually take a closer look at what some of us are going to be introducing either today or tomorrow which says that $7 million is a reasonable amount of money to exclude from the estate tax, which is lower than the current rate on estates, 45 percent for everything above $7 million is not an unreasonable level, and see if we can't work toward that goal.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I am sure it is not going to be a surprise to anyone here that I am opposed to the repeal of the inheritance tax. Now, I don't believe people ought to be taxed beyond what is normal by increasing taxes here or there, but I do have a problem with figuring out ways to reduce taxes, inheritance taxes, on the wealthiest among us. We are talking about wealth that staggers the imagination, that is so vast that the average American can't even comprehend it. We are talking now about making it easier for the wealthiest among us to pass along the fortunes that some of them worked hard for, a lot of them inherited, and for the next generation who is waiting for dad or mom to pass away so they can make sure they can keep up with the yachts and the airplanes and the things of that nature. I don't say that everybody who is wealthy is spoiled or has bad values, but I think we have to look very carefully at what we are doing in the circumstances in which this country is living.

To give an example, this is like saying, if you are in debt, deeply in debt, the best way to solve your problems is to go out and borrow more money to pay off the old debt. It sounds foolish, doesn't it? But that is what we are about to do if we chip away at the taxes that are now—the revenue that is now collected through inheritance taxes.

At first glance, it sounds like a good idea to get rid of the inheritance tax. When you look below the surface, you learn that repealing it is a bad deal for the vast majority of Americans.

There is a lot of misinformation being passed around about who pays this tax. We have even given it a name that makes it so repulsive that as soon as you hear it, you say: Wow, what is this, a death tax? Do you mean you have to pay a tax for dying?

No. You have to pay a tax for making so much money that life can forever be comfortable. Not a bad thought, but at what cost? That is the thing that we are concerned about.

Here is the truth: One-half of 1 percent of the estates this year will be subject to tax. I don't know how many people who make $45,000 a year can understand what happens with one-half of 1 percent of the estates in this country of ours. What it says is that 99.5 percent of the estates left are not subject to any tax. To be even considered for this tax, an estate must be worth at least $2 million.

For any of you who hear my voice or look at the figures you see in the paper, remember, when someone says to you: You don't want that death tax out there, do you? It doesn't affect you unless you are worth at least $2 million. Then, on top of that, there are all kinds of tax shelters and exemptions. So very few people pay the tax. As a matter of fact, the average rate that estates pay is somewhere in the high teens, and rarely ever approaches the 55 percent marginal rate, which is the highest of them all. So I think some of my colleagues have to understand the history of the inheritance tax.

I was very lucky in my lifetime. My father died very young and left my mother a widow when she was 37 years old, and I was already in the Army. I had enlisted in the Army just over—well, over 62 years ago. My mother was this young, struggling widow, deep in debt because my father, who was a very healthy man, got sick on the job, and it took a year to rob him of his strength and his energy, so that there was nothing left except grief and debts my mother had to pay.

I was the beneficiary, as a result of my military service, to get something called the GI Bill. The GI Bill said to those who serve: We are going to help you make up for some of the years that we took for you to protect our country and protect our ideals, and we are going to provide funds for you to improve your lot, to get an education, to make up for the time lost, for building a career. The GI Bill sent me to college. I never would have been able to

go. It would never have been available to me.

When I graduated high school, I had a job loading trucks. That is what my life was like. But good fortune struck me, and the opportunities that America gives were mine in abundance.

I went to Columbia University. I went to the business school there. I sit on that school's board now. I look back in amazement at what good fortune that I had. I created a company with two other fellows named ADP, Automatic Data Processing. Automatic Data Processing is a company that today employs 44,000 people in 26 countries in which we serve. Three guys from factory-working fathers, two of them are brothers, and my father, all worked in the same kinds of factories in Patterson, NJ. So life was good.

We presented a new idea in America, those years when we started. It was called outsourcing. It was the opportunity for companies to render specialized services so that the companies who hired us could devote themselves to making their product better and selling it cheaper and being more efficient totally. So as a consequence of that—why is this story relevant? It is because as a consequence of creating a company—my old company before I came to the Senate over 20 years ago—that company had the longest growth record of any company in America at over 10 percent, each and every year, growth and income. Every year for 42 years in a row we had the longest growth record in America, and I take modest pride in knowing I was part of that development.

As a consequence, of course, I made some money, a lot of money by most standards, and I brought my four kids up to understand that they were also lucky, and not just because their father was successful, and each one of them has worked very hard to make their own lives.

I tell that story because what I want to be understood is that I would be a beneficiary, or my kids would be beneficiaries, of a no-tax estate if it was left to them. But what would that do for my children as a result? It wouldn't do anything for them, in my view, in the long run. Give them more money? No. I would rather give them a safe country. I would rather give them a chance to fight against childhood diseases. My oldest grandchild has asthma, and my daughter, when she takes them out to play sports anyplace, the first place she looks for is an emergency clinic to make sure if he has an attack, they can get there in a hurry.

That is the most important thing in my life, to make sure that my children are safe and that we know that if, heaven forbid, they are the one-third of the children in America who are going to get diabetes in their juvenile years, that we will be able to fight against it. I meet with those families. I talk to them. I talk to the children, and I ask them about the terrible inconvenience that it is to deal with sticking their fingers day and night and making sure they feel good throughout their schoolday.

So when I think of what legacy I might give my children, it is not more money in the bank. It is a safer country, it is air that they can breathe, it is water that they can drink, it is assistance, if they need it, to get through school, the same thing that every grandparent wants for their grandchildren.

Now, to say, OK, FRANK, you have been lucky. You did well. You provided a lot of people with very good jobs. But now what we are going to do is reward you on top of the rewards you have already gotten by giving you more money, by making sure that your kids can live comfortably.

I have a list of people who are lobbying against the estate tax. When you see the size of some of these estates, it blows your mind, to use a common expression. I want to take a look at the chart that shows what happens if we cut estate taxes for the wealthiest.

This is interesting. There is a company called Halliburton, a company that used to be run by the Vice President of the United States, and who still gets an income from them, almost as large as his income from the U.S. Government. This is the Vice President of the United States who gets an income from a private company that does all kinds of defense business that has been charged with overcharging us for work they did in Iraq, that got a no-bid contract that ran over $2 billion. The CHENEY family—and listen, we respect success, but Vice President CHENEY still has options, tens of thousands of options that are not yet exercised in Halliburton, whose value depends on their ability to do better.

That is the price of the stock. So if we want to reward Vice President CHENEY and Halliburton for their questionable work and their questionable morality when they still do business with Iraq through sham corporations, Iran who gives money to terrorists, who go to Iraq to kill our kids—Halliburton, that is the company. Vice President CHENEY was the CEO of the company. I am not suggesting there is a connection anymore, but I will tell you this: If you want to go to ADP and sell them something, you tell them you know FRANK LAUTENBERG—I was the chairman and CEO of the company—it does make it a notch easier to get some business. We are going to give them a $12 million tax cut—$12.6 million. That is what happens if we repeal the estate tax, as is suggested.

A famous name here, it is not the Hilton Hotel, but it is Paris Hilton, and she will get $14 million in tax cuts if we go ahead and eliminate the estate tax as suggested. The chairman of Exxon made a lot of money. He made $145,000 a day—$145,000 each and every day—and the average wage in this country is $45,000 a year, the average wage. The number of people who make $145,000 a year is very small. Senators in the United States Senate make a little more than $145,000. In fact, they make $165,000. But here, Mr. Raymond made $145,000 a day. So we are going to be nice to him because he made so little: $145,000 a day. We want to give him a $164 million tax cut, give his heirs $164 million. It is obscene, Mr. President. That is what it is.

It is really funny. When you ask for the origins—when did the inheritance tax come into play—people forget that it was originally pushed by President Roosevelt. President Roosevelt, people say? Yes, but not Franklin Roosevelt. It was developed by a Republican, Teddy Roosevelt. He believed that an inheritance tax should not be aimed at the average citizen or even citizens of above average wealth. President Theodore Roosevelt said the inheritance tax should ''be aimed merely at the inheritance or transmission in their entirety of those fortunes swollen beyond all healthy limits.'' This is what the current estate tax does. It affects only the hereditary elite, those who inherit estates of more than $2 million. I repeat: 99.5 percent of American families will not be affected by the estate tax. They won't have to pay a penny out of their legacy.

So when I look at where we stand now, deep in debt because in America we increased the debt limit so we could splurge some more and spend and borrow up to $9 trillion—not earn, borrow to get us up to $9 trillion, and it is rumored that soon we will be looking at the possibility of raising the debt limit again.

And repealing the inheritance tax will only further balloon our Nation's debt. So in order to increase the inheritance of the richest people in the country, we are going to pass more debt to everyone else's children and grandchildren.

I would like someone to explain why that is a good idea.

In 2009, the estate tax exemption will be $3.5 million—but that is not good enough for most Senate Republicans.

Here's what that means in real life:

You could have a $1.9 million mansion, a 44-foot motor yacht, a beautiful summer beach house, his and hers Porsches, and a $600,000 investment portfolio—and still—still—you would not pay a penny of estate tax.

The people who need a break are not the wealthiest one-half of 1 percent. It's everyday people who deserve a break. They deserve a break from high gas prices, rising college tuition and health care costs.

But instead of trying to help everyday people, the Republicans in the Senate are clamoring to help the richest families in America.

Forget gas prices—Congress needs to make sure Paris Hilton gets a few more million dollars in inheritance. We have to make sure that the heirs to the former CEO of ExxonMobil don't miss out.

Some of the wealthiest Americans in the country have actually spoken out against this madness.

Billionaire investor Warren Buffett said that the estate tax has played a ''critical role'' in promoting American economic growth by creating a society in which success is based on merit rather than inheritance.

Buffett said that repealing the estate tax ''would be a terrible mistake'' and would be the equivalent of ''choosing the 2020 Olympic team by picking the eldest sons of the gold-medal winners in the 2000 Olympics.''

Mr. President, if we repeal this inheritance tax, what would be the effect on everyday people and the Federal budget?

For starters, it would cost our Nation $73 billion every year by the middle of the next decade.

What could we do with that much money?

We could provide health insurance for every uninsured child in America, and have enough left over to give them full college scholarships.

We could give every family in America a $500 tax cut.

We could eliminate 75 percent of the Social Security shortfall.

We could provide clean food and water to the 800 million people in the world who lack it.

We could provide the funds necessary to pay for the war in Iraq for the next 10 years.

So that is our choice. We can help everyday people, or we can give a big gift to the richest people in America.

I have heard my colleagues on the other side say they hear stories every week about farmers or small business people having to sell their businesses to pay the estate tax. But they have not been able to cite a single example of this actually happening.

In fact, in 2001, the American Farm Bureau could not find even one family farm that had to be sold to pay the estate tax.

The estate tax mostly does not hit small business people and family farms. The vast majority of assets affected by the estate tax, more than 70 percent, were in liquid assets like stocks, bonds, and cash.

In an attempt to do away with this ''small business'' and ''family farm'' fiction once and for all, in 2002, Democrats proposed to completely and permanently exempt all family farms and all family-owned businesses from the estate tax. But those on the other side of the aisle voted against it. It was an illustration that they are interested in protecting the wealthy, pure and simple.

Mr. President, this week has really showcased how backwards the priorities of this Senate are. Instead of tackling gas prices or dealing with the war in Iraq, we tried to pass a constitutional amendment on gay marriage.

Now, instead of helping families afford college or get better access to health care, we are looking to help the richest families in the country get richer.

This is indeed the twilight zone Senate. In my view, it is time to cancel this show.

I yield the floor.

Mr. KENNEDY. Mr. President, the audacity of the Bush administration and their congressional allies truly knows no limit. In spite of all of the urgent problems facing our Nation—from the ongoing war in Iraq, to the devastating hurricane damage along the gulf coast that has not yet been repaired, to the outrageously high gasoline prices that are squeezing American families—the top Republican priority is eliminating the estate tax for the richest families in the country. President Bush's policies have already added nearly $3 trillion to the national debt in the last 5 years. Now, they are proposing more of the same, more tax breaks benefiting only the wealthiest among us.

The first 10 years of estate tax repeal would cost $800 billion in lost revenue, nearly a trillion dollars when the cost of interest on the higher national debt that would result is included. It is unaffordable. It is the ultimate example of misplaced priorities. Repealing the estate tax would cost as much each year as the Federal Government spends on homeland security, and it would cost more than we spend on education. And, it would be grossly unfair.

Today, under current law, only 5 estates in 1,000 are subject to the estate tax. By 2009, only 3 estates in 1,000 will be subject to the estate tax. Only estates over $3.5 million will be taxed. Thus, repealing the estate tax would only benefit a few thousand heirs of the richest men and women in the country. One columnist recently called it the ''Paris Hilton Tax Break'' and that description accurately identifies who would benefit from such an enormous tax giveaway.

The notion of an estate tax is nothing new or radical. We have had an estate tax for over 100 years. During much of that period, it covered a far greater percentage of estates than we are taxing today. One of the strongest advocates of the estate tax was Teddy Roosevelt, who believed it was essential to a fair and democratic society. Those who have benefited most from the opportunities America offers have a special obligation to contribute something back to their country.

Advocates of repeal always claim that the estate tax forces the sale of large numbers of farms and small businesses each year. That claim is greatly exaggerated. CBO analyzed this issue. It concluded that if the 2009 exemption level of $3.5 billion had been in place in 2000, only 94 small businesses and 65 farms in the entire country would have owed any estate tax. Of those, most had sufficient liquid assets to cover the estate tax owed without touching the business or farm. The few that did not, have the option of paying the tax in installments over 14 years.

These small businesses and farms are being used as a sympathetic Trojan horse to conceal those who would really benefit from estate tax repeal. The real beneficiaries of repeal would be the heirs of the richest men and women in America.

If we eliminate the estate tax on the largest concentrations of wealth in our society, we will be permitting the very few who inherit huge amounts of money to receive their millions tax free while working Americans have to pay substantial taxes on their wages. It would be terribly unfair to tax work while giving inherited wealth a free ride.

The estate tax is the most progressive of all Federal taxes. At a time when the income gap between the wealth few and the middle class has grown disturbingly wide—wider than it has been in decades, why would we want to transfer more of the tax burden from the rich onto the shoulders of middle class families. Make no mistake, the trillion dollars that would be lost should the estate tax be repealed will have to be made up by increasing other federal taxes, taxes paid mostly by the middle class. That is the injustice of repealing the estate tax.

What we should do is make permanent the estate tax that will be in place in 2009—covering estates over $3.5 million—$7 million per couple—with a top tax rate of 45 percent. Only three-tenths of 1 percent of estates would owe any tax under that proposal. While the maximum rate of 45 percent may sound high, that figure is very misleading. Analyses show that the effective tax rate on these estates—the rate after the $3.5 million exemption and other available deductions are taken into consideration—would be, on average, only 17 percent.

I believe all the revenue from preserving the estate tax at the 2009—level should be statutorily dedicated to the Social Security trust fund. Saving Social Security for the many who depend on it is far more important than repealing the estate tax for the wealthiest few.

No Government program reflects the values of the American people better than Social Security. We are a community that takes care of our most vulnerable members: the elderly, the disabled, and children whose parents have died prematurely. Two out of every three retirees receive over one-half of their income from Social Security. Without it, many of them would be living in poverty. Social Security does much more than provide retirement income for seniors. It also provides lifetime disability insurance protecting those who become seriously injured or ill. When a worker becomes disabled before reaching retirement age, Social Security is there to help him and his family. And when a worker dies leaving minor children, Social Security provides financial support for those children until they reach adulthood.

The revenue from the estate tax would reduce the Social Security shortfall by more than 25 percent, according to the Social Security Administration's chief actuary. It would add years of solvency to the program. That

would set the right priority for America.

The priorities of this Republican Congress have been wrong for our country. If we are serious about reducing the deficit and strengthening the economy, we must stop lavishing tax breaks on the rich, and start investing in the health and well-being of all families. These families are being squeezed unmercifully between stagnant wages and ever-increasing costs for the basic necessities of life. The cost of health insurance is up 56 percent in the last 5 years. Gasoline is up 75 percent. College tuition is up 46 percent. Housing is up 57 percent. The list goes on and on, up and up—and paychecks are buying less each year.

The dollars that Republicans now want to spend on the ultimate tax break for the rich—allowing the heirs of multimillionaires to inherit their enormous wealth tax free—are dollars that should be used to help all Americans. The American people deserve better; and in November they will insist on a new Congress that truly shares their values and cares about their needs.

Mr. BIDEN. Mr. President, I rise today to speak in support of the Native Hawaiian Government Reorganization Act of 2006. Unfortunately, this bill has been mischaracterized and therefore misunderstood by many.

Sponsored by Senator DANIEL K. AKAKA and Senator DANIEL K. INOUYE, the bill brings into focus the unique political and legal relationship that the indigenous peoples of Hawaii, Native Hawaiians, have with the United States. The United States has treated Native Hawaiians in a manner similar to that of American Indians and Alaska Natives since Hawaii became a territory in 1898. All that this legislation does—with the substitute amendment that addresses some concerns raised by the Departments of Justice and Interior—is extend the Federal policy of self-governance and self-determination to Native Hawaiians, thereby providing parity in Federal policies toward American Indians, Alaska Natives, and Native Hawaiians.

More than 160 statutes have been passed by Congress recognizing the political and legal relationship that Native Hawaiians have with the United States. These statutes demonstrate how Congress has repeatedly acknowledged the legal and political relationship between Native Hawaiians and the United States. Just as it has done with the other indigenous people of this country, the Native Americans and Alaskan Natives, Congress has established Federal programs to address the health, education, and housing needs of Native Hawaiians. As an indigenous people that exercised sovereignty over lands now comprising the State of Hawaii, Native Hawaiians are seeking parity with other federally recognized indigenous peoples. S. 147 is the vehicle for which this can be achieved.

Beginning with the debates of the Continental Congress and continuing in the records of discussion and correspondence amongst the framers of the Constitution, it was recognized that the aboriginal, indigenous people who occupied the lands now comprising the United States had a status as sovereigns that existed prior to the formation of the United States. Based upon the recognition of that preexisting sovereignty, the U.S. Constitution—article I, section 8, clause 3—vests the Congress with authority to regulate commerce with the three classes of sovereign governments identified there—foreign nations, the several States, and Indian tribes.

In numerous rulings over the ensuing 215 years, the U.S. Supreme Court has repeatedly held that legislation enacted to address the conditions of the native people of the United States is constitutional and does not constitute discrimination on the basis of race or ethnicity because the sovereign status of the Indian tribes is the basis for the government-to-government relationship the tribes have with the United States.

The Court has thus consistently drawn a distinction between legislation that addresses the conditions of the native people of the United States on the grounds that the United States has a political and legal relationship with the Indian tribes—a relationship that is not predicated on race or ethnicity but rather on sovereignty—and legislation that addresses the conditions of specific groups whose members are defined only by reference to their race or ethnicity—African Americans, Hispanic Americans, etc.

The status that the Constitution recognizes in Indian tribes was later extended to Alaska Natives in their capacity as aboriginal, indigenous people of the United States, and it is on the same basis that the Congress has enacted legislation for the aboriginal, indigenous people of Hawaii.

Many opponents of the bill are attacking and classifying reconciliation efforts between the United States and the Native Hawaiians as race-based. However, anyone who has a clear understanding of Hawaii's history cannot deny that Native Hawaiians are Hawaii's indigenous peoples, nor can they deny that Native Hawaiians have a legal and political relationship with the United States based on their status as Hawaii's indigenous peoples. It is offensive that laws intended to seek justice and equality for African Americans are now being used to oppress native peoples.

We must be fair and thorough while deliberating the merits of this legislation. It is unfair to pick and choose what aspects of the Constitution and related statutes do and do not apply. This is an opportunity that each Member of this Chamber has to demonstrate their commitment to recognizing and respecting the aboriginal, indigenous people that had a status as sovereigns that existed prior to the formation of the United States. The time to recognize Native Hawaiians and their contributions to our country is now. I urge my colleagues to support efforts of the Senators from Hawaii to secure Federal recognition for Native Hawaiians.

Mr. BINGAMAN. Mr. President, I rise today to speak in opposition to the legislation before us today, H.R. 8, which would make the repeal of the estate tax permanent starting in 2010. Without so much as a hearing, debate, or markup in the Finance Committee, the majority is bringing the largest tax bill that will be before us this Congress with the clear intent of not allowing the minority any reasonable opportunity to amend it. The Joint Committee on Taxation has estimated that repeal of the estate tax will require roughly $370 billion in debt financing through 2016, although a more accurate cost of 10 years of enactment is closer to $1 trillion when interest on the debt is calculated into the equation. At a time when interest rates are being raised steadily to address inflationary fears, it is hardly the time for our Government to be adding to our national debt in this magnitude for tax relief that only benefits the wealthiest in our country.

In 2001, in my State of New Mexico, there were only 200 people dying with any estate tax liability. This left roughly 98 percent of New Mexican estates entirely untaxed. If the exemption had been $2.5 million, as will occur in 2009 under current law, 99.7 percent of people dying in New Mexico would have owed no estate taxes. At a time when gas is over $3 a gallon and many businesses are telling me that they can no longer afford to offer health insurance to their workers, I cannot in good conscience support repealing the estate tax—an act that provides a benefit to only about .3 percent of New Mexicans.

The effort to permanently repeal the estate tax is a continuation by the majority of giving tax breaks to a small minority of Americans—those who need it least. Just a couple of weeks ago, the President signed the reconciliation tax bill into law which added 2 additional years of tax relief for those receiving dividends and capital gains. Slowly but surely, the majority is creating a society where those who work for a living will be paying taxes while those who are fortunate enough to have investments or inherited wealth will either avoid taxation or be paying at a significantly lower rate. The result will be a United States that has slid back to economic disparity not seen since the Gilded Age where extreme wealth accumulated in the pockets of our Nation's wealthiest while the average working family was left behind. At a time when gas prices are climbing, the cost of electricity is growing, and health care costs are exploding, it is simply unacceptable that this Congress is devoting time and our children's resources to providing another tax break to the wealthiest among us. Instead this Congress should be looking at ways to reduce the tax

burden on folks who only have earned income—and generally not enough of it.

I would remind my colleagues on the other side of the aisle that the impact of deficit spending is immense and one that will be borne not only by us in the coming years but by future generations who have no say in our current financial irresponsibility. Since this administration took over and Congress has been controlled solely by one party, we have seen our Nation's economic security drop precipitously. In order to pay for unaffordable tax cuts, we have become a beggar nation, forced to go to foreign countries with our hat in hand asking them to buy our debt. Many of these countries, such as China and Japan, are the very same countries that are becoming more and more competitive with our Nation for high-tech and higher salaried jobs—a fact that is not unrelated. As interest rates continue to rise to combat inflationary pressures, it is costing this Government more and more to sell our debt to our foreign competitors. At the same time, we are facing demand pressures to offer a higher rate of return to attract these wary investors, as they gradually accumulate more of our debt than most economic models would indicate is prudent. The only prudent course of action would be to tighten our belts and balance our budget thereby returning control of our economic prosperity to us instead of leaving it in the hands of our foreign competitors. But instead of coming up with rational tax policy that rewards the majority of Americans who work for a living, we are foisting on these families the delusion that estate tax relief benefits them and handing out further tax cuts to those who have seen their wealth grow at historic rates in the past several years.

Mr. President, we owe it to our children and grandchildren to provide them with the opportunities we inherited from our parents. The real ''death tax'' is the one we are leaving for our children to pay when we are gone. With the passage of the Deficit Reduction Act in 1993, we were able to correct years of irresponsible tax policy and head our Nation back in the right direction. By maintaining fiscal discipline, we were able to have our first surplus in decades. It is shameful that we are considering legislation today that, in many senses, is the final nail in the coffin of fiscal responsibility by providing additional tax cuts to the richest in our Nation to the detriment of hard-working American families. This is not the act of a Government that is supposed to represent all of the people in our Nation—a nation that was founded on the belief that the opportunity for prosperity is to be shared by everyone. This legislation is another step toward creating an America that I was not elected to represent by my fellow New Mexicans—the vast majority of whom earn their living by going to work every day. I hope my colleagues will join me in opposing this legislation.

NATIVE HAWAIIAN GOVERNMENT REORGANIZATION ACT OF 2005—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the hour of 3 p.m. having arrived, the Senate will proceed to consideration of the motion to proceed to S. 147, which the clerk will report.

The assistant legislative clerk read as follows:

Motion to proceed to S. 147, a bill to express the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity.

The PRESIDING OFFICER. Under the previous order, the time from 3 p.m. until 6 p.m. shall be divided for debate as follows: 3 to 3:30, majority control; 3:30 to 4, minority control, alternating between the two sides every 30 minutes until 6 p.m.

The Senator from Tennessee is recognized.

Mr. ALEXANDER. Mr. President, one of the parliamentary mysteries of the Senate is that we are now about to move, as was reported, to the Native Hawaiian Government Reorganization Act. Some might wonder why. I was presiding, as the Senator from Minnesota is now, earlier in the week. I heard an eloquent speech by a Senator from the other side of the aisle, the Senator from Vermont, who said we ought to ''focus on solutions to the high [gasoline] prices, something that hurts people in your state and mine, the rising cost of health care . . . the ongoing situation in Iraq. . . . We're not going to talk about any of those things,'' said the Senator from Vermont, from the other side of the aisle.

Yet as a result of efforts there, on that side of the aisle, we are now moving ahead to the Native Hawaiian Government Reorganization Act, S. 147.

The legislation may seem insignificant, but I am here today to say that, in this seemingly insignificant piece of legislation, is an assault on one of the most important values in our country. It is a value so important that it is carved in stone above the Chair of the Presiding Officer. It is our original national motto: E Pluribus Unum, one from many. This bill is an assault on that principle because it would, for the first time in our country's history, so far as my research shows, create a new, separate, sovereign government within our country, based on race, putting us on the path of becoming more of a United Nations than a United States of America. It will set a precedent for the breakup of our country along racial lines, and it ought to be soundly defeated.

No one has to take my word for this. The U.S. Commission on Civil Rights, a body established to protect the rights of minorities and the underprivileged, has publicly opposed this legislation. Here is what the Commission on Civil Rights said:

The Commission recommends against passage of the Native Hawaiian Government Reorganization Act of 2005 as reported out of committee on May 16, 2005, or any other legislation that would discriminate on the basis of race or national origin and further subdivide the American people into discrete subgroups, accorded varying degrees of privilege.

So this bill undermines our unity. It would undermine our history of being a Nation based not upon race but upon common values of liberty, equal opportunity, and democracy.

We have had many great accomplishments in our country. Our diversity is a magnificent accomplishment. But the greater accomplishment, greater even than our diversity, is our ability to unite all of that diversity into one Nation. We should be going in that direction and not in the opposite direction.

Our Constitution guarantees equal opportunity without regard to race. This legislation does the opposite.

Those who favor this bill like to describe a bill that is not the bill I have read. Those who favor the bill say it is not about sovereignty, it is not about land and money, it is not about race, it is what we did once in Alaska and that the Native Hawaiians would be just another Indian tribe. It is a nice bill, they say. It is sponsored by the two Senators from the State of Hawaii, whom we all greatly respect and admire, so, they say, let's just pass it.

Let me address each of those claims one by one—sovereignty, to begin with. Those who favor the bill say this is not about sovereignty. After all, they argue, the new government that would be set up would be subject to the approval of those who are ''Native Hawaiians,'' and it would have to be approved by the U.S. Secretary of the Interior. But the bill expressly states in section 4(b) that its purpose is to establish a ''political and legal relationship between the United States and the Native Hawaiian governing entity for the purposes of continuing a government-to-government relationship.''

A government-to-government relationship—such as a government relationship between the United States and France or England or Germany or any other country. That sounds like a sovereign government to me.

That's not the end of it. In an interview on National Public Radio on August 16 last year, the Senator from Hawaii, who is the sponsor of this bill, was asked if this could lead to secession of the State of Hawaii from the United States. The NPR reporter stated, ''But [Senator AKAKA] says this sovereignty could even go further, perhaps even leading to independence.'' And the Senator from Hawaii responded, ''That could be. As far as what is going to happen at the other end, I'm leaving it up to my grandchildren and my great-grandchildren.''

The office of Hawaiian Affairs, an office of the Government of the State of Hawaii at one time said on its Web site that under this bill:

> The Native Hawaiian people may exercise their right to self-determination by selecting another form of government, including free association or total independence.

Total independence, Mr. President. This bill clearly allows for the establishment of a new, sovereign government within the United States of America. I have not found another example of that in our history.

No. 2, those who favor the bill say this is not about race. But the bill itself says something else. It says that anyone ''who is a direct lineal descendant of the aboriginal, indigenous native people'' of Hawaii is eligible to participate in creating this new sovereign government. By this definition, anyone who may have had a seventh-generation Native ancestor, making him 1/256 Native Hawaiian, can qualify. They do not need to have been part of a Native Hawaiian community at any point during their lifetime. They don't even need to have lived in Hawaii. In fact, of the 400,000 Americans of Native Hawaiian descent in the United States, approximately 160,000 don't even live in Hawaii. They live all over the United States of America. But they all would be eligible to be part of this new sovereign government under the bill.

So eligibility to participate in this new government is not based on where you live. It is not based on being part of a specific community. It is based on your ancestry. That is why the U.S. Commission on Civil Rights has specifically said the bill ''would discriminate on the basis of race or national origin.''

No. 3, land and money. Those who favor the bill say it is not about land and money, but the bill says something else. My staff counted 35 references to ''land'' or ''lands'' in the text of the bill, and in section 8 of the bill it specifically delegates to this new race-based government the authority to negotiate for:

> (A) the transfer of lands, natural resources, and other assets, and the protection of existing rights related to such lands or resources;
>
> (B) the exercise of governmental authority over any transferred lands, natural resources, and any other assets, including land use.

So the bill says this is about land and ''other assets.'' It is not surprising. According to an Associated Press article from April 14 of last year on this bill, ''there is a general belief the Department of Hawaiian Home Lands would be folded into this new native government. According to that department's Web site, ''Approximately 200,000 acres of homestead lands are provided for the Hawaiian Home Lands program.'' That is from the Associated Press.

According to the Wall Street Journal, the state's Office of Hawaiian Affairs controls a trust fund worth $3 billion for the benefit of Native Hawaiians. One has to ask whether some or all of that $3 billion would be given to this so-called tribe. The bill expressly allows the transfer of land and assets, so this is a serious question.

Then the last two arguments the proponents make. They say that this is similar to what we did for the Alaska Natives. But there are some profound differences between Alaska and Hawaii. First, the history is different. When the United States acquired Alaska from Russia, the treaty stipulated we needed to deal with the Alaska Natives. And when Alaska became a State, we included in the law that Alaska Natives would have a special status. That is not true for Native Hawaiians. They have always been part of the State and lived under its jurisdiction.

Second, the provisions in S. 147 for the recognition of a native government are different from those for Alaska Natives. Alaska Natives were recognized to form corporations and other local forms of government, based largely on the village communities in which they lived. Most Native Hawaiians don't live in separate villages or communities in Hawaii and elsewhere in the United States. They are everyone's next-door neighbor. Of the 240,000 Native Hawaiians living in Hawaii, the U.S. Census reports that less than 20,000 live on ''Hawaiian homelands.'' The rest are mixed with the States' population.

Finally, there is another argument that those who support this bill make. They say: We are just recognizing another Indian tribe. This puts Native Hawaiians on an equal footing with other Native American groups.

That is their argument. But U.S. law has specific requirements for recognition of an Indian tribe. A tribe must have operated as a sovereign for the last 100 years, must be a separate and distinct community, and must have had a preexisting political organization. That is what the law says. Native Hawaiians do not meet those requirements.

In fact, in 1998 the State of Hawaii acknowledged this in a Supreme Court brief in the case of Rice v. Cayetano, saying, ''the tribal concept simply has no place in the context of Hawaiian history.'' It would be difficult to argue that Hawaii was not well represented in that debate because the current Chief Justice of the U.S. Supreme Court, Justice Roberts, was the lawyer for the State of Hawaii in this argument before the Supreme Court and they said, ''the tribal concept simply has no place in the context of Hawaiian history.''

If the bill establishing a Native Hawaiian government would pass, it would have the dubious honor to be the first to create a separate nation within the United States. While Congress has recognized preexisting American Indian tribes before, it has never created one. That is the difference. Of course, we have recognized preexisting American Indian tribes who meet a very specific definition of what an Indian tribe is in our law. But so far as I can tell, we have never created an Indian tribe, and the State of Hawaii itself recognized before the Supreme Court that its native peoples are not a tribe.

To pass this legislation would be a dangerous precedent. It wouldn't be much different than if American citizens who were descended from Hispanics who lived in Texas before it became a Republic in 1836 created their own tribes based on claims these lands were improperly seized from Mexico or it could open the door to religious groups such as the Amish or Hasidic Jews who might seek tribal status to avoid the constraints of the establishment clause of the Constitution. If we start down this path, the end may be the disintegration of the United States into ethnic enclaves.

Hawaiians are Americans. They became U.S. citizens in 1900. They have saluted the American flag, paid American taxes, fought in American wars. The distinguished Senator from Hawaii has won the Congressional Medal of Honor fighting in American wars.

In 1959, 94 percent of Hawaiians reaffirmed that commitment to become Americans by voting to become a State. Similar to citizens of every other State, they vote in national elections.

Becoming an American has always meant giving up allegiance to your previous country and pledging allegiance to your new country, the United States of America.

This goes all the way back to Valley Forge when George Washington himself signed such an oath, and his officers did as well.

Today, in this year, more than 500,000 new citizens will take that oath where they renounce their allegiance to where they came from, not because they are not proud of it but because they are prouder to be an American. And they know if we are going to be one Nation in this land of immigrants, they must become Americans.

All around the world, countries are struggling with how to integrate and assimilate into their societies people from other countries: Muslims in Europe, specifically in those countries, Turks in Germany, Great Britain, France, and Italy—all are struggling with this. They are envious of our two centuries of history of helping people from all countries come here, learn a common language, understand a few principles, and become Americans. They are proud of where we came from, prouder of who we are.

This goes in exactly the opposite direction. This may seem like an insignificant piece of legislation, but within it is embedded an assault on one of the most important fundamental values in our country: the value that is expressed and carved right there, ''E Pluribus Unum,'' one from many.

This legislation would undermine our national unity by treating Americans differently based on race. It would begin to destroy what is most unique

about our country. It would begin to make us more of a ''united nations'' instead of the United States of America.

I hope the Senate heeds the advice of the U.S. Commission on Civil Rights and defeats this legislation, legislation which the commission said ''would discriminate on the basis of race or national origin and further subdivide the American people into discrete subgroups accorded varying degrees of privilege'' and create a new, separate, race-based government for those of Native Hawaiian descent.

I have tried in my remarks to show that this bill is about sovereignty, that it is about land and money, that it is about race, that it is not like what we did for Alaskans, that the Native Hawaiians would not just be another Indian tribe. We don't create new tribes in our country. We recognize preexisting ones, and we have very specific provisions in the law about how we do that.

The question before us is about what it means to become an American. And this bill is the reverse of what it means to be an American. Instead of making us one Nation, indivisible, it divides us. Instead of guaranteeing rights without regard to race, it makes them depend solely upon race. Instead of becoming one from many, we would become many from one.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

Mr. KYL. Mr. President, I rise today in strong opposition to the Akaka bill. If cloture is invoked on that bill, there is a process by which we will debate and amend the bill.

I would like to discuss with my colleagues today some of the infirmities with the bill that we would hope to address through the amendment process. There is no way to sugarcoat this bill.

This bill proposes that the Federal Government establish a racial test for Americans who want to participate in the creation of a new government—a government that will gain, according to section 8 of this legislation, lands and natural resources, civil and criminal jurisdiction, and governmental authority and powers. It is unconstitutional, it offends basic notions of American values, and it should be rejected.

I would like to spend a few minutes talking about an amendment that we would be voting on should this bill be brought forward.

First, keep in mind that we are going to have to decide once and for all if we believe in racial tests and race-based government. Government anticipated by this bill is created through a racial test. Read section 3, subparagraph 10: Native Hawaiians, those eligible to participate in the creation of this government, are defined ''as an individual who is one of the indigenous, native peoples of Hawaii and who is a direct lineal descendent of the aboriginal, indigenous, native people in the Hawaiian islands on or before January 1, 1893, and exercised sovereignty there, or a person who descends from one who was one-half Native Hawaiian in 1921.''

What is that test? It is a racial test. As the Supreme Court emphasized, ancestry is a proxy for race.

Some advocates insist that it is not a race-based government, no matter what the actual language of the bill says.

So we will offer an amendment to put this question to the Senate.

The amendment will say that this new government will not have any governmental powers if membership in the entity is in any way determined by race or ancestry. The Senate will have a straightforward up-or-down vote on whether it supports or rejects the principle of race-based government. If I am wrong and the bill's text is wrong, and this isn't about race, then that amendment will surely pass overwhelmingly.

When I discussed this amendment with the bill's sponsors in the past, they have said they would strongly oppose it. So we will let the Senate vote directly and resolve the issue. All Senators should look forward to a vote on whether they support race-based government.

Second, we will have to decide whether the Constitution and basic civil rights are to be left to a negotiation process after the bill's passage.

As I have explained previously, this bill would allow the creation of a government not subject to the Constitution and Bill of Rights. It could also be immune from the Civil Rights Act, the Americans with Disabilities Act, the Age Discrimination in Employment Act, and all other State and Federal civil rights laws. It would authorize creation of an enclave where Native Hawaiians would be subject to a different set of legal codes, taxes, and regulations.

Proponents deny this. They say it is preposterous to say that civil rights won't be protected. They say the bill won't result in unequal tax and legal systems in Hawaii. They say basic fairness would be preserved. But then they say just how this happens is entirely up to subsequent negotiations between the Native Hawaiian entity and State and Federal bureaucrats.

Obviously, basic civil rights should not be up for negotiation. So we will offer an amendment to clear this up. My civil rights amendment will apply the entire Bill of Rights to the new government. It will apply all Federal antidiscrimination laws. It will ensure that the new government doesn't have any special immunities from lawsuits under those laws.

It will prevent the creation of any racially defined liabilities, so that no person is subject to any law, regulation, tax, or other liability if any person is exempted on the basis of race or ancestry. And it will guarantee fairness and equal treatment. It will not leave these matters up to future ''negotiations.''

This civil rights amendment deserves a vote, and it will get one.

The New York Times editorialized today that the bill does not ''supersede the Constitution.'' I disagree, but we can resolve this.

So let's vote and not leave it up to chance. Let's adopt my amendment and guarantee civil rights and equal treatment.

Again, I have shared the drafts of this amendment with the sponsors of the bill who said they oppose it. Perhaps they will reconsider, but the Senate will have an opportunity to vote on this amendment.

Third, there is a dispute over whether the people of Hawaii, who are most personally affected by this legislation, actually want this bill. The sponsors say yes, and point to opinion polls that speak vaguely of ''recognizing'' Native Hawaiians. I can point to alternative polls which show strong majorities opposed when the citizens understand that with recognition comes the potential for unequal treatment. Do the Hawaiian people want this? We know much of the political establishment does. But what about the citizens? I am concerned that this bill will divide Hawaii and encourage racial division there and elsewhere.

Indeed, as the U.S. Commission on Civil Rights noted in its report, if you listen to the citizens of Hawaii rather than just their political leaders, it is clear that this legislation has already divided that State. Why would the Senate want to impose a divisive result upon the State of Hawaii without giving Senators a voice?

So one of my colleagues will offer an amendment that will give us the answer to the question. It will simply require that all citizens of Hawaii have a voice by requiring a statewide referendum once the negotiations are complete.

The Senate should not be passing on the question of what is good for Hawaii when we have evidence of such division.

Again, I have floated this idea by the bill's sponsors, and they have opposed a referendum requirement. But why would they not want to ensure that the people of Hawaii have a direct voice in approving or rejecting the final product of the negotiations called for in the bill?

So we will have an amendment. The Senate can decide if the people of Hawaii should be denied their opportunity to speak.

As I have said in the past, I will support a cloture vote and will support the Senate having an opportunity to debate and vote on amendments to this bill. But should cloture be accepted and the Senate get on this bill, I have also

noted I strongly oppose it and will offer amendments to try to ensure the result of the bill is most fair to the people of Hawaii. That I will most surely do.

I look forward to that debate. I look forward to the debate and amendments that will be offered as a result.

I yield the floor.

The PRESIDING OFFICER. At this time, the hour of 3:30 having arrived, the next 30 minutes is under the control of the minority.

The Senator from North Dakota.

Mr. DORGAN. Mr. President, I expected my colleague from Arizona would speak on the estate tax. He, in fact, spoke about the subject which we will now spend the next 30 minutes on, on this side, the Native Hawaiian Government Reorganization Act. He raises some questions, and my expectation is that debate and discussion about this proposal will promote some rather aggressive discussion in the Senate. That is fine. It is nice at this point that after all these many years we are debating this issue.

I will give a little bit of the history as vice chairman of the Committee on Indian Affairs. That committee is the committee that brought this legislation to the Senate. The action was bipartisan. We have decided this is a worthy piece of legislation. I support it. The committee supports it. That is the basis on which it is in the Senate now.

I don't know the history nearly as well as my colleagues, Senator AKAKA and Senator INOUYE, but let me describe a little of the history, if I might. I know a bit of this because I represent a State in which we have numerous Indian tribes. Those are the first Americans. Those are the folks who were there before my ancestors showed up. They owned the land. They farmed along the Missouri River. I understand something about Indian tribes, tribal governments and self-determination. I understand that because I work in that area a lot with the Indian tribes from my State.

Let me describe the issue of aboriginal and indigenous peoples in the United States, and especially in Hawaii, from the small amount of history that I know. Again, the rich history here will be better recited by my colleagues, Senator INOUYE and Senator AKAKA.

January 16, 1893—that is a long, long time ago—the United States Minister John Stevens, who served, then, as Ambassador to the court of Queen Liliuokalani, directed a marine company onboard the USS *Boston* to arrest and detain the queen. This is the queen that served the indigenous people in Hawaii. She was arrested. She was placed under arrest for 9 months at the palace.

That event was engineered and orchestrated by the Committee of Public Safety which I understand consisted of Hawaii's non-native Hawaii businessmen, with the approval of Minister Stevens.

So we have a people in Hawaii who were the first Hawaiians, the indigenous people to Hawaii, who had a government, who had a structure. The head of that government was summarily arrested and a new government was created in Hawaii. That new government apparently was a government that would meet at the pleasure of those who engineered the arrest of the queen.

Today, after many decades raising questions, should there not be an opportunity for Native Hawaiians, very much as there has been an opportunity in our country in what is called the lower 48 for Indian tribes to seek reorganization, to seek reorganization—there should be some opportunity along the way for there to be a Native Hawaiian Government Reorganization Act. The reason this is a ''reorganization'' is because that government existed. This is not the creation of a new government. This is a government that previously existed, but many decades ago was essentially dissolved or destroyed as a governing unit by the actions I previously described.

My colleagues have come to the Congress from the State of Hawaii and have asked that a bill authorizing the reorganization of a Native Hawaiian governing entity that could negotiate agreements with the United States and the State of Hawaii to address a good number of issues relating to self-determination and self-governance of the Native Hawaiians be brought to the Senate and be considered and debated. That is the basis on which it is here today.

Upon introduction last year by my colleagues from Hawaii, this bill was referred to the Committee on Indian Affairs. We held a hearing on the bill, received testimony that demonstrated broad bipartisan support, strong support for this bill in Hawaii and also in Indian country around America.

We heard from Governor Lingle from the State of Hawaii about the importance of this bill to the people and to the economy of Hawaii. We heard from Native Hawaiians about the significance of this bill on all aspects of Native Hawaiian life. We heard from the National Congress of American Indians about its long-standing support for Native Hawaiians to be formally afforded the right to self-determination. This bill does not by itself do that. It establishes the process for a reorganization in order to create that structure.

There has been back and forth between interested parties on this bill. There are some who have concerns and questions about it. Significant efforts, I know, have been spent by my two colleagues, Senator AKAKA and Senator INOUYE, to address concerns relating to jurisdiction, claims and gaming issues. I believe these concerns in almost all cases have been adequately resolved.

Even more importantly, I believe the Members of the Senate, finally, deserve the opportunity, and my two colleagues from Hawaii deserve the opportunity, to have this legislation before the Senate open for discussion and open for debate.

Senator AKAKA requested floor time for this bill 1 year ago. His request was not granted because we were compelled to address other imminent concerns relating to hurricane relief and other matters at that time that were urgent.

Bills on this issue have been introduced since the 106th Congress. None have received time for floor debate. Fairness, I believe, now requires this Congress to offer this bill in the Senate for full debate.

Let me finally say this. I know of no two Members of the Senate who have worked harder, with greater determination to advance the cause in their State that has broad bipartisan support in their State on behalf of Native Hawaiians, a right that is already afforded to many other aboriginal and indigenous peoples around the United States that has not been afforded to those Native Hawaiians. I know of no one in this Senate who has worked harder for an important issue of passion in their hearts than Senator AKAKA and Senator INOUYE. I am very pleased that the Senate Committee on Indian Affairs was able to pass this legislation and bring it to the Senate today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Mr. President, today I discuss legislation that is critically important to the people of Hawaii, all the people of Hawaii, the Native Hawaiian Government Reorganization Act of 2005. While I am pleased to see this bill finally come to the Senate floor after 6 long years, I remain perplexed by the constant barrage of misinformation that has been provided by opponents to this legislation.

Tomorrow we will be voting on a motion to invoke cloture on the motion to proceed to S. 147, the Native Hawaiian Government Reorganization Act of 2005. I ask all of my colleagues, to let this bill come to the floor for a debate—whether you are for or against it. At the minimum, we should be allowed to discuss what this bill is really about.

I also want to alert my colleagues to the fact that a new substitute amendment has been drafted which incorporates legislative language negotiated between Senator INOUYE and myself and officials from the Executive Branch to address policy concerns regarding the liability of the United States in land claims, the impact of the bill on military readiness, gaming, and civil and criminal jurisdiction in Hawaii. While I realize that we will not consider the substitute amendment until we get to the actual consideration of the bill, I share this with my colleagues so that they know that our negotiations with the administration have been successful in addressing their concerns and adhering to the intent and purpose of this bill.

This bill is about process and fairness. Hawaii's indigenous peoples, Native Hawaiians, have been recognized

as indigenous peoples by Congress through the one hundred sixty-plus statutes we have enacted for Native Hawaiians. Congress has historically treated Native Hawaiians, for more than a hundred years, in a manner similar to American Indians and Alaska Natives. What our bill does is to authorize a process so that the federal policy of self-governance and self-determination, a policy formally extended to American Indians and Alaska Natives, can be extended to Native Hawaiians, thereby creating parity in the way the United States treats its indigenous peoples.

We have bipartisan support for the enactment of this bill. I extend my deep appreciation to the cosponsors of this legislation, Senators CANTWELL, COLEMAN, DODD, DORGAN, GRAHAM, INOUYE, MURKOWSKI, SMITH, and STEVENS, for their unwavering support of our efforts.

I especially want to recognize Hawaii's Governor, Linda Lingle, who serves as the first Republican governor in Hawaii in 40 years. Despite our political differences, Governor Lingle and her cabinet, primarily Attorney General Mark Bennett and Hawaiian Homes Commission Chairman Micah Kane, have worked tirelessly with us for the past 4 years in an effort to enact this bill for the people of Hawaii.

In Hawaii, support for the preservation and culture of Hawaii's indigenous peoples is a nonpartisan issue. In Hawaii, diversity is precious. The more we understand our culture, traditions, and heritage, the more we can contribute to the fabric of society that has become the local culture in Hawaii. While my opponents see diversity as a threat, the people of Hawaii embrace diversity and celebrate it as a means of understanding the foundations upon which our local culture, the culture that brings us all together, is based.

Let me be the first to say that the people of Hawaii, including Hawaii's indigenous peoples, are proud to be Americans. The many Native Hawaiians in the National Guard who were away from their families for eighteen months, serving in Operation Iraqi Freedom, are proud to be American. In fact, it is a well-documented fact that native peoples have the highest per capita rate of serving in our military to defend our country. It is absolutely offensive to read opponents' mischaracterization of this bill as an effort to secede from the United States or to question the right of Hawaii's indigenous peoples to have a mechanism of self-governance and self-determination within the framework of Federal law.

This bill is of significant importance to the people of Hawaii. It is significant because it provides a process, a structured process, for the people of Hawaii to finally address longstanding issues resulting from a dark period in Hawaii's history, the overthrow of the Kingdom of Hawaii. The people of Hawaii are multicultural and we celebrate our diversity. At the same time, we all share a common respect and desire to preserve the culture and tradition of Hawaii's indigenous peoples, Native Hawaiians.

Despite this perceived harmony, there are issues stemming from the overthrow that we have not addressed due to apprehension over the emotions that arise when these matters are discussed. I have mentioned this to my colleagues previously, but it bears repeating that there has been no structured process. Instead, there has been fear as to what the discussion would entail, causing people to avoid the issues. Such behavior has led to high levels of anger and frustration as well as misunderstandings between Native Hawaiians and non-Native Hawaiians.

As a young child, I was discouraged from speaking Hawaiian because I was told that it would not allow me to succeed in the Western world. My parents lived through the overthrow and endured the aftermath as a time when all things Hawaiian, including language, which they both spoke fluently, hula, custom, and tradition, were viewed as negative. I, therefore, was discouraged from speaking the language and practicing Hawaiian customs and traditions. I was the youngest of eight children. I remember as a young child sneaking to listen to my parents so that I could maintain my ability to understand the Hawaiian language. My experience mirrors that of my generation of Hawaiians.

While my generation learned to accept what was ingrained into us by our parents, my children have had the advantage of growing up during the Hawaiian renaissance, a period of revival for Hawaiian language, custom, and tradition. Benefiting from this revival is the generation of my grandchildren who can speak Hawaiian and know so much more about our history.

It is this generation, however, that is growing impatient with the lack of progress in efforts to resolve longstanding issues. It is this generation that does not understand why we have not resolved these matters. It is for this generation that I have written this bill to ensure that we have a way to address these emotional issues.

There are those who have tried to say that my bill will divide the people of Hawaii. My bill goes a long way to unite the people of Hawaii by providing a structured process to deal with issues that have plagued us since 1893.

This bill is also important to the people of Hawaii because it affirms the dealings of Congress with Native Hawaiians since Hawaii's annexation in 1898. Congress has always treated Native Hawaiians as Hawaii's indigenous peoples, and therefore, as indigenous peoples of the United States. Federal policies towards Native Hawaiians have largely mirrored those pertaining to American Indian and Alaska Natives.

Again, let me reiterate, Congress has enacted over 160 statutes to address the conditions of Native Hawaiians including the Native Hawaiian Health Care Improvement Act, the Native Hawaiian Education Act, and the Native Hawaiian Home Ownership Act. The programs that have been established are administered by federal agencies such as the Departments of Health and Human Services, Education, Housing and Urban Development, and Labor. As you can imagine, these programs go a long way to benefit Native Hawaiians, but they also serve as an important source of employment and income for many, many people in Hawaii, including many non-Native Hawaiians. There are many Hawaii residents whose livelihoods depend on the continuation of these programs and services.

While I took the time a few weeks ago to talk about Hawaii's history, I want to spend the next few moments discussing that history once again. This is very important to understand the context of what we are trying to accomplish with this bill.

The year 1778 marks the year of first contact between the Western world and the people of Hawaii. That year, Captain James Cook landed in Hawaii. Prior to Western contact, Native Hawaiians lived in an advanced society that was steeped in science. Native Hawaiians honored their land (aina) and environment, and therefore developed methods of irrigation, agriculture, aquaculture, navigation, medicine, fishing and other forms of subsistence whereby the land and sea were efficiently used without waste or damage. Respect for the environment and for others formed the basis of their culture and tradition.

Society was structured. Chief, alii, ruled each of the islands. Land was divided into ahupuaa, triangular-shaped land divisions which stretched from the mountain to the ocean. Each ahupuaa controlled by a lower-chief. The lands were worked on by the commoners, referred to as makaainana. There was an incentive for the chiefs to treat the makaainana well as they could always move to another ahupuaa and work for another chief.

The immediate and brutal decline of the Native Hawaiian population was the most obvious result of contact with the West. Between Cook's arrival and 1820, disease, famine, and war killed more than half of the Native Hawaiian population. By 1866, only 57,000 Native Hawaiians remained from the basically stable pre–1778 population of at least 300,000. The result was a rending of the social fabric.

This devastating population loss was accompanied by cultural, economic, and psychological destruction. Western sailors, merchants, and traders did not respect Hawaiian kapu, taboos, or religion and were beyond the reach of the priests. The chiefs began to imitate the foreigners whose ships and arms were so superior to their own.

By the middle of the 19th Century, the islands' small non-native population had come to wield an influence

far in excess of its size. These influential Westerners sought to limit the absolute power of the Hawaiian king over their legal rights and to implement property law so that they could accumulate and control land. As a result of foreign pressure, these goals were achieved.

The mutual interests of Americans living in Hawaii and the United States became increasingly clear as the 19th Century progressed. American merchants and planters in Hawaii wanted access to mainland markets and protection from European and Asian domination. The United States developed a military and economic interest in placing Hawaii within its sphere of influence. In 1826, the United States and Hawaii entered into the first of the four treaties the two nations signed during the 19th Century.

King Kamehameha I began the Kingdom of Hawaii in 1810 upon unifying the islands. The Kingdom continued until 1893 when it was overthrown with the help of agents of the United States. The overthrow of the Kingdom is easily the most poignant part of Hawaii's history. Opponents of the bill have characterized the overthrow as the fault of Hawaii's last reigning monarch, Queen Lili'uokalani. Nothing could be further from the truth.

America's already ascendant political influence in Hawaii was heightened by the prolonged sugar boom. Sugar planters were eager to eliminate the United States' tariff on their exports to California and Oregon. The 1875 Convention on Commercial Reciprocity eliminated the American tariff on sugar from Hawaii and virtually all tariffs that Hawaii had placed on American products. It prohibited Hawaii from giving political, economic, or territorial preferences to any other foreign power. It also provided the United States with the right to establish a military base at Pearl Harbor.

While non-Hawaiians were determined to ensure that the Hawaiian government did nothing to damage Hawaii's growing political and economic relationship with America, Hawaii's King and people were bitter about the loss of their lands to foreigners. Matters came to a head in 1887, when King Kalakaua appointed a prime minister who had the strong support of the Hawaiian people and who opposed granting a base at Pearl Harbor as a condition for extension of the Reciprocity Treaty.

The business community, backed by the non-native military group, the Honolulu Rifles, forced the prime minister's resignation and the enactment of a new constitution. The new constitution—often referred to as the Bayonet Constitution—reduced the King to a figure of minor importance. It extended the right to vote to Western males whether or not they were citizens of the Hawaiian Kingdom, and disenfranchised almost all native voters by giving only residents with a specified income level or amount of property the right to vote for members of the House of Nobles. The representatives of propertied Westerners took control of the legislature. This is the constitution that the opponents to the bill have characterized as bringing democracy to Hawaii.

A suspected native revolt in favor of the King's younger sister, Princess Liliuokalani, and a new constitution were quelled when the American minister summoned United States Marines from an American warship off Honolulu. Westerners remained firmly in control of the government until the death of the King in 1891, when Queen Liliuokalani came to power.

On January 14, 1893, the Queen was prepared to promulgate a new constitution, restoring the sovereign's control over the House of Nobles and limiting the franchise to Hawaiian subjects. She was, however, forced to withdraw her proposed constitution. Despite the Queen's apparent acquiescence, the majority of Westerners recognized that the Hawaiian monarchy posed a continuing threat to the unimpeded pursuit of their interests. They formed a Committee of Public Safety to overthrow the Kingdom.

On January 16, 1893, at the order of U.S. Minister John Stevens, American Marines marched through Honolulu, to a building known as Arion Hall, located near both the government building and the Hawaiian palace. The next day, local revolutionaries seized the government building and demanded that Queen Liliuokalani abdicate. Stevens immediately recognized the rebels' provisional government and placed it under the United States' protection.

I was deeply saddened by allegations made by opponents of this legislation that the overthrow was done to maintain democratic principles over a despotic monarch. As you can tell by the history I just shared, our Queen was trying to restore the Kingdom to its native peoples after Western influence had so greatly diminished their rights. Colleagues, I want you to understand Hawaii's history and the bravery and courage of our Queen, who abdicated her throne in an effort to save her people after seeing United States Marines marching through the streets of Honolulu.

The Republic of Hawaii was formed in 1893, and in 1898, Hawaii was annexed as a territory of the United States. At the time of the overthrow, the Republic of Hawaii took control of approximately 1.8 million acres of land which were held in a trust for the people of the Kingdom of Hawaii. The driving force of the overthrow, the formation of the Republic, and the drive towards annexation was land ownership and control over land.

Native Hawaiians, like other indigenous cultures, could not grasp the concept of fee simple ownership of land. The concept of owning land was as foreign to them as the concept of owning air would be to us today. For ancient Hawaiians, and for many Hawaiians today, it is understood that all fortune comes from the aina, or land. Therefore, it was important to cultivate and protect the aina and its resources, but the concept of owning it was inconceivable. Ancient Hawaiian society was based on sharing—everyone cultivated, everyone protected, everyone reaped the benefits.

From the time of annexation until present day, as I noted previously in my statement, Congress has treated Native Hawaiians in a manner similar to that of American Indians and Alaska Natives. Federal policies towards Native Hawaiians have always paralleled policies towards American Indians and Alaska Natives. As early as 1910, Congress included Native Hawaiians in appropriating funds to study the cultures of American Indians and Alaska Natives.

In 1921, Congress enacted the Hawaiian Homes Commission Act of 1920, which set aside approximately 203,500 acres of land for homesteading and agricultural use by Native Hawaiians. The act was intended to ''rehabilitate'' the Native Hawaiian race which was estimated to have dropped from between 400,000 and 1 million, to 38,000. At the time, prevailing Federal Indian policy was premised upon the objective of breaking up Indian reservations and allotting lands to individual Indians. Indians were not to be declared citizens of the United States until 1924, and it was typical that a 20-year restraint on the alienation of allotted lands was imposed. This restraint prevented the lands from being subject to taxation by the states, but the restraint on alienation could be lifted if an individual Indian was deemed to have become ''civilized.'' The primary objective of the allotment lands to individual Indians was to ''civilize'' the native people. The fact that the United States thought to impose a similar scheme on the native people of Hawaii in an effort to ''rehabilitate a dying race'' illustrates the similarity in federal policies toward Native Hawaiians and American Indians.

Opponents of my bill have unfortunately conjured a theory that there was no intent to recognize Native Hawaiians as indigenous peoples at the time of Statehood. I've gone back and reviewed the constitutional convention of 1950 which resulted in the constitution that was adopted in 1959 when Hawaii was admitted to the Union. The delegates to this convention reflected the multi-ethnic diversity in the islands. Only 19 percent of the delegates were Native Hawaiians. The 1950 convention deliberately incorporated provisions of the Hawaiian Homes Commission Act of 1920.

It was not without controversy. At least one delegate opposed its inclusion. Yet, the majority of convention delegates voted to include the provisions and the Hawaiian Homes Commission Act remains a part of the Hawaii State Constitution today.

In addition, the Hawaii Admission Act also required the State to take title over the majority of the public lands which had been ceded to the United States at the time of annexation. The Act required that the lands be held by the state as a public trust, with income and proceeds being used for five public purposes, one of which was to address the conditions of Native Hawaiians. It is clear to me after reviewing these documents that while this issue has not been unanimous, there has always been overwhelming support for efforts to recognize Native Hawaiians as Hawaii's indigenous peoples, and to accord them such treatment.

From 1959 to 1978, little was done at the state level to benefit Native Hawaiians. In 1978, the state held a constitutional convention. One of the results of the constitutional convention was the establishment of the Office of Hawaiian Affairs, a quasi-State agency which was set up to address Native Hawaiian issues. The agency would be directed by a Board of Trustees, all Native Hawaiians, who were to be elected by Native Hawaiians. The State of Hawaii ratified the constitutional convention's proposal and from 1978 to 1999, the Board of Trustees for the Office of Hawaiian Affairs was elected by Native Hawaiians.

In 1999, the United States Supreme Court ruled in the case of Rice v. Cayetano that because OHA receives state funds, the vote for the Board of Trustees could not be restricted to Native Hawaiians. The vote for the Board of Trustees has since been open to the entire State of Hawaii and all state citizens are eligible to run for a position on the Board of Trustees. The people of Hawaii have elected Native Hawaiians to each of the nine positions.

Some of my opponents have claimed that this bill would circumvent the Rice case. There is no intent to circumvent the Rice case. Nothing in this bill would address the election of the Board of Trustees for the Office of Hawaiian Affairs.

In 1993, P.L. 103–150, the Apology Resolution, was signed into law. The bill apologized to Native Hawaiians for participation of U.S. agents in the overthrow of the Kingdom of Hawaii and committed the United States to a process of reconciliation with Native Hawaiians. In 1999, officials from the Departments of the Interior and Justice traveled to Hawaii for public consultations with Native Hawaiians. In 2000, the Departments issued a report, From Mauka to Makai: The River of Justice Must Flow Freely. One of the primary recommendations in the report is that legislation should be enacted which would provide Native Hawaiians with greater self-determination within the federal framework over their assets and resources. S. 147 would make this recommendation a reality.

The reconciliation process I referred to is still an ongoing process. I see this measure as an important step in the reconciliation process—a necessary step that provides the structure for us to continue to progress in reconciliation between Native Hawaiians and United States.

I also want to share a unique fact about Hawaii's history. We have had six forms of government. Pre-1810 the islands were ruled by chiefdoms. The Kingdom of Hawaii was established, following the unification of the Islands by King Kamehameha I in 1810, and continued until the overthrow of the Hawaiian Monarchy in 1893. From 1893–1898, the Republic of Hawaii ruled. The territorial government followed from 1898–1941. During World War II, martial law was declared, resulting in the civilian government being dissolved and a Military Government ruling the territory of Hawaii from 1941–1944. We returned to our territorial government in 1944 and in 1959 we were granted admission into the Union.

I can assure my colleagues that the political status of Native Hawaiians has been a hot topic in Hawaii since 1959. In 1999, Hawaii's Congressional delegation formed the Task Force on Native Hawaiian issues. I was selected to head our delegation's efforts. I immediately established five working groups to assist us in addressing the clarification of the political and legal relationship between Native Hawaiians and the United States. The groups included the Native Hawaiian community, state officials, including agency heads and state legislators, Federal officials, Native American and constitutional scholars, and Congressional members and caucuses. We held several public meetings in Hawaii with the members of the Native Hawaiian community working group and the state working group. Individuals who were not members of the working group, and many who opposed our efforts, were allowed to attend and participate in the meetings. Overall, we had more than one hundred individuals provide initial input to the drafting of the legislation.

The bill was first considered by the 106th Congress. Five days of hearings were held in Hawaii in August 2000. While the bill passed the House, the Senate failed to take action. The bill was subsequently considered by the 107th and 108th Congresses. For each Congress, the bill has been favorably reported by the Senate Committee on Indian Affairs and the House Committee on Resources. Unfortunately, until now, we have not had an opportunity for the Senate to consider this legislation.

S. 147 the Native Hawaiian Government Reorganization Act of 2005, does three things: (1) it establishes a process for Native Hawaiians to reorganize their governing entity for the purposes of a federally recognized government-to-government relationship with the United States; (2) creates an office in the Department of the Interior to focus on Native Hawaiian issues and (3) establishes an interagency coordinating group comprised of federal officials from agencies who implement federal programs impacting Native Hawaiians.

The process for the reorganization of the Native Hawaiian governing entity has received the most publicity and most attention. I am very proud of the careful balance between structure and flexibility provided in the reorganization process. Native Hawaiians will truly be able to make critical decisions in shaping their reorganized governing entity.

Some have asked, why do you need to reorganize the entity? My answer is simple—our history requires it. Unlike some of our native brethren, when the Kingdom of Hawaii was overthrown, our native peoples were not allowed to retain their governing entity. Article 101 of the Constitution of the Republic of Hawaii required prospective voters to swear an oath in support of the Republic and declaring that they would not, either directly or indirectly, encourage or assist in the restoration or establishment of a monarchical form of government in the Hawaiian Islands. The overwhelming majority of the Native Hawaiian population, loyal to their Queen, refused to swear to such an oath and were thus effectively disenfranchised.

Similarly at the time of annexation, an overwhelming number of Hawaiians signed a document in protest of annexation, referred to as the Ku'e Petition. It is this document that I have here. A substantial number of Native Hawaiians signed this document in further protest of what had happened to their government.

My bill provides for the reorganization of the governing entity, because upon the overthrow of the Kingdom of Hawaii, Native Hawaiians lost their governing entity. Despite the lack of a government, Native Hawaiians have maintained distinct communities and perpetuated their culture, traditions, customs, and language. While the United States has always treated us in a manner similar to that of American Indians and Alaska Natives, the Federal policy of self-governance and self-determination has not been extended to us because we lack a governmental structure.

Opponents of my bill say that I am creating a government. I believe it is clear that, rather than creating a government, I seek to provide an opportunity for the restoration of a government which requires the reorganization of an entity.

Similarly, because of our history, the governmental authority in Hawaii is held by the State, local, and Federal governments. For that reason, the bill requires that following the reorganization of the entity and the recognition of the entity by the United States, the Native Hawaiian governing entity will negotiate with the State and Federal governments regarding matters such as the transfer of lands, assets, and natural resources, and the exercise of governmental authority. Everything remains status quo until addressed and resolved in the negotiations process.

It is anticipated that Hawaii's State Constitution is likely to require an amendment which will require the vote of all residents in Hawaii. It is also anticipated that implementing legislation at the state and federal levels will be required to implement negotiated matters. This is what I referred to as the structured process that would allow the people of Hawaii to address the longstanding issues resulting from the overthrow of the Kingdom of Hawaii. This process is inclusive and allows for all interested parties to participate.

Opponents of my bill have sought to either mischaracterize potential outcomes or to predetermine the process. I have opposed both efforts. As you can see, enactment of this bill alone does not, for example, allow for the native government to exert criminal and civil jurisdiction over people in Hawaii. Rather, for the Native Hawaiian governing entity to exert any jurisdiction, the state and federal government would need to agree to allow the Native Hawaiian governing entity to exercise such authority. Implementing legislation at the state level would also need to be enacted to make this a reality.

Others have sought to predetermine this matter. Given the inclusive process that the bill provides, and the fact that the people of Hawaii need to address these matters, I do not believe it is appropriate for Congress to predetermine the outcome of this process. Given everything that I have shared with you, I would hope that you agree with me.

Finally, before I conclude, I'd like to speak briefly about what this bill does not do. The enactment of S. 147 will not lead to gaming in Hawaii. There is only one federal statute that authorizes gaming in Indian Country, the Indian Gaming Regulatory Act, and it does not authorize Native Hawaiians to game. In addition, the State of Hawaii is one of two states in the union that criminally prohibits all forms of gaming. Therefore, gaming by the entity would only be allowed with changes to both federal and state law.

The enactment of this bill also does not impact funding for Indian programs and services. As I described earlier, Congress has established programs and services for Native Hawaiians. These programs are appropriated from accounts completely separate from those that fund Indian programs and services. The bill clearly states that it does not create eligibility for Native Hawaiians to participate in Indian programs and services.

I will conclude where I began. Colleagues, for the people of Hawaii, native issues are not partisan. Many of my constituents merely ask that we do right by Hawaii's indigenous peoples and enact this measure that provides Native Hawaiians with the opportunity to reorganize their governing entity for the purposes of a Federally recognized government-to-government relationship with the United States. Many of my constituents ask that you enact this bill because it provides a structured process for us to finally address longstanding issues resulting from a painful history so that we can all move forward as a State.

Mr. AKAKA. After 6 long years, we will be voting tomorrow on a motion to invoke cloture to proceed to S. 147. Whether you are for or against it, I ask all Members to let this bill come to the Senate so we can discuss its merits. It is only through this dialog, through the airing of facts and the dismissal of misunderstandings and myths, that we can provide a fair and honest consideration of what this measure really means to Native Hawaiians as well as to this great Nation of ours. That is what this honorable body has always done. This is why we gather in this Senate to discuss matters of law and governing and of fairness and of human and civil rights.

At the heart of it, this bill is about fairness and about creating a process to achieve it. Native Hawaiians have been recognized as indigenous peoples by Congress. After more than 160 statutes, for more than 100 years, Congress has treated Native Hawaiians in a manner similar to American Indians and Native Alaskans. But when it comes to having a process and Federal policy on self-governance and self-determination, Native Hawaiians have not been treated equally.

What this bill does is authorize a process to examine whether a policy of self-governance and self-determination can be extended to Native Hawaiians, thereby creating parity in the way the United States treats its indigenous peoples.

We have bipartisan support for this bill. I extend my deep appreciation to its cosponsors, Senators CANTWELL, COLEMAN, DODD, DORGAN, GRAHAM, INOUYE, MURKOWSKI, SMITH, and STEVENS for their unwavering support. Again, I especially want to honor Hawaii's first Republican Governor, Governor Lingle, in 40 years. Despite our different political affiliations, Governor Lingle, Hawaii's Attorney General Mark Bennett, Hawaiian Homes Commission Chairman Micah Kane, and the rest of the Lingle administration have worked tirelessly with us to support this bill.

While that may surprise some in Washington, DC, you have to understand back home, support for Hawaii's indigenous peoples is a nonpartisan issue. We see our diversity as our strength and not as a threat. It is a point of pride and a thing that unites, not divides us. We embrace our diversity and celebrate it as part of our social fabric. It is who we are as a people and as a State. That is why we are not threatened by efforts to preserve and strengthen the culture and traditions of Hawaii's indigenous peoples.

Let me also say that the people of Hawaii, including Native Hawaiians, are proud to be Americans and to share that system of government that always has and allows us to be many and also to be one. They include the many Native Hawaiians who are members of the Hawaii National Guard and who are called away from their families to serve in operation Iraqi Freedom. Moreover, it is a well-documented fact that native peoples have the highest per capita rate of those serving in our military.

That is why it is absolutely offensive to read mischaracterizations of this bill as an effort to secede from the United States.

What this bill really does is provide a structured process to finally address long-standing issues resulting from a dark period in Hawaii history, the overthrow of the kingdom of Hawaii.

A few weeks ago I took time to talk about Hawaii's history. I have given a review of that history and its ramifications on this measure. I believe it is absolutely essential for anyone voting on this bill to understand historical context. I strongly encourage all Members to again review this history because there remain issues stemming from the overthrow that have not been addressed because of apprehension based on emotions rather than facts.

Instead, there has been fear of where these discussions might lead, causing people to avoid the issue altogether. Such behavior has led to frustration and misunderstanding between some Native and non-Native Hawaiians. But let me bring this complex history and how it has affected us down to a more human scale and to a more personal level.

As young child, I was discouraged from speaking Hawaiian because I was told it would not allow me to succeed in the Western World. My parents, God bless them, lived through the overthrow and endured the aftermath, when all things Hawaiian, including language, hula, custom, and tradition, were viewed negatively. I was discouraged from speaking the language and practicing Hawaiian customs and traditions. I was the youngest of eight children. I remember as a young child sneaking to listen to my parents so that I could maintain my ability to understand the Hawaiian language. My experience mirrors that of many other Hawaiians of my generation.

While we dealt with the stigma of being Hawaiian, my children have had the advantage of growing up during a period of revival for Hawaiian language, custom, and tradition. My grandchildren, who can speak Hawaiian and know so much more about our history, also benefited from this revival. It is this generation, knowing the history, that grows impatient with the lack of progress and efforts to resolve longstanding issues. It is this generation, steeped in American values of justice, equality, and self-determination, who cannot understand why we have not yet resolved these matters. It is for this and future generations that we have written this bill to address these important issues.

There are those who have tried to say that my bill will divide the people of Hawaii. I believe my bill goes a long way to unite the people of Hawaii by providing a structured process to deal with unresolved issues and unhealed wounds that have plagued us since 1893.

Essentially, the Native Hawaiian Government Reorganization Act does three things: One, it establishes a process for Native Hawaiians to form a government-to-government relationship with the United States. Two, it creates an office in the Department of the Interior to focus on Native Hawaiian issues. And three, it establishes a coordinating group comprised of officials from Federal agencies who implement programs impacting Native Hawaiians. But it is the process for reorganizing a governing entity that has received the most attention. That is why I am very proud of the careful balance between structure and flexibility provided in this process. Native Hawaiians will truly be able to make critical decisions in shaping their government.

Some have asked: Why do you need to reorganize a governing entity? My answer is simple: Our country's history requires it. Our sense of justice and fairness requires it. When the kingdom of Hawaii was overthrown, our native peoples were not allowed to retain their governing entity. Article 101 of the Constitution of the Republic of Hawaii required prospective voters to swear an oath in support of the Republic and declare that they would not, either directly or indirectly, encourage or assist in the restoration or establishment of a monarchy in the Hawaiian Islands. The overwhelming majority of the Native Hawaiian population, loyal to the Queen at that time, refused to swear to such an oath and was thus effectively disenfranchised.

Similarly, at the time of annexation, an overwhelming number of Hawaiians signed a document of protest referred to as the Ku'e petition—it is this document that I have—as a substantial number of Native Hawaiians signed this document in further protest of what had happened to their government. Despite the lack of a government, Native Hawaiians have maintained distinct communities and perpetuated their culture, tradition, customs, and language.

Opponents of the bill say I am creating a new government. I believe I am providing an opportunity for the restoration and reorganization of a government that once existed and was unjustly removed.

Before I conclude, I wish to speak briefly about what this bill does not do. This bill will not result in the taking of private lands in Hawaii. No one will lose their home or business because of my bill. The enactment of S. 147 will not lead to gaming in Hawaii. There is only one Federal statute that authorizes gaming in Indian Country—the Indian Gaming Regulatory Act. And it does not authorize Native Hawaiians to game. In addition, the State of Hawaii is one of only two States that criminally prohibits all forms of gaming. Therefore, gaming would only be allowed with changes to both Federal and State law.

Enactment of this bill does not impact funding for Indian programs and services. Congress has established separate programs and services for Native Hawaiians. These programs are appropriated from accounts separate from those that fund Indian programs. Moreover, the bill clearly states that it does not allow Native Hawaiians to participate in Indian programs and services.

Finally, gaining an understanding of a history of a culture and people we are not familiar with is not an easy task. I commend Members of the body for doing their homework. It can be so easy to simply dismiss this bill as racially based, as a threat to the sovereignty of the United States or as a ploy for one group to gain an undeserved advantage. The harder task is a studied one. But it is the right one.

If I might take you back in history one more time for just a moment: In the 1840s, recognizing the strategic importance of the Hawaiian Islands, the great maritime powers of the day—principally England, France, and the United States—jockeyed for positions of advantage, even as they acknowledged the islands as an independent nation. It was a time of much international intrigue. Urged on by local British residents, the commander of the British squadron in the Pacific sent an armed frigate to Honolulu to ''protect British interests.''

King Kamehameha III was forced to yield to British guns, and for 5 months the islands were placed under British rule. International pressure, as well as personal intervention from Queen Victoria herself, eventually forced the British Government to declare the action as unauthorized. On July 31, 1843, the Hawaiian flag was raised once again.

During a service of thanksgiving held at historic Kawaiahao Church in Honolulu, Kamehameha III recited a phrase that has since become Hawaii's State motto: Ua mau . . . ke ea . . . o ka aina . . . I ka pono—the life of the land . . . is perpetuated . . . in righteousness. That has always been the case, not only in Hawaii but throughout our Nation's history.

The people of Hawaii are asking that we do right by Hawaii's indigenous peoples and enact this measure that provides Native Hawaiians with an opportunity for self-determination and self-governance. They ask that we enact this bill because it provides a structured process to finally address longstanding issues resulting from a painful moment in our history, so that we can move forward as a State. They ask that we enact this bill because it is just, because it is fair, because it is the right thing to do.

We are a nation of immigrants, and we celebrate our diversity every day at dining room tables around the country. In this grand experiment of democracy, we have found we can be many and yet be indivisible. The United States of America has pledged itself to liberty and justice for all people. This bill does that for the Native Hawaiians.

I yield the floor.

The PRESIDING OFFICER. There are 2 minutes 7 seconds remaining on the minority's time.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. ALEXANDER. Mr. President, I said earlier that I think we will hear on the Senate floor many times during this debate about the enormous respect we have for our two colleagues from Hawaii and how much we would prefer not to disagree with them. I think it is fair to say that this bill would not have a chance of being seriously considered on the floor if it weren't for our respect for them.

Despite that respect, I have to say, after hearing the Senator from Hawaii, this bill is worse than I thought. Many of my colleagues in the Republican caucus have come to me and said this is not about sovereignty or about race. The Senator from Hawaii made very clear that this is about sovereignty. He said in his own words that this is a bill to create—he says ''restore''—let's just say establish—a new government within the United States of America, and admission to that government is based upon race. So you cannot pass this bill off and say it is not about sovereignty. It is about sovereignty. There is no difference of opinion about that between the Senator from Hawaii and me.

He said specifically that the first objective of this legislation is to establish a process to establish a government which would have a government-to-government relationship with the United States. That is a sovereign government composed of American citizens who would now become part of a new government because they might be a small percentage Native Hawaiian, and certain benefits would come to them. So it is about sovereignty and race.

Why is that a problem? Let me add that the Senator from Hawaii referred to this new sovereignty as their government. But we have one government. That's why there are Americans, just like my family, which is Scotch-Irish American, like those of African descent who are Americans, and like those of every descent who are Americans, who share in our government.

That is what is special about this country. Of course we admire our diversity. What a great strength diversity is. No country is more diverse. We are a land of immigrants. Out of that

great mix comes our strength. But there is one greater strength, and that is taking all of that diversity and making one country of it.

How do we do that? We do it in an extraordinary way that goes all the way back to Valley Forge, when George Washington administered an oath to his officers that said:

> I renounce, refuse, and abjure any allegiance or obedience to the king, and I swear that I will, to the utmost of my power, support, maintain, and defend the United States of America.

Now, new citizens of this country have ''become Americans'' ever since then by taking that same oath. In the immigration bill we passed a couple weeks ago, we codified that oath. So every year, a half million people come here from countries such as Bangladesh, China, France, and every part of the world. They don't come to salute India or speak the language of China or to adopt the principles of France. They respect where they came from, and they are proud of it, but they become Americans. We don't do it based on race. We don't do it based on ancestry. We do it based upon a few principles in our founding documents. One of those is that we don't discriminate based upon race or ancestry, and another great principle is E pluribus unum, which this bill would turn upside down.

So this is not a bill which should be passed just because we greatly respect our colleagues, which we do. But Hawaiians are Americans. Tennesseans are Americans. Oklahomans are Americans. Hawaiians have been American citizens since 1900. In 1959, they voted 94 percent to become a State, to be Americans. When you become American, you renounce your allegiance to some other government and pledge allegiance to the United States of America. If we don't do that, we take step toward being a sort of United Nations instead of a United States.

I hope my friends, who have looked at this bill and said: We love our colleagues and this doesn't seem like a very important bill, so let's do it for them, will look at the assault upon a tremendously important principle embedded in this bill. It is about sovereignty. It is about land and money. It is about race. It is not the same as what we did in Alaska. Native Hawaiians are not just another Indian tribe. We don't create Indian tribes; we recognize Indian tribes. This is not an Indian tribe under the language of our laws.

I am afraid that what has happened here is that in 1998, the Supreme Court of the United States made a decision and they said Native Hawaiians could not have an organization if the voting membership was based upon being Native Hawaiian because the 15th amendment to the U.S. Constitution says you cannot vote based on race. So this is an attempt—it is a breathtaking attempt—to establish a new nation within the United States of America.

I suppose there might be a lot of aggrieved people in the United States who might like to establish a nation. This Nation isn't without pain. We have stories from our beginning, whether it is Native Americans, whether it is African Americans, whether it is Mormons who may have felt mistreated, murdered in State after State, whether it is one religion today—maybe it is Hasidic Jews or an Amish group. There are a great many people who, in our history, may not have been properly treated. But an understanding of American history is that it is a great saga of setting high goals for ourselves and then always moving toward those goals. We never reach them. We say ''all men are created equal,'' but we have never been. The men who wrote that owned slaves. But what have we done? We have systematically, over our history, chipped away, moving ahead, falling back, fighting a great Civil War, saving the Nation, waiting another hundred years before African Americans could sit at a lunch counter in Nashville, always moving toward that goal. Most of the debates in this Senate are about establishing high goals—pay any price for freedom, equal opportunity, E pluribus unum. Those are our goals, and we never reach them, but we always try for them.

What is our goal here? Our goal is that we should hope that every single citizen in this wonderful State of Hawaii be equal—if there ever were a multiethnic, diverse State, it is Hawaii. It is a wonderful example of our diversity. According to the 2000 census, 40 percent of Hawaiians are of Asian descent, 24 percent are White, 9 percent say they are Native Hawaiian or Pacific Islanders, 7 percent claim to be Hispanic, 2 percent Black. Twenty-one percent report two or more racial identities. There is much diversity of which Hawaiians are proud and of which we are proud. What unites them? What unites us all is that we have become Americans. We are proud of where we came from, proud of our ancestry, but prouder to be American.

There may be some issues that need to be addressed. We can find ways to address them. There may be some wrongs that need to be righted. Certainly, Native Hawaiians would want to renew their culture and their customs and their language. All of us do that. I go to my family reunion of Scotch-Irish Presbyterians every summer. I have been to the Italian-American dinner here in Washington, DC. I never went to an event where there was more emotion or Italianness. But the greatest emotion came when the Italian Americans stood up and pledged allegiance to the United States. They didn't have a problem saying: We are proud to be Italian, but we are prouder to be American. So how could we be seriously discussing on the floor of the Senate establishing for 400,000 Americans who live there, I think from almost every State of this country, a new government based on race to which they would be privileged and the rest of us could not be a part of? That is not American. That might be the United Nations, but it is not the United States. It is not consistent in the most basic ways with the history of this country.

So I hope that my colleagues, who have considered this legislation as maybe not too important, as something that should be done primarily out of respect for our two distinguished friends from Hawaii, will look at this carefully and not be lulled in by comments that this isn't about sovereignty. I think Senator AKAKA was very candid and very direct when he said the first objective of this bill was to establish a process to create an entity which would have a government-to-government relationship with the United States.

Mr. President, this is a dangerous precedent. It is the reverse of what it means to be an American. We have other issues that should come to the floor before this. I hope colleagues will think carefully before moving ahead on this piece of legislation.

I see the Senator from Alabama has arrived.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I thank the Senator from Tennessee, Mr. ALEXANDER, for his thoughtful comments on this subject and other related subjects. He taught me a phrase that he uses, which is that we need to make sure everyone who grows up in this country knows what it means to be an American. To be an American is not a racial thing. An American is a person who adopts the American ideal of equal justice under law, without regard to race, religion, national origin, or any other matter of that kind.

Our Founders of this Nation were very wise in a number of important ways. One of the most important ways was they had a clear vision of the Nation they birthed and they saw it far into the future. They always considered the importance of principle because principle was important to the growth and progress of the Nation they loved for the long term. They never failed to think of the impact their actions may have on the future, even the distant future of the country they birthed, the country they loved.

I do not believe we are as thoughtful today in that matter as we used to be. Too often, we make decisions based on perceived immediate needs or on political forces at the time or friendship or some deal we thought we were forced to make or needed to make at a given time; and too seldom in this busy, hectic place do we take the time to consider the long-term implications of our actions on the great Republic which we have been given.

We simply must think in the long term in a principled way as we consider the Native Hawaiian legislation. It is not too much to say the legislation could create a crack in the American ideal of equal rights and colorblind justice. This would be a huge step. It is a

step we must not take. This Nation in its maturity and wisdom must not succumb to any balkanization of America. A great nation must set crystal clear policies on these matters, crystal clear policies on this question. The Republic must firmly reject, must nip in the bud now and whenever it may appear in the future, any notion of creating sovereign governments within our borders unless they meet every criteria of the Indian Tribe Program.

National Review said in a recent article:

> You might have thought after watching the immigration debate that the Senate could not be more cavalier about the unity and sovereignty of the Nation. Think again. The Senate is about to vote to pave the way with a bill to create a race-based government which is on the verge of passing.

This bill has been around a number of years, but we have never had a full debate about it. Unfortunately, many in Congress don't seem to fully understand yet the enormous implication of establishing what can really fairly be said to be a race-based government. And further, the American people have not been informed of the breadth and significance of the legislation. That is why it is good we are having the debate at this time.

We must talk about it. We ought to let the American people know that this bill would create a nation out of United States citizens. The territory known as Hawaii is the epitome really of our country's great melting-pot concept and has always been made up of a diverse group of citizens with different racial backgrounds. They are famous for that.

If we pass this bill, we will divide them. The bill would result in the State of Hawaii giving up substantial lands to the new nation which would begin a downward spiral from an America that is based on a shared ideal to one where race, ancestry, our nationality constitute a legally approved basis for segregation and really discrimination.

What is discrimination? Discrimination is saying you have an advantage or a disadvantage based on race.

This legislation seeks to create an extra constitutional race-based government of Native Hawaiians by arbitrarily labeling that race of people as an Indian tribe.

Essentially, it seeks to create a sovereign entity out of thin air, something that the Supreme Court said as far back as 1913 cannot be done. Indian tribes existed before our Constitution, before our Nation, in many cases, with continuity of leadership, centralized locality, and cultural cohesiveness. Therefore, the United States recognizes qualified Indian tribes as sovereign entities. Indeed, we signed treaties with many of them and made promises in those treaties to provide them certain degrees of sovereignty.

Equating Native Hawaiians with a legitimate Indian tribe is not possible because Native Hawaiians share none of the unique characteristics possessed by recognized tribes. Native Hawaiians never lived as a separate, distinct, racially exclusive community, much less exercise sovereignty over Hawaiian lands. They never established organizational or political power. They never lived under a racially exclusive government. All Hawaiians, regardless of race, were subjects to the same monarch in 1893. In other words, Native Hawaiians have never exercised inherent sovereignty as a native indigenous people, as the bill asserts and must assert if it were to have any chance of withstanding constitutional muster.

Nonetheless, the bill would carve out a special exemption in the Constitution for these people based on race solely. A special exception being sought for Native Hawaiians is extraordinary.

Under the bill, there is no guarantee that members of a new government would be subject to constitutional rights and protections, such as the first, fourth, and 15th amendments. The U.S. Constitution guarantees to every citizen a republican form of government, and this has been defined to mean all the protections of our Constitution.

At a minimum, the Founding Fathers intended that a republican form of government ensure popular rule and no monarchy, but under this bill, nothing guarantees these basic principles will be honored. This new government, this new sovereignty will be free to reinstate a monarchy or establish any other method of government they may choose.

Essentially, persons who are now citizens of the United States and who are now guaranteed these protections, a republican form of government, would now be turned over to a government that is not bound to honor that.

One should not be deprived of the right to vote or be denied free speech or have property taken without due process. These are deeply rooted principles in the United States, but they will not be guaranteed as part of a Native Hawaiian government. Under the bill, Congress would strip United States citizens of these and other great protections they now enjoy.

Perhaps this is why there is a lot of unease in Hawaii about this legislation. Indeed, so many residents oppose it. In May of 2006, in a telephone pole, 58 percent of Hawaiian residents said they opposed the bill. Of the respondents identifying themselves as Native Hawaiian, only 56 percent said they supported it. Of the Native Hawaiians, only a little more than half said they supported it. Given this split among even Hawaiians, is it not surprising that 50 percent of all respondents said they want a vote on the bill before it becomes law, which is not provided for in this legislation?

I will share a few thoughts by the U.S. Commission on Civil Rights. They oppose the bill. The U.S. Commission on Civil Rights voted recently to oppose the legislation because of its concern with the bill's discriminatory impact.

The Commission is an independent Government agency tasked with the duty to examine and resolve issues related to race, color, religion, sex, age, disability, or national origin. It is composed of eight members, though currently only seven. Four are appointed by the President and four are appointed by Congress. At no time may more than four members of the same party sit on the Commission.

Pursuant to its authority to submit reports, findings, and recommendations to the Congress, the Commission released their report last month on this bill recommending ''against the passage of the Native Hawaiians Government Reorganization Act or any other legislation that would discriminate on the basis of race or national origin and further subdivide the American people into discrete subgroups accorded various degrees of privilege.''

That is strong language. I submit that is what the bill does. I submit that is why we should not pass it.

Let me repeat that. They oppose this act and any other legislation that would ''discriminate on the basis of race or national origin and further subdivide the American people into discrete subgroups accorded varying degrees of privilege.'' And, I would add, based on their national ancestry or race.

ThIs report was issued after—the Commission held a hearing on January 20, 2006, where experts—both opposing and supporting the bill—testified about the legislation. The Commission held the briefing record open until March 21, 2006, to receive additional comments from the public. Sixteen public comments were received during the period, and most of the commentators wrote to express their opposition to the bill.

Interestingly, the report notes that ''While most commenters oppose the legislation, the governmental and institutional commenters primarily support it. The report also states that ''Many [opponents] argued, in very personal terms, that the proposed legislation would be inconsistent with basic American principles of equality, traditional Hawaiian values, and their own personal ethics.

Commission Chairman Gerald A. Reynold, himself an African American, agreed with opponents, stating that:

> I am concerned that the Akaka Bill would authorize a government entity to treat people differently based on their race and ethnicity . . . This runs counter to the basic American value that the government should not prefer one race over another.''

In a case called Rice v. Cayetano, the Supreme Court found a similar attempt to create a race-based classification unconstitutional. In that case, the Court struck down a race-determinative voting restriction in Hawaii as a violation of the fifteenth amendment, which bars racial restrictions on voting. By a vote of 7 to 2, the Court held unconstitutional a system under which non-Native Hawaiians were barred from voting for or serving as

trustees of the State's Office of Hawaiian Affairs. Finding that the fifteenth amendment protects the rights of Whites, Asians, Hispanics, and persons of other races in Hawaii just as it protects all other individuals against racial discrimination, the Court stated:

> One of the reasons race is treated as a forbidden classification is that it demeans the dignity and worth of a person to be judged by ancestry instead of by his or her own merit and essential qualities. An inquiry into ancestral lines is not consistent with respect based on the unique personality each of us possesses, a respect the Constitution itself secures in its concern for persons and citizens.

Proponents of this bill seek to circumvent this Supreme Court decision by completely separating the Native Hawaiian community into its own sovereignty, placing it and its members outside of Constitutional protections. This is the only way it can be done.

Instead of carving Native Hawaiians out from constitutional protections, and separating them from America, we must uphold constitutional principles, as well as American—especially Hawaiian—ideals, by not discriminating against anyone on account of race.

Our Constitution seeks to eliminate racial separatism, not promote it. How can we promote equality while separating our people into distinct, legally-recognized racial sovereignties with more or less rights and still be ''one nation''?

Because they existed prior to the establishment of our Constitution and Federal Government, Native American Indian tribes have long been recognized as sovereign entities—most signed treaties to that effect.

Tribes have never been, nor can they now be, created out of thin air by Congressional legislation. Instead, ''tribes'' seeking recognition after statehood must adhere to a process established by the Federal Government. To be formally recognized, a tribe must demonstrate that it has operated as a sovereign for the past century, was a separate and distinct community, and had a preexisting political orgranization. The Native Hawaiian people cannot meet these criteria and have conceded such on at least one occasion. In the case that I previously mentioned, Rice v. Cayetano, the State of Hawaii argued in its brief that:

> [F]or the Indians the formerly independent sovereign entity that governed them was the tribe, but for native Hawaiians, their formerly independent sovereign nation was the Kingdom of Hawaii, not any particular 'tribe' or equivalent political entity. . . . The tribal concept simply has no place in the context of Hawaiian history.

Let me reiterate and further explain why Native Hawaiians cannot meet the Bureau of Indian Affairs' standards for tribal recognition. Those standards boil down to two basic requirements: one, the group must be a separate and distinct community, and two, a prexisting political entity must be present.

The BIA requires a tribe to demonstrate that it represents a separate and distinct community. Yet, Native Hawaiians live in almost every state in the Nation and have fully integrated into American society. Native Hawaiians do not live as a cohesive, autonomous group of people and have not done so at any point in history. Rather, they are fully immersed in all aspects of American life. For example, almost half of all marriages in Hawaii are interracial. Hawaiians serve in the U.S. military, dedicating their lives to the service of America. They are a part of American culture and certainly do not live separate and distinct from the rest of us.

The BIA requires a tribe to demonstrate that it had a preexisting political organization. Yet, no political entity—whether active or dormant—exists in Hawaii that claims to exercise any kind of organizational or political power. Knowing this, the bill's advocates rely on findings in the bill declaring that ''Native Hawaiians'' exercised ''sovereignty'' over Hawaii prior to the fall of the monarchy in 1893, and that it is therefore appropriate for Native Hawaiians to exercise their ''inherent sovereignty'' again. This argument is fatally flawed because there was no race-based Tribal Hawaiian government in 1893, so there is no ''Native Hawaiian'' government to be restored. Since the early 19th century, the Hawaiian ''people'' included many native-born and naturalized subjects who were not ''Native Hawaiians'' in the sense of this bill—those people included Americans, Chinese, Japanese, Koreans, Samoans, Portuguese, Scandinavians, Scots, Germans, Russians, Puerto Ricans, and Greeks. All were subjects of the monarch, not just those with aboriginal blood. Further, Hawaiian government, including the monarchy that existed until 1893, always employed non-Natives, even at the highest levels of government. Therefore, it would be impossible to ''restore'' the ''Native Hawaiian'' government of 1893—as the bill purports to do—because no such racially-exclusive government—or nation—ever existed.

If there ever was a time for Native Hawaiians to establish themselves as an Indian tribe, it has long passed. When Hawaii was considering statehood, there was absolutely no push to establish any tribal sovereignty. In fact, 94 percent of voters supported statehood in 1959, and at the moment it was attained, all people living in the territory became full-fledged citizens of the United States of America. They deserve every protection that our Constitution ensures.

There are many practical consequences of this legislation that must be considered. If this bill passes, it would allow for the creation of Hawaiian ''tribes'' in every State. This would have extreme social consequences—sporadic pockets of people in almost every State would be governed differently than their neighbors and would be immune from State and Federal laws and taxes. The result would be a chaotic intermixing of different rules and regulations throughout the entire country. Native Hawaiian business owners, exempt from state and local taxes, could displace non-Native Hawaiian business-owning neighbors, giving them an enormous competitive advantage. Further, the bill could conceivably lead to complete secession from the United States. In fact, a group of supporters, including the State of Hawaii's own Office of Hawaiian Affairs, views this bill as a potential step towards ''total independence.'' On a website operated by that agency, the following passage appears under a section called, ''How Will Federal Recognition Affect Me?''

> [The bill] creates the process for the establishment of the Native Hawaiian governing entity and a process for federal recognition. The Native Hawaiian people may exercise their right to self-determination by selecting another form of government including free association or total independence.

How breathtaking is that? We simply cannot return to a government where different races of Americans are governed by different laws.

The bill itself does not require any percentage of Native Hawaiian blood for inclusion in the new race-based government, which could therefore include someone with only ''one drop'' of native blood. Hawaiians with significant traceable blood heritage oppose the bill, in part, for this very reason. Those Hawaiians with at least 50 percent blood quantum were given Federal assistance and lands by the Hawaiian Homes Commission Act of 1921, a requirement which still exists today, with the only exception being for children of homesteaders with 25 percent blood quantum.

Doesn't this entire process of dividing money, property, and benefits based on a person's race—the percentage of ''blood'' they have—sound an alarm? Yet this bill positively seeks to divide people based upon race and blood—all in the name of apology and restitution.

What about the French who held the Louisiana territory? Should they be given special benefits because we forced them into a sale?

We cannot go down this path. Not only would all Americans suffer if we sever Native Hawaiians from our American community, but those individuals who would become citizens of a Native Hawaiian sovereignty would lose rights that we as Americans cherish.

One of the many lessons learned from the Civil War is the importance of national unity. Abraham Lincoln referred to the principle of secession as ''one of disintegration, and [one] upon which no government can possibly endure.''

We fought a war over the issue, and the question was settled for all time. We are one Nation and will not be separated—whether by secession of a State or a racial group. Certainly we cannot promote this state-sanctioned racial separatism. If passed, this bill would create a slippery slope that could lead

to a host of pernicious possibilities for our future as a unified Nation. In an editorial written last fall, Georgie Anne Geyer quoted the eminent historian Henry Steele Commager praising the Founding Fathers for thinking hard about the future—even the distant future. They ''couldn't give a speech or write a letter without talking about posterity.''

We cannot set a precedent that would allow every racial group in America to become its own independent sovereignty. Native Hawaiians, just like any other racial group in this country, are free to practice and promote their culture. They are free to pass down their traditions from generation to generation. America celebrates her diversity, but she cannot allow her diversity to divide her citizens.

E Pluribus Unum—out of many, one—is fundamental to our national character. This bill seeks to turn that fundamental principle upside down and would make us many out of one.

Mr. President, I see my colleague from Idaho is in the Chamber. I will conclude with these thoughts. We are as Members of this Senate particularly charged with thinking about the long-term future of our Republic. That is how we are today in a relatively healthy condition because our forefathers thought about those matters. They thought about the principles on which this Nation was founded.

The concept is that once an American, based on adoption of the American ideal, you become an American regardless of your race, your ancestry, your religion, or your national origin. That is who we are as a people. And I submit, it is a matter of the greatest danger that we move away from the classical acceptance of Indian tribes to now start creating sovereign entities.

Sovereign means independent, to a certain degree uncontrollable by the U.S. Government. Sovereign entities within our Nation based on race, with people spread all over the Nation actually, being a member of a new government, a new government that according to the supporters and even the Hawaiian Web site indicates could lead to separation and independence, that is not a step we ought to take. We need to nip this in the bud. We need to end this now. We need not go down this road.

I so respect my colleagues from Hawaii. They are committed to their people. They understand the concerns of their citizens. They want to help them. They have a particular desire to be compassionate to the Hawaiian people, the Native Hawaiians who have grown up on the islands for many years. But I say with all due respect, in terms of the overall National Government of which we are a part and the principles to which we must adhere, that we should not go down the road creating an independent sovereign entity based on race, as this bill would do. Therefore, with reluctance and great respect for my colleagues who support this legislation, I urge our Members to vote no.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I quote:

> Hawaii illustrates the Nation's revolutionary message of equality of opportunity for all, regardless of background, color, or religion. This is the promise of Hawaii, a promise for the entire Nation and, indeed, the world, that peoples of different races and creeds can live together, enriching each other, in harmony and democracy.

That is Lawrence H. Fuchs, Hawaii Pono, 1961, written at the time of statehood.

Today, with that quote in mind, I rise in opposition to the Native Hawaiian Government Reorganization Act of 2006. As my colleague just mentioned, I respect both of my Hawaiian colleagues and the work they have done to promote the culture and heritage of their native people. At the same time, I must disagree with the underlying notion of this bill.

The major argument in favor of this bill is the notion that Congress should create a Native Hawaiian tribe in order to treat them the same as American Indians and Native Alaskans. But Congress cannot simply create an Indian tribe. Only those groups of people who have long operated as an Indian tribe, lived as a separate and distinct community—geographically and culturally—and have a preexisting political structure can be organized as a tribe.

Hawaiians could never qualify as an American Indian tribe. First, they do not have the preexisting political structure. Prior to secession from the Republic of Hawaii, Hawaii operated under a monarchy and not a tribe. Even if they were once organized in tribal governments, they have had no type of Native Hawaiian government for over 100 years.

Furthermore, in 1959, 94 percent of Hawaiians voted favorably to approve the Hawaii Statehood Act and become American citizens.

At this time, there was an understanding that Hawaii's native people would not be treated as a separate racial group and that they would not be transformed into an Indian tribe.

Second, Native Hawaiians do not have an independent and separate community. In fact, Hawaii is one of the most integrated and blended societies in America. Hawaii is, in essence, America's great melting pot. The creation of a Native Hawaiian race-based government entity would drive a wedge into the now harmonious melting pot of the Hawaiian culture. This bill is asking us to pretend that a tribe existed based on the sharing of one drop of blood. We cannot simply reorganize a tribe that never existed or create a new race-based government entity.

Furthermore, using Congress to create a tribe offends the very idea of equal protection under the law. Creating a Native Hawaiian tribe, especially one with no borders, undermines our constitutional rights.

The PRESIDING OFFICER (Mr. COBURN). The control by the majority has expired.

Mr. CRAIG. Mr. President, I ask unanimous consent to proceed for 3 more minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. CRAIG. I thank my colleagues for allowing that to happen.

This would establish a set of laws for Native Hawaiians and another set of laws for non-natives, some of whom have lived on the island for generations. This division would create a wedge, in my opinion, in the Hawaiian community. It would create two sets of laws for a group of people who live in the same neighborhoods, attend the same schools, and go to church together. A Native Hawaiian could be subject to one set of laws while his neighbor is subject to a different set of laws. I think not.

The legislation offends a founding principle of this Nation: that all men and women are created equal—we have fought wars and struggled mightily down through the decades to make that happen—not men and women with Hawaiian blood are equal, and those without Hawaiian blood are equal. That is a confusing thought. As the Supreme Court stated, ''In the eyes of the government, we are just one race—it is American.''

It is astonishing that Congress is considering creating a race-based government in Hawaii given the tremendous progress that this Nation has made, as I have mentioned, in eliminating race as a distinguishing characteristic among its citizens. Presumptive color blindness and race neutrality is now at the core of our legal system and cultural environment and represents one of the most important American achievements of the 21st century.

To create a race-based government would be offensive to our Nation's commitment to equal justice and the elimination of racial distinctions in the law. The inevitable constitutional challenge to this bill almost certainly would reach the U.S. Supreme Court. We cannot simply circumvent the Supreme Court's holding and strict scrutiny of race-based tests.

The U.S. Civil Rights Commission issued a report earlier this year that recommended that Congress reject this bill or any other legislation that would discriminate on the basis of race or national origin and further subdivide the American people into subgroups accorded varying degrees of privilege. This bill would authorize a government entity to treat people differently based on their race and ethnicity. Again, this notion runs counter to the basic American value that the government should not give preference to one race.

Our most violent internal conflicts, whether in the 1860s or the 1960s, have revolved around efforts to eliminate the laws of racial distinctions and to

encourage a culture where all citizens become comfortable as a part of the American race.

Creating a race-based government in Hawaii would create a dangerous precedent that could lead to ethnic balkanization. This is a huge step backwards in our American struggle to advance civil rights and to ensure equal protection for all Americans under the law.

This journey is by no means complete, but this bill halts progress in that very important journey and sends an entirely contrary message—a message of racial division and racial distinction and ethnic separatism and of rejection of the American melting pot ideal.

As many of our colleagues have said, and I repeat: We so respect our Hawaiian colleagues, our Hawaiian friends; at the same time, we must reject this idea that there is a separation spoken to in this law unique to a race or a culture.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I rise at this moment to join Senator AKAKA speaking in support of the measure before us this day.

This bill, which is long overdue, finally will have a chance for fair consideration by this body. I hope this bill will finally begin the process of extending a Federal policy of self-governance to Native Hawaiians and will repair the injustices of the past.

As I sat here listening to the speeches, I must candidly say that I was a bit disappointed that some of my friends who oppose this measure have mischaracterized the history of my State.

Hawaii's history, as recounted by Senator AKAKA, is well-documented. After Captain James Cook arrived in Hawaii, other foreigners came to the islands, often as laborers. Over the ensuing years, like other Native people who carried no immunities to the diseases that accompanied the waves of immigrants to their shores, the Native Hawaiian population was reduced from estimates as high as several hundred thousand people at the time of first recorded western contact to a little over forty thousand. An 1854 smallpox epidemic, for instance, took the lives of 6,000 people—almost 10 percent of the population at that time.

Along with the decimating diseases, the social and economic conditions of the Native Hawaiians deteriorated as well. The influence of non-Native Hawaiians continued to grow. On January 17, 1893, the Hawaiian Kingdom was illegally overthrown with the assistance of the United States. The United States' involvement in the overthrow is thoroughly documented in a report commissioned by President Grover Cleveland.

My parents and grandparents lived through Hawaii's trying times. In my generation, I was raised with an understanding that the Native Hawaiian people had been wronged. It is for this reason that I, and the other citizens of Hawaii, ask you to do the right thing for the Native Hawaiian people.

Some of our colleagues have also questioned Congress' authority to deal with Native Hawaiians. But after serving for 28 years on the Committee on Indian Affairs, with approximately seventeen years as either the Chairman or the Vice Chairman, I am very informed of the law that governs the Federal relations with the aboriginal, native people of the United States. As such, I want to assure everyone that Congress possesses the authority to pass this measure.

Congress' authority over Indian matters has been repeatedly affirmed by the United States Supreme Court. Its power is explicit in the Constitution. It derives from the Indian Commerce Clause, Article I, Section 8, clause 3, which vests Congress with the power to regulate commerce with the Indian tribes. It also stems from the Treaty Clause, which authorizes the Federal Government to enter into treaties with other nations, as was done with various Indian tribes and the Native Hawaiian government. Although the Constitution does not authorize the Congress to make treaties, this provision does authorize Congress to address matters with which the treaties made pursuant to that power pertain.

In addition, the Court has found that Congress' power over Indian affairs derives from the Property Clause, Article IV, Section 3, Clause 2, which vests the Congress with the authority to ''dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States.'' This provision was used by Congress to set aside public lands for the use of Alaska Natives and a colony, established for scattered, unrelated Indians. In Hawaii, approximately 203,500 acres of land were similarly set aside for Native Hawaiians.

And Congress' authority over Indian affairs also derives from the Debt Clause and, like any other national government, its inherent authority that is a necessary concomitant of nationality.

Congress' authority is broad and plenary. The Federal policy towards the aboriginal, indigenous people has not been constant nor consistent. But changing Federal policy is fully within the scope of Congress' authority. Congress has exercised this authority to recognize the inherent sovereignty of an Indian tribe, to terminate the government-to-government relationship between the United States and an Indian tribe, to establish a process for the reorganization of a tribal government, as Congress did with the enactment of the Indian Reorganization Act of 1934, and to restore tribes to their original federally-recognized status.

In fact, after terminating the government-to-government relationship with Indian tribes, Congress enacted legislation to restore the sovereign status of some of those tribes. Even though the Indian tribe did not exercise federally-recognized sovereign authority during the time its relationship with the United States was terminated, this was not a barrier to an exercise of Congress' power to restore the federal recognition of the native government.

When Congress exercises its authority in this manner, it is not ''creating'' sovereignty nor is it ''creating'' a native government. Native sovereignty preexisted the formation of the United States. For the purpose of carrying on government-to-government relations, the form of native government is irrelevant.

Congress established the Indian Reorganization Act of 1934 to provide a process for the reorganization of other native governments. This Act does not require that Native governments be organized as tribes. Senate bill 147 proposes to provide a similar process for Native Hawaiians.

Although Native Hawaiians are not Indians nor are they organized as Indian tribes, Congress is not precluded from dealing with them in the manner proposed by the bill. The Constitution is a living document. The authors of the Constitution intended that Congress' authority to deal with Indian tribes include all aboriginal, indigenous people of the United States, including American Indians, Alaska Natives and Native Hawaiians, wherever they were located and however they were organized.

The Supreme Court has affirmed Congress' authority over other aboriginal, indigenous people of the United States, regardless of whether they are ''Indians'' or organized as a ''tribe,'' as those terms are defined today. It is irrelevant whether the native peoples are located within the original territory of the United States or in territory subsequently acquired, whether within or without the limits of a state. In pre-colonial times, the term ''Indian'' was defined to mean ''native'' or ''the aboriginal, indigenous people'' and the term ''tribe'' was defined to mean ''a distinct body of people.''

Correspondence between James Monroe and James Madison concerning the construction of what was to become the Commerce Clause make no reference to Indian tribes, but they do discuss Indians. Clearly, our founding fathers did not intend the term ''Indian tribes'' as used in the Constitution to only extend to those pre-existing Indian tribes that were dependent nations at the time of the framing of the Constitution. Under this interpretation, Congress would have no authority.

As Senator AKAKA relayed, the first recorded western contact with the aboriginal indigenous people of Hawaii was the arrival of Captain James Cook in 1778. While recording his encounters with Native Hawaiians, Captain Cook referred to Native Hawaiians as ''Indians.'' His accounts reported that the Native Hawaiians ''lived in a highly organized, self-sufficient, subsistent social system based on a communal land

tenure with a sophisticated language, culture, and religion.'' In other words, Native Hawaiians were a distinct body of people.

The Court has upheld Congress' exercise of its broad, plenary authority to recognize Indian tribes who were and are not Indians nor were they organized as tribes at the time that Federal recognition was extended to them. For instance, the Court affirmed Congress' recognition of an Indian tribe that consisted of scattered, unrelated individual Indians, who were forced onto a reservation or colony. Even after the Supreme Court questioned whether the Pueblos of New Mexico were Indians and found that they were not organized as tribes, the Supreme Court upheld Congress' exercise of authority to recognize and treat Pueblos as Indian tribes. Despite numerous opportunities to do so, the Supreme Court has not questioned Congress' authority to treat Alaska Natives as Indian tribes.

Whether the reference was to ''Indians'' or ''Indian tribes,'' the Framers of the Constitution did not intend those terms to limit Congress' authority, but rather intended those terms as descriptions of the native people who occupied and possessed the lands that were later to become the United States. When the Constitution was drafted, they authorized the Federal government to enter into treaties with the Indian tribes because they were considered independent sovereigns, not dependent nations.

Any other interpretation would mean that Congress has been acting illegally since the formation of the Union and that the Supreme Court has wrongly decided the scope of Congress' authority.

The legal basis for the distinct status of the indigenous, native people is their sovereignty, which preexisted the formation of our country, over lands that became the United States.

This sovereignty is not created by Congress. This sovereignty did not need to be retained through treaties with the Federal government. Treaties are a mechanism for recognizing the inherent sovereignty of another government.

Like the other Federally recognized Indian tribes, Native Hawaiians are a distinct body of aboriginal, indigenous people who exercised sovereignty over land that is now the United States. Like other Native groups, the Federal government has a unique responsibility for Native Hawaiians. On November 23, 1993, the United States apologized for its role in the overthrow, acknowledged the historical significance of the overthrow and the suppression of the inherent sovereignty of the Native Hawaiian people, and committed to provide a foundation for reconciliation between the United States and the Native Hawaiian people. As such, Congress has assumed a special relationship with them.

Giving effect to the special relationship between the federal government and the native peoples is not racially discriminatory. The Supreme Court has sustained Congress' action towards Indian tribes as constitutionally valid as long as our actions are reasonable and rationally designed to further self-government and to fulfill our unique obligation towards them.

Between 1826 and 1887, the United States entered into treaties with the Native Hawaiian government. In 1893, we assisted in the illegal overthrow of their government and extinguished the government-to-government relationship between the United States and the Native Hawaiian government. Now, we propose to establish a process that may lead to the restoration of a Federal relationship with a Native Hawaiian governing entity. This bill will authorize Native Hawaiians' with more autonomy to undertake activities that they believe will better their conditions and meet their other needs in the manner that they deem best. It fulfills the Federal government's unique obligation towards Native Hawaiians. As such, it is not racially discriminatory.

Some have suggested that the Supreme Court, in Rice v. Cayetano, has ruled that the Congress does not have the authority to enact this bill.

This is incorrect.

In 1978, the citizens of Hawaii convened a constitutional convention and proposed amendments to the State's constitution to afford Native Hawaiians a means by which to express their right to self-governance and self-determination. They did so by creating the Office of Hawaiian Affairs, which is governed by a Board of Trustees. Because this was intended to be the State counterpart to the Federal policy of extending self-governance and self-determination to the aboriginal, indigenous people, the citizens of Hawaii limited eligibility to vote for the Office of Hawaiian Affairs trustees to Native Hawaiians.

The Office of Hawaiian Affairs is, however, a State agency. Thus, when the Court considered this matter, it ruled that the voter eligibility requirement violated the Fifteenth Amendment as a State may not disenfranchise voters by limiting voter eligibility for a State agency to one group of people. The Court expressly refused to address whether Congress had the authority to treat Native Hawaiians as Indian tribes. In passing, however, the Court mentioned that if the issue were before the Court, it would look to whether Congress has treated Native Hawaiians in the same manner as it has treated Indian tribes.

Congress has done that.

Hawaii became a territory of the United States in 1900 yet by 1910, Congress began treating Native Hawaiians as Indians when it appropriated funds for the ethnological research of American Indians and Native Hawaiians.

In 1921, after receiving testimony from the then Secretary of the Department of Interior who testified that the Native Hawaiians were our wards and ''for whom in a sense we are trustees . . .,'' and who explained that Congress had the right to use the same authority for dealing with Indians to set aside lands for Native Hawaiians, Congress did just that. Congress set aside land for Native Hawaiians as part of its trust responsibility to them.

In 1938, Congress recognized certain Native Hawaiian fishing rights in Hawaii National Park, in a manner similar to Congress' recognition of retained tribal hunting, fishing, and gathering rights in some national parks.

In the 1950s, Congress was terminating its government-to-government relationship with some Indian tribes and delegating some of its authority over Indian affairs to the various States, through such laws as Public Law 83–280, which delegated certain Federal authority of Indian affairs to some States. At this time, Hawaii was seeking to become the fiftieth State. Consequently, Hawaii's admission to the Union was conditioned on its administration of the public trust established pursuant to the Hawaiian Homes Commission Act.

In 1972, a Native Hawaiian employment preference was enacted in the same manner that Congress enacted Indian preference laws. The Indian preference law was subsequently upheld by the Supreme Court as constitutionally sound and consistent with laws designed to preclude discrimination in the workplace.

Notably, this was the same year that the Equal Employment Opportunities Act of 1972, which prohibited discrimination in the workplace, was enacted into law. I mention this for a reason. Congress is an intelligent, thoughtful body. It is highly unlikely that Congress would have adopted one law prohibiting discrimination in the workplace while at the same time enacting a Native Hawaiian employment preference, unless Native Hawaiians were exempt from the broader bill because Congress treats them in the same manner that Congress treats Indian tribes.

Only two years after the United States Supreme Court held that Indian preference laws were not racially discriminatory because of Congress unique responsibility towards Indian tribes, a second Native Hawaiian employment preference law was enacted. Clearly, Congress considered Native Hawaiians as having the same status as Indian tribes.

There are many more laws like these but I will not list all of them. In total, however, over 160 laws concerning Native Hawaiians have been enacted into law. Within the last five years, we have enacted additional laws, including laws that have legislatively reaffirmed our trust relationship with Native Hawaiians. Under the theory of those opposing the bill, all of these laws are illegal.

Although Senator AKAKA explained the process established by the bill in detail, I want to briefly reiterate some of his comments. This bill establishes a

process for the reorganization of a Native Hawaiian governing entity. The process is similar to processes established for the recognition of other aboriginal, indigenous people.

Upon enactment of the bill, a Commission will be created to determine whether those who voluntarily choose to participate in the Native Hawaiian governing entity meet the eligibility criteria. The Commission will prepare a roll, which the Secretary must certify. An Interim Governing Council will be established with no powers except to prepare organic governing documents for the approval of those listed on the certified roll. Once this has been approved by the membership, it must be certified by the Secretary of the Department of the Interior.

If, and when, the Secretary certifies the organic governing documents, elections for Native Hawaiian government officials must be held in accordance with the organic governing documents. At this point, the Native Hawaiian governing entity still has no power. Instead, the Native Hawaiian governing entity must negotiate with the State of Hawaii and the Federal government for any powers and authority as well as other rights.

This will be a long, thorough process that will take years to complete. And this will not be the last time that the Congress will have an opportunity to address the power and authorities of the Native Hawaiian governing entity. Bills will need to be introduced in the Congress for the enactment of implementing legislation. They will be referred to the relevant committees of jurisdiction of each House. There will be votes in each body to approve implementing legislation and the President will have to sign such legislation into law.

A similar process will be required for changes to State law. The citizens of Hawaii, through their State representatives, will have an opportunity to be involved in any changes in State law. Any changes to the State's constitution must be submitted to the voters of the State.

Before closing, I want to address some misconceptions regarding this measure and clearly inform my colleagues about what this bill does and does not provide.

This bill does not create sovereignty or extend Federal recognition to the Native Hawaiian governing entity upon passage of this bill. Instead this bill establishes the process that I outlined. As I discussed earlier, any sovereignty by the Native Hawaiian governing entity, if and when it is recognized, is inherent and preexisted Hawaii's inclusion into the Union.

Any governmental powers and authority that the Native Hawaiian governing entity will exercise must be negotiated with the Federal and State governments.

This bill does not extend jurisdiction to the Native Hawaiian governing entity over non-Native Hawaiians. Any jurisdictional authority must be negotiated between the Native Hawaiian governing entity, the State of Hawaii, and the Federal government.

Any jurisdiction that may be granted through the negotiations will be within the boundaries of the State of Hawaii, not over the United States. Critics of the bill confuse the eligibility roll with the potential jurisdiction of the governing entity. Like other native governments in the United States, anyone meeting the eligibility criteria defined in the bill or the organic governing documents, regardless of where they live, are eligible for membership in the governing entity.

The bill prohibits the application of the Indian Gaming Regulatory Act, which is the only Federal authority for the exercise of gaming by Indian tribes. Additionally, the State of Hawaii is one of only two states that criminally prohibits gaming.

The bill expressly provides that Native Hawaiians will not be eligible for Indian or Alaska Native programs. It is unnecessary to include Native Hawaiians in other programs as Congress has already established programs specifically for them.

The cost of the bill is minimal. The Congressional Budget Office estimates that the bill will cost $1 million for fiscal years 2006 through 2008, and less than $500,000 per year thereafter. The Committee on Indian Affairs has also been informed that the enactment of this bill will not affect direct spending or revenues.

I want to make it clear to all of my colleagues that this bill does not propose anything that we have not already done for Indian tribes. Years ago, Congress recognized that it has a trust obligation to the Native Hawaiians. Congress has treated Native Hawaiians in the same manner as it has dealt with Indian tribes. It is time that Congress formally extends its policy of self-government and self-determination to Native Hawaiians.

Mr. President, I want my colleagues to know that this bill will unite Hawaii. Senate bill 147, already has the broad support of both Republicans and Democrats in Hawaii. It is now time to reach out and correct the wrong that was committed so many years ago. I hope that my colleagues will also provide their support by voting for this bill.

As a member of the territorial senate at the time of statehood, and as former majority leader of the house, I was privileged to be involved in discussions and decisions reached between the Government of the United States and the government of the territory of Hawaii. Moreover, as our State's first Member of Congress, I was actively involved in the discussions and agreements between the Government of the United States and the government of the State of Hawaii.

My parents and my grandparents lived in Hawaii through Hawaii's trying times. My grandparents were immigrants from Japan. In my generation, I was raised with an understanding that the Native Hawaiian people had been wronged. This is a part of history that very few of my constituents are fully aware of. But my mother, when she was at the age of 4, lost her father who was working in the fields of the plantation. She had lost her mother at the time of childbirth, so she found herself an orphan at a very early age. But fortunately, a Native Hawaiian couple learned about this, came forward to the plantation village, and took her by the hand and adopted her. And for years she lived as a Hawaiian with the Hawaiian family, and she never forgot that.

For many reasons, including that, I and other citizens of the State of Hawaii ask all of my colleagues here to do the right thing for the Native Hawaiian people. Some of our colleagues have questioned Congress's authority to deal with Native Hawaiians, but after serving for 28 years on the Committee on Indian Affairs and approximately 17 years as either the chair or the vice chair, I believe most humbly that I am sufficiently informed of the law that governs the Federal relations with the aboriginal native people of the United States. There is no question that Native Hawaiians are aboriginal, and they are native and indigenous. They were there before the first White man came. They were there before the first Americans came.

Based on my decades of study and experience, I would like to assure my colleagues that Congress does possess the authority to pass this measure.

We speak of the special relationship between the Federal Government and the native peoples, and some have suggested that this was racially discriminatory.

Mr. President, history shows that Native Hawaiians are good and patriotic Americans. The people of Hawaii are good and patriotic Americans. If you look at the records of World War II and all the wars thereafter, including the present one in Iraq, you will find a disproportionately large number of men and women from Hawaii serving in uniform and standing in harm's way for the people of the United States. In fact, for this small, little State, with about the smallest population, we have more Medals of Honor on a per capita basis than any other State. Our government recognizes the patriotism of Native Hawaiians and the people of Hawaii. In fact, the first Native Hawaiian in the Vietnam war to receive the Medal of Honor was—yes—a Native Hawaiian, and he was one of the first in the Nation to do so. They are good American citizens.

This bill, even if it becomes the ultimate law of this land, will not change the situation. Native Hawaiians will be subject to every provision in the Constitution of the United States. That is the fact. They will be subject to the laws of the State of Hawaii and the United States. They will be subject to

the laws of the county of Hawaii. If any changes are made—for example, if we decide, as we did with many Indian nations, to give them the power to arrest—if someone goes speeding through the streets—that power has to be negotiated and granted by the supersovereign, the county to the Indian tribe. It does not come naturally.

The Native Hawaiian government, if you want to call it such, will not have the authority to establish its own army. It will not have the authority to coin its own currency. Yes, they can set up businesses, establish schools if they wish to, but they will never, under this bill, pass any measure that will be in contravention with the Constitution of the United States or the laws of the United States.

This bill does not secede the State of Hawaii or any part thereof from the United States. The lands that we speak of are lands that have been set aside, not by us, but by the Government of the United States in 1920. In 1920, the Members of Congress, without the urging of Native Hawaiians, without the urging of the people of Hawaii, finally came to their senses and realized that the takeover had been illegal, and that Native Hawaiians were indigenous, aboriginal people of the territory of Hawaii at that time.

So, on their own initiative, this Congress established a law to set aside lands which they called the homestead lands. And those qualified, 50 percent Hawaiian blood, were placed on these lands. It is still there, and Native Hawaiians still live in those places. If they ever have this law in the books, these lands will become the land base of this new entity.

They are not taking away anything from the people of Hawaii. They are not taking away anything from the Government of the United States. They will continue to pay taxes. They will continue to put on the uniform of the United States. They will continue to stand in harm's way.

I want Congress to know that, if anything, this bill will unite the people of Hawaii. This bill has the broad support of Republicans and Democrats in the State. Somewhere in this gallery is the Governor of Hawaii, the Honorable Linda Lingle. And she is a Republican. She supports this measure.

The counties of Hawaii, every one them—Oahu, Kauai, Maui and Hawaii—would support this measure. The State of Hawaii legislature, the House and the Senate, unanimously support this measure.

We have heard results of polls. We are politicians. We know all about polls. I can set up a poll myself and suggest that 99 percent of the people of Hawaii support the war in Iraq, and we know that is wrong. Yes, we can set up our own polls.

But I can tell you the legislature supports it, the county governments support it, the Governor does, and all Members of the congressional delegation. I don't know why people would say that the people of Hawaii do not support this measure.

I think it is about time that we reach out and correct the wrong that was committed in 1893. Yes, at that time the representative of the people of the United States directed a marine company on an American ship to land and take over the government. They imprisoned our queen. No crime had been committed. When the new government took over and turned itself over to the government of the United States and said, Please take us in, the President of the United States was President Cleveland at that time. He sent his envoy to Hawaii to look over the case. When he learned that the takeover had been illegal, he said this was an un-American act and we will not take over. The queen is free.

I am a proud American. I am glad that we are part of the United States of America. Senator AKAKA and I took part in World War II. We put on the uniform. He served in the Pacific. I served in Europe. We would do it again. I know our people will do it again.

I wish to discuss the report on the Native Hawaiian Government Reorganization Act which was released by the United States Commission on Civil Rights on May 4, 2006 and the ill-founded reliance on the report by some of my colleagues. It is important to note that the measure before us is supported by leading civil rights organizations, such as the Leadership Conference on Civil Rights and the National Congress of American Indians. There are many more but in the interest of time, I will only note that I am more than willing to provide any Member with a more detailed list of leading civil rights organizational support for this measure.

With respect to the Commission's report, I urge my colleagues to thoroughly examine the report and the proceedings leading to it. I say this because the majority's report lacks credibility—both procedurally and substantively. I am confident that once my colleagues learn of the serious procedural and substantive flaws of the report, they will join me in rejecting the Commission's report and supporting S. 147, the Native Hawaiian Government Reorganization Act of 2006.

The first point that my colleagues need to consider is that this report is not even based on the measure that will be before us. During the Commission's January briefing, the Commissioners were provided with a copy of the Substitute Amendment that was publicly available since last fall and that Senator AKAKA recently introduced as a separate measure. It is this language on which we will vote. Yet, even though the Commission was informed of this, the Commission based its recommendation on the bill ''as reported out of committee on May 16, 2005,'' which is substantially different from the substitute amendment.

Perhaps some think this was an oversight on behalf of the Commission but I assure you—it was not. During the Commission's May 4, 2006 meeting, Commissioner Taylor specifically asked to which version of the bill this report referred. After a discussion on the record in which it was readily apparent that the Commissioners had no idea which version the report was referring to, the Commission had to recess for 10 minutes so that staff could determine to which version the report was referencing. Then, after calling the meeting back to order, the Commission stated that the report pertained to the version as reported by the Committee on Indian Affairs, ignoring entirely the substitute amendment, which they had been informed would be the measure considered by the Senate.

Perhaps some may be thinking—what difference does it make? Let me assure you, the differences between the version reported by the Committee on Indian Affairs and the substitute amendment are substantively different. In fact, the measure that will be before us reflects several weeks of negotiation between the administration and congressional Members to address concerns raised by the administration.

Before moving on to the substantive flaws of the Commission's report, I want to point out that one Commissioner filed an amicus brief in Rice v. Cayetano without ever publicly disclosing that involvement or recusing herself from the Commission's proceedings. Apparently, actions like these are par for the course for this Commission. It is actions similar to these that led to the recent findings of the Government Accountability Office that the Commission lacked procedures to ensure objectivity in its reports.

The Commission's majority report also suffers from serious substantive flaws. Unlike the careful, thoughtful analyses contained in the dissenting opinions, the majority report is devoid of any analysis of the underlying bill or arguments. Instead, the so-called ''report'' is merely a summary of the briefing held in January, a one sentence recommendation, and copies of the written testimonies provided during the January briefing. It is nothing more than ''he said this and she said that.'' Nothing in this document explains why one argument was rejected and another one accepted. I believe it is because the commissioners know what we know—the law is on our side.

Although this is apparently consistent with the way this Commission does business, it is unacceptable. The Government Accountability Office issued a report last week specific to the Commission and recommended that the Commission should strengthen its quality assurance policies and make better use of its State Advisory Committees. More specifically, the Government Accountability Office found that the Commission lacked policies for ensuring that its reports are objective. It also found that the Commission lacks accountability for some decisions made in its reports because it lacks documentation for its decisions. A review of

the Commission's report on Native Hawaiians illustrates that this lack of accountability is clearly evident in this instance, for the Commission provides no rationale for its finding on S. 147.

Another flaw with the Commission's recent report is that the Commission ignored two previous reports on related issues by the Hawaii State Advisory Committee. The Government Accountability Office acknowledged that the State Advisory Committees are the eyes and ears of the Commission. It also found that while the Commission does not have policies to ensure objectivity for its own documents, the Commission does have quality assurance policies in place for State Advisory Committee products, including a policy to incorporate balanced, varied, and opposing perspectives in their hearings and reports. The Hawaii State Advisory Committee heard from numerous witnesses and spent substantial time preparing two articulate, balanced reports on Native Hawaiian issues relevant to the measure before us. Yet the Commission ignored these reports. Imagine reports from the State Advisory Committee in your respective State—the entity with the most knowledge of local issues, that is the entity most in touch with the local communities, and that has quality assurance policies—not even being consulted or informed about a briefing on an issue that only impacts your State.

Because the Commission's recommendation was based on a version of the bill that is not before us, is void of any analysis and is not supported by Supreme Court case law, it is difficult to address any arguments that may have influenced the Commission's decisions. Thus, I will take this opportunity to clarify some misconceptions that some of the Commissioners appear to possess.

First, this matter is not race-based as the Commission's recommendation implies. Instead, the Commission appears to have a fundamental misunderstanding of Federal Indian law. It is undisputed that the Supreme Court has upheld Congress's plenary authority over Indian tribes, including those aboriginal, indigenous peoples who exercised control over land that comprise the United States even if those peoples were not called Indians, were not organized as tribes, and did not have a government at that time.

I am confident that if challenged, this measure will be upheld. For as then Attorney John Roberts, now Chief Justice Roberts, stated during oral argument in Rice v. Cayetano, ''The Framers, when they used the word Indian, meant any of the Native inhabitants of the new-found land'' and that Congress's ''power does, in fact, extend to Indians who are not members of a tribe.''

Second, it is absurd that there are some who think that because Congress delegated some authority to the Secretary of the Department of the Interior to develop regulations to administratively recognize a group of people as an Indian tribe, Congress's power to exercise its own authority is now bound by those regulations. Let me remind everyone—the Congress is not subject to an agency's regulations. Congress still possesses the power to restore recognition to an Indian tribe and we have used this authority repeatedly without first determining whether a group met the criteria set forth in the Secretary's regulation.

I thank the Chair for allowing me this opportunity to educate my colleagues about the true impact of the Commission's report on this matter. I encourage my colleagues to examine the transcript of the January briefing and the May meeting, the report with the dissenting opinions, as well as the recent Government Accountability Office Report on the Commission. I am confident that after doing so, my colleagues will understand that any reliance on this report is misguided.

Mr. President, as Congress has done for many other Indian tribes, this measure merely sets up a process to formally extend the Federal policy of self-governance and self-determination to Native Hawaiians. This bill is about fairness and justice for Native Hawaiians—Native Hawaiians will finally be afforded the same respect that the Federal Government affords to other Native Americans. Given that Congress has already enacted over 160 Federal laws for the benefit of Native Hawaiians, there will be no harm to other Native Americans and equally important, there will be no negative effects on the other citizens of Hawaii.

There are some who claim that this bill is race-based and will divide Hawaii because of race-based preferences stemming from this measure. This is not true. This bill is not based on race and those who make this claim do not understand the people or history of Hawaii. As I said, in 1893, the United States participated in the illegal overthrow of the Kingdom of Hawaii, which resulted in longstanding issues in Hawaii that need to be addressed. This measure will ensure those issues are addressed fairly and equitably. It is because this measure starts the process of healing old wounds and bringing all of Hawaii's citizens together that the vast majority of Hawaii's citizens support passage of this bill.

I ask my colleagues to ignore the rhetoric and to look at the facts: The entire Hawaii Congressional delegation supports, and is actively working on, passage of this bill. Our distinguished colleagues in the House, Congressmen ABERCROMBIE and CASE, have introduced a companion measure, and both testified before the Senate Committee on Indian Affairs in support of this bill and its importance to Hawaii. As Congressman CASE stated, this bill is ''the most vital single piece of legislation for our Hawaii since Statehood.''

Hawaii's Republican Governor supports the bill and has stated that ''this bill will be a unifying force in Hawaii'' and that it is ''vital to the continued character of the State of Hawaii.'' Both Hawaii's State House and Senate have repeatedly and overwhelmingly approved a resolution in support of this bill. We were elected by Hawaii's citizens to represent their interests and we believe that this measure is in their best interests. We would not support a bill that would racially divide the people who elected us into office. Trust that we have the best interests of all of Hawaii's citizens in mind.

Beyond Hawaii's elected officials, Hawaii's two largest newspapers have written editorials in support of passage of this bill or condemning allegations that this bill is racially discriminatory. The Honolulu Advertiser recently stated ''this measure forges a middle path, the most reasonable course toward resolution—if only Congress would give it a shot.'' The people of Hawaii support it because, as the Advertiser recognized, ''Federal recognition would help chart a course for the difficult but necessary process of resolving festering disputes and in healing the breach caused by the overthrow of the Hawaiian monarchy.''

Hawaii's business community, including the two largest banks, support passage of this bill. The vast majority of Hawaii's citizens support passage of this bill. Given this diverse and broad level of support, I do not understand how any of my colleagues can oppose passage of this measure by claiming that it will divide Hawaii based on race.

Instead, I urge my colleagues to join me in supporting this measure as it is the fair, just thing to do and all of Hawaii's citizens will benefit from this measure when the longstanding issues will be finally be put to rest. Without this measure, without your support, those issues will remain unresolved.

Mr. President, as many of my colleagues know, S. 147 does nothing more than to establish a process to formally extend the same Federal policy of self-governance and self-determination that has been extended to other Native Americans to Native Hawaiians. When one looks at the impact that this policy has had on other Native Americans, it is clear that this policy will benefit not only Native Hawaiians but also all of Hawaii's citizens.

Since the 1970s, the Federal Government has had a policy of self-determination and self-governance for Native peoples. The success of this policy has been demonstrated over and over and it is not stopping. Every day, we see improvements in native communities as a result of this policy. Every day, we see State and local communities benefiting from Native Americans exercising self-governance. It is time that Native Hawaiians, and Hawaii, also benefit from this policy.

While Native Hawaiians are not Indians nor is there Indian Country in Hawaii—nor will there be with passage of this measure—the experience of other Native Americans since the Federal

Government adopted a policy of self-governance for Indian tribes is informative. Since implementation of the Federal policy of self-determination, other Native Americans have seen a revitalization in their native languages and culture. Because of this policy, other Native Americans have experienced higher educational achievement, stronger economies, better mental and physical health and less reliance on social programs. Although other Native Americans still have a long way to go, the policy of self-governance and self-determination has repeatedly been called the most successful Federal policy for Native Americans. I am confident that Native Hawaiians will have a similar experience and that all of Hawaii's citizens will receive benefits.

Self-governance is critical to maintaining Native Hawaiian culture, language and identity. Native Hawaiians were affected by the various Federal policies the United States had towards Indian tribes. So like other Native Americans, Native Hawaiians were prohibited from speaking their native language and practicing their culture. Native Hawaiians experience similar social characteristics—often ranking the highest in the least desirable categories and the lowest in the most desirable categories. They suffer from some of the highest rates of obesity, diabetes, high blood pressure, heart disease, and other health disparities. They experience the highest rates of poverty in the State of Hawaii and have some of the lowest educational achievement. Native Hawaiian youth suffer from high rates of depression and are more likely to attempt suicide than other youth in Hawaii. Although it will not happen overnight, Native Hawaiian self-governance will reverse these trends. Testimony before the Indian Affairs Committee indicated a link between teen suicide and depression and the lack of language and culture in other native communities. Testimony also indicated that when Indian tribes exercise self-governance and take steps to regain or incorporate their language and culture into everyday life, mental health issues decrease.

Preserving and revitalizing native language, culture and identity leads to stronger personal identity and cultural awareness. Native self-governance will lead to culturally appropriate physical and mental health programs, as well as more relevant education curriculum, for Native individuals. This, in turn, will lead to better health, higher academic achievement, strong native leadership, increased employment, less poverty and decreased dependence on Federal and State social programs. Self-governance will ensure that Native Hawaiians retain their dignity.

Consequently, all people of Hawaii will benefit. Decreased reliance on social programs, fewer children needing remedial education, and more preventative, culturally appropriate health programs will result in less funding needs over the long term. But this is not all. Hawaii is already full of rich, diverse cultures which are celebrated throughout the year but, with this measure, all of Hawaii will be able to celebrate an ever stronger native culture. Non-natives will learn more about the islands based on the traditional knowledge of Native Hawaiians gained over centuries of island occupation. Higher achieving children will no longer have to wait for their counterparts to catch up. Instead of remedial education classes, there will be more rigorous, challenging classes for our youth. Visitors already come to Hawaii to admire and appreciate the unique Hawaiian culture; with this measure, I am confident even more will come to experience the stronger, richer Native Hawaiian culture.

I invite all of my colleagues to Hawaii to experience our unique culture, diversity and spirit of aloha. This bill will enhance Native Hawaiian self-governance while benefiting all of Hawaii's citizens. This is why I am proud to cosponsor this legislation. This is why our distinguished House colleagues, Congressmen ABERCROMBIE and CASE have introduced a companion measure. I respectfully urge my colleagues to help Hawaii by supporting S. 147.

I just hope my colleagues will not look upon Native Hawaiians as those who are trying to get out of the United States. They are not. We are just trying to tell them: Yes, we recognize the wrong we have committed. Therefore, use the lands that we have provided you. Set up a government. But this is what you may do. You may set up your schools, you may set up businesses. What is wrong with that? We are not asking to establish a government in there that will put up a fence and keep everyone out. That government will not establish an army to attack us.

This is the American thing to do; the least we can do. And, incidentally, the National Congress of American Indians, representing the Indian nations of this Nation, support this measure. Alaskan natives, Eskimos, support this measure.

Granted, there are those who oppose this measure. But I just hope that they will look into their hearts and look into the hearts of Native Hawaiians. They are good people. They just want to know that someday they can tell their grandchildren the wrong that was committed in 1830 has been rectified.

I am certain my colleagues will do so. I thank you.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. AKAKA. Mr. President, I thank my dear colleague from Hawaii, the senior Senator, who has spoken from the heart about our bill and about what it means to our people in Hawaii, the unity of support that is there in Hawaii and also the support that is here nationally.

He mentioned NCAI, the National Congress of American Indians. He mentioned the AFN, the Alaska Federation of Natives. Also, the American Bar Association has supported our bill. These are national organizations that have studied it and have considered this bill to be worthwhile.

As I mentioned in my statement, this bill has been reviewed by the Departments of Justice and the Interior, the White House and the administration. They have made clarifications that we will include in our amendments and in our substitute amendment.

This is a bill that does not have anything to do with starting a government that would be able to do what it wants. This governing entity will be structured so that it can deal with the problems of the Hawaiian people and will give them a seat at the table. It will give them an opportunity to negotiate whatever they decide.

I should tell you, those who have spoken in opposition to this bill are good friends that we respect—and we will continue to do that—who have other reasons to oppose our bill. I do respect them very deeply. But our bill is one that will help the Hawaiians to deal with their concerns. When it was stated that I had mentioned that they could secede, the question that was asked me was whether that could happen. I pointed out that to secede, the Hawaiians would have to take it to this governing entity and this entity would decide whether they should take this to be negotiated with the State government and then with the Federal Government.

Let's say they do decide to secede as an entity. I don't think the State government, with the State laws, would agree to that. It has to be negotiated.

And let's say if—and I know it won't happen—the State of Hawaii agrees to that. Then it has to go to the Federal Government. So this is all within the law.

I have spoken to those in Hawaii who want Hawaii to be independent. I have told them you can use the governing entity to discuss it. This is what I meant. They can bring these issues to the governing entity and the governing entity will make a decision as to independence or returning to the monarchy. But all of this would be within the law of the United States, as mentioned by my senior Senator. It will be within the Constitution of the United States. But this gives the Hawaiians a governing entity to deal with their concerns and negotiate them on the State level as well as the Federal level.

Also, in the substitute amendments that we will be offering, it does have the clarifications from the administration as well.

So I rise to urge my colleagues to permit us to bring it to the floor, to

permit us to do that through cloture and then to let the Senate decide about our bill.

As I said, the United States of America is a nation that has consistently tried to keep liberty and justice alive and well. This is an opportunity to do that.

I urge my colleagues to consider their vote, give us their votes on cloture so we can then bring it to the floor and discuss it further.

Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. The Senator has 1 minute.

Mr. AKAKA. Mr. President, I just want to mention on the sovereignty rebuttal, the Federal policy of self-governance and self-determination allows for a government-to-government relationship between indigenous people. This is not new. It exists right now between the United States and 556 tribes, 556 native governments. The continued representation of this bill as an unprecedented new action is just plain wrong.

With all due respect to my colleagues, as I said earlier, Native Hawaiians are proud to be Americans. Native Hawaiians, however, are indigenous peoples and Congress has the authority to recognize indigenous peoples.

I yield.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SUNUNU. Mr. President, I rise in opposition to this legislation. I do, however, respect the goals and the concerns that have been expressed by the Senators from Hawaii and their supporters. I certainly agree with the language used by Senator INOUYE to describe the people of Hawaii. They are indeed good people. They are indeed great patriots. I think no one better exemplifies the patriotism, the support for American ideals, and the commitment to our country, than the two Senators from Hawaii, each in their service to this institution, their service to our country, and their service to our country's military.

Senator INOUYE discussed the need to right wrongs, and how that was one of the objectives of this legislation. Even if we concede the importance of righting wrongs, we can argue, as I do argue, that this is the wrong way to go about that.

This bill does not create a sovereign state or a sovereign entity. That point was made by both Senators in their remarks. However, we cannot escape the fact that the legislation as written, on page 51, does describe very specifically the objective for Native Hawaiians to have an inherent right of self-determination and self-government. That clearly suggests a goal, whether it is short-term or long-term, of establishing self-governance; of establishing independence in some shape or form.

If this isn't an objective, then certainly it ought not to be included in the legislation.

This is not a question of tribal recognition. I think it is a mistake to make that analogy because there are very specific requirements for tribal recognition, and they are not met in this case. Therefore, that concern is misplaced.

Most fundamentally, and I think most problematically, this legislation does create a very separate and distinct governing entity, and the participation within that governing entity is based upon racial and ethnic classification. We have to ask ourselves whether this is a principle or a policy which the American people would support, whether it is one which will further our shared goals as Americans. I believe the answer is no. It is a mistake to create two distinct privileges for participation in governance at any level that is based solely on one's racial or ethnic background.

The governing power of this new entity, the Native Hawaiian governing entity, is not small nor trivial. Again quoting from the legislation:

> Among the general powers conferred on this governing entity are the power to negotiate or engage in negotiations designed to lead to an agreement addressing such matters as the transfer of land, natural resources and other assets, and the exercise of civil and criminal jurisdiction.

These are not small matters. I believe the suggestion that this is a modest entity, one with only very limited powers, is mistaken.

The proponents of the legislation might argue that there are intervening steps required on the part of the State government or the Federal Government to validate these negotiations. That doesn't change the fact that this governing entity has real power to negotiate that is not given to any other entity, and that the participation in that governance is based solely on one's ethnic or racial background. I believe that simply is not justified.

To the extent there are constitutional questions brought to bear, they ought to be focused on due process, on whether this restriction that one only participates in this governing entity if one has a certain racial or ethnic background is an unfair limitation on an individual American's right to participate in the electoral process.

Even if that were not a factor, balkanizing Americans, dispensing political power, or dispensing political recognition on the basis of ethnic or racial background is a mistake. It is bad precedent. It emphasizes differences that we might have. I believe it runs the risk of disenfranchising certain Americans and takes us in the wrong direction.

If there are wrongs that need to be set right, we should have a debate about what those actions were and what specific steps ought to be taken to address them. However, this is not the right vehicle. This is not the right approach. This does not send the right message.

In dealing with cases that have come before the Supreme Court which dealt with this question, the Supreme Court cited the 15th amendment, which forbids discrimination in voting based on race or ethnic background.

To quote from that decision, the Court said:

> One of the reasons race is treated as a forbidden classification is that it demeans the dignity and worth of a person to be judged by ancestry instead of by his or her own merit and essential qualities. An inquiry into ancestral lines is not consistent with respect based on the unique personality each of us possesses, a respect the Constitution itself secures in its concern for persons and citizens . . . [To do so would be] odious to a free people whose institutions are founded upon the doctrine of equality.

It is an approach that runs contrary to those fundamental goals and objectives which are contained in the 15th amendment.

I think on a more personal level, it is worth understanding the impact this can have on an individual.

I wish to close by referring to several comments which were provided by residents of Hawaii themselves before the Civil Rights Commission.

Quoting from one letter:

> . . . It is appropriate to say that I am of Hawaiian, Caucasian and Chinese descent only because it shall be noted that I am a descendent of the indigenous peoples of Hawaii and do not support the Akaka bill . . . If [the Akaka bill] comes to pass, I will no longer acknowledge my Hawaiian heritage as I will be forced to choose on which side of the fence to stand. I will choose the Anglo-American tradition of the right to life, liberty, property and the pursuit of happiness. This will prevent me from recognizing all that is Hawaiian in me. I consider the Akaka bill to be a proposal to violate my rights . . .

This is a resident of Hawaii testifying before the Civil Rights Commission. He wrote:

> . . . I am writing to ask for the civil rights commission to oppose the Akaka Bill on the grounds that it will divide our state among racial lines . . . I am of native American blood (Nez Pierce Indian) but cannot be considered eligible for benefits such as those desired by native Hawaiians . . . The Akaka Bill will destroy our way of life in Hawaii . . .

The third letter quoted in that report to the Civil Rights Commission:

> . . . I am a descendant of both: Kamehameha the Great, who united the islands and people, natives and non-natives and made Hawaii a model for the world: and the Mayflower pilgrims whose ideals of individual freedom and responsibility and self-reliance shaped the most inclusive and widely shared system of government in history: American democracy . . . The Akaka Bill would dishonor the unity and equality envisioned by Kamehameha the Great and the ideal of one nation, indivisible, composed of indestructible states, envisioned by the U.S. Constitution . . .

These are individual opinions of residents of Hawaii who have their own personal history and perspective. We shouldn't make decisions in Congress or anywhere else based on just anecdotal information, but I think they do reflect the difference of opinion, the difference of perspective, and the natural concerns possessed by even those who are supposed to benefit from this legislation because of the way the bill

treats people—not based on the content of their character, not based on their individual rights as Americans, but based on their particular ethnic or racial background.

If we can move away from the balkanization, classification, and unique treatment of people based on racial-ethnic background and move toward the consideration of every individual based on their character, their integrity, and their commitment to our shared ideals, I believe we will be a stronger and a better country.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I rise to speak on this bill with some trepidation, because, as I heard the Senator from Tennessee say earlier as I was watching the debate from my office, everyone in this Chamber has enormous respect and affection for the Senator from Hawaii. We understand how important this issue is to him and believe he is making his arguments in the best of faith.

I must say, though, that it is staggering to me to think of how important the issues are that underlie this bill. This is not a bill which just affects the State of the Senators from Hawaii; this is a bill which would potentially affect what it means to be an American.

One of the defining characteristics of this great country in which we live is that no matter where we come from, no matter what our ethnic or racial heritage might be, no matter where we were raised, once we pledged allegiance to the United States of America, we became an American, someone who believes in the ideal of America's values, including equal justice under the law. So the very concept that people would be treated differently based upon whether they are Native Hawaiians or whether they came from Ireland or whether they are some other ethnic or racial group is anathema to what it means to be an American.

This bill, it has been observed, would create a race-based and racially separate government for Native Hawaiians. It has been observed by the U.S. Supreme Court in the year 2000 in the Rice v. Cayetano lawsuit that this legislation is actually addressed to limit participation in a government based on one's consanguinity or bloodline, is in effect a proxy for race. What we are talking about is participating in the benefits of being a Native Hawaiian based upon race and racial differences rather than saying to anyone and everyone that America remains a nation where anyone and everyone, based upon their hard work, based upon their willingness to try to accomplish the most they can with the freedoms that we are given—it is totally in contradiction to that goal and that aspiration we have for all Americans. It is important to address some of the specific allegations that have been made.

First of all, this is equivalent to creating an Indian tribe. The State of Hawaii has stated in court, in 1985, the tribal concept has no place in the context of Hawaiian history.

In the Rice v. Cayetano case, the brief said that for Indians, the formerly independent sovereignty that governed them was for the tribe, but for the Native Hawaiians, their formally independent sovereign nation was the kingdom of Hawaii, not any particular tribe or equivalent political entity. The tribal concept, the brief went on to say, on behalf of the State of Hawaii, the tribal concept simply has no place in the context of Hawaiian history.

If we think about that, it is clear Native Hawaiians, if they are going to be identified based upon having Native Hawaiian blood, do not live on a reservation or any geographically discrete plot of land. Indeed, they are dispersed throughout Hawaii and throughout the Nation. The only defining characteristic is whether an individual has any Native Hawaiian blood.

It is completely different from Indian tribes which were, at the time of the founding of this Nation, sovereign entities unto themselves, so it was entirely appropriate that the Government negotiated relationships with those existing sovereign entities, the Indian tribes, as they exist even today.

But to say today, in 2006, we all of a sudden are going to identify some 400,000 Native Hawaiians wherever they may live in Hawaii and elsewhere and create a tribe, or a tribe equivalent, out of thin air has simply no counterpart in the way the Indian tribes are created. And, indeed, as the State of Hawaii has said for itself, the tribal concept simply has no place in the context of Hawaiian history.

As to the goals and the aspirations of this particular legislation, it is clear this bill lays down some rudimentary, I would say early, steps in the recognition of a political governing body. But as to the goals of this legislation and the supporters of this legislation, the Office of Hawaiian Affairs acknowledges what the goals are under the Akaka bill. It says:

> The Native Hawaiian people may exercise their right to self-determination by selecting another form of government, including free association or total independence.

The concept of any people within the confines of the United States claiming their total independence is not unknown to our Nation's history. Six hundred thousand people died in a civil war, claiming a right to independence from the Union. There has been much bloodshed, many lives lost, to preserve this great Union that we call the United States of America.

When I say this seemingly innocuous legislation raises profound issues that affect who we are as a Nation and what we will be as a Nation, I mean that in all sincerity. This legislation would be a serious step backward for our Nation and could not be any further from the American ideal.

From the beginning, Americans have been a people bound together not by blood or ancestry but rather by a set of ideas. These ideas are familiar to all of us: liberty, democracy, freedom, and most of all, equal justice under the law. These are the ideas that unite all Americans. They are ideas that have literally changed the course of human events.

No longer are the greatest civilizations in the world recognized or measured by how many subjects bow before a king or how many nations are conquered by armies. Today, we measure greatness of a nation to the extent that the nation's people are recognized as equal under the law. This is enshrined in our most basic documents. Thomas Jefferson's Declaration of Independence, stating ''that all men are created equal.''

But we know too well that those are words on paper. The long road to equality, on which we most certainly continue to travel and which continues to be a work in progress, has been costly to our Nation. As I mentioned a moment ago, it has been paid for with the blood of hundreds of thousands of American patriots. Unfortunately, the signposts along the way have been too often marked by violence and bigotry when we have seen Americans pitted against other Americans claiming special status because of the color of their skin or because of their relationships.

Today, however, America stands as a shining example of what happens when people set the ideal in their mind as the goal to work forward. As Justice Harlan noted in his classic dissent in the case Plessy v. Ferguson:

> [O]ur Constitution is color-blind, and knows neither nor tolerates classes among citizens. In respect of civil rights, all citizens are equal before the law.

While it certainly took far too long in our own Nation's history to embrace the truth of Justice Harlan's position, and we certainly have more to do as a work in progress ourselves, America has made significant progress toward equality.

Unfortunately, this bill—whatever good the intentions may be, and I grant those without any argument—the bill threatens to undermine all of the progress we have made by establishing a race-based government and requiring the Federal Government enforce its creation.

There are the bill sponsors, the Governor of Hawaii, and the Attorney General, who argue that the bill does not establish a race-based government. Indeed, they say that the bill neither further balkanizes the United States nor sets up a race-based separate government in Hawaii.

With all due respect, a plain reading of the legislation indicates otherwise. The bill clearly states that only Native Hawaiians can participate in the newly established community, period. And a Native Hawaiian is defined in part as ''[o]ne of the indigenous, native people of Hawaii and who is a direct lineal descendant of the aboriginal, indigenous native people.''

But perhaps the most troubling description of the bill comes from our friends, the Senators from Hawaii:

> . . . the first step is to create a list of Native Hawaiians eligible . . . The individuals on the list will be verified by a commission of individuals in Hawaii with demonstrated expertise and knowledge in Hawaiian genealogy. The list will be forwarded to the Secretary of the Department of Interior who is authorized to certify the list only if the Secretary is fully satisfied that the individuals meet the necessary criteria.

In other words, the legislation requires that the Federal Government hire Federal employees to serve on a race-based commission that itself would use a racial test to determine membership in the race-based so-called tribe.

I ask my colleagues to explain to me how this does not ''set up a race-based separate government in Hawaii.'' It seems that if words have any meaning, the truth is plain to see that it does, indeed, establish a race-based system without precedent in American history.

What concerns me even more is that the proponents claim the legislation will not balkanize the United States. But this claim virtually ignores the entirety of our Nation's long and historic struggle over issues of race from slavery to Jim Crow laws and beyond, laws and policies that define our people based on race are bound to ultimately fail.

Furthermore, by claiming to create an analogy to an Indian tribe out of Native Hawaiians scattered across the planet, Congress will be giving the new government some of the same benefits as other Indian tribes. Yet the new government will operate at a very different environment with no geographic boundaries nor physical communities. The people who may be confirmed as Native Hawaiians are completely integrated with all others throughout Hawaii and throughout the 50 States. Developing this government will create a large number of structural and practical difficulties that one can only imagine.

Since time is short today, and it is my sincere hope that our colleagues will vote against cloture on this bill, I will reserve additional comments for a later time.

I conclude by saying this is an idea that runs completely counter to America as a melting pot, which has been so often used to describe our Nation as a Nation that is comprised of many races and many ethnicities, people of wildly divergent beliefs. But the one thing we do agree on is the founding ideals that have made America unique, none of which is more important than equal justice under the law. If we are to embrace for the first time in American history, as a matter of our legislative actions, race-based distinctions for Americans, it will be a day we will long rue and will be a black mark in our Nation's long march toward equal justice.

I yield the floor.

Mr. STEVENS. Can Senator AKAKA yield me some time to comment on the legislation?

Mr. AKAKA. Mr. President, I yield such time as the Senator desires from our side.

The PRESIDING OFFICER. The Senator from Alaska is recognized. The Chair notes the Senator still has 2½ minutes remaining on the majority time as well.

Mr. STEVENS. I ask unanimous consent I be allowed to speak using the time of the Senator from Hawaii. They can reserve their time.

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

Mr. STEVENS. I am in support of the legislation, and I will take my time from the other side of the aisle.

The PRESIDING OFFICER. The Senator is recognized.

Mr. STEVENS. Mr. President, I am saddened to hear some of the comments I have heard today in the Senate. Most people do not understand the circumstances that existed in both of our offshore States.

I have come to the Senate to support the Native Hawaiian Government Reorganization Act introduced by my good friends from Hawaii. I support this bill not only because of my friendship and respect for Senator INOUYE and Senator AKAKA but also because it is the right thing to do for the Hawaiian people. I have visited with the Hawaiian people very often on this subject.

Alaska, similar to Hawaii, has a rich history shaped by native cultures and traditions. These customs are a vital part of our heritage. My commitment to protecting and preserving the culture of Alaskan Natives spans now more than four decades. I believe Native Hawaiians deserve this protection as well.

While our Alaskan Native community still faces many challenges, their position has been improved because of legislation which clarified their relationship with our State of Alaska and with the Federal Government.

Soon after I came to the Senate—and that was in 1968—I began working to settle the unresolved claims of our Alaskan Natives. Many of the arguments against the Hawaiian bill now made by the opponents of this legislation were made by those who opposed the Alaskan Native Claims Settlement Act enacted in 1971. But time has proven them wrong. The Alaskan Native Claims Settlement Act did not create States within our State. It did not lead to secession. It did not lead to anyone trying to create a nation within our Nation. Those who argue that the bill before the Senate will lead to secession ignore the history. More than 562 Indian tribes are recognized by our Federal Government.

Not one of those tribes has sought to secede from their State or from the Nation. Federal recognition of these tribes has not prompted any State that they call home to try to secede from our Union. The Akaka bill reaffirms our longstanding commitment to the rights of our indigenous people. It ensures that Native Hawaiians will have the same type of recognition afforded to American Indians and to Alaska natives by the act of 1971.

The U.S. Government has a responsibility to Native Hawaiians, as it does to all indigenous people under our Constitution. The Constitution vests Congress with the authority to promote the welfare of all Native American people and to help foster their success.

Like the Alaska Native Claims Settlement Act, the bill before us, when it is enacted, will create a framework which ensures Native Hawaiian groups can address their unique circumstances. ANCSA was a crucial step in responding to the concerns of Alaska natives. It empowered them to improve their own position. The Akaka bill offers Native Hawaiians the same opportunity.

Our Federal policy of self-determination and self-governance has not been formally extended to Native Hawaiians. This omission unfairly singles them out for disparate treatment from our Federal Government. It deprives them of the processes by which other native groups may negotiate and resolve issues with the Federal and State governments. In my judgment, it is time to right this wrong.

This bill will fulfill our Federal obligation to Hawaii's native people. The Akaka bill authorizes the United States, the State of Hawaii, and the Native Hawaiian Government to conduct negotiations. Their discussions will address the unique issues facing Native Hawaiians. These steps will help ensure the future prosperity of the Native Hawaiian people.

The bill offered by the Hawaiian delegation has garnered widespread support. The legislation reflects the recommendations made by the Department of Justice and the Department of the Interior in the reconciliation report they published in 2000. The Governor of Hawaii, the Hawaii State legislature, and a majority of the Hawaiian people support this bill. Both the National Congress of American Indians and the Alaska Federation of Natives have passed resolutions in support of this bill.

Just as I sought to protect the rights of Alaska natives, Senators AKAKA and INOUYE are fighting for the rights of their native people in Hawaii. They have my full support. They have the support of the Alaska people. I believe they have the support of those who want to see these wrongs righted.

The time has come to fulfill our commitment to these indigenous people and to address the needs of the Native Hawaiians. We can no longer deny our Nation's responsibility to promote their welfare as much as we have promoted the welfare of the Indian people and the Alaska native people.

The Native Hawaiian Government Reorganization Act is a step towards meeting our Federal commitment to

Native Hawaiians. It is long overdue. I have come to urge our colleagues to support cloture and vote in favor of this legislation.

I am sorry we are no longer really a debating body. I would love to debate this. I would love to try to ask them to understand what happened in Alaska. The rights of Alaskans aren't the same. There were people who said: You can't do that; that will create a State within a State. There were people who said: You can't do that; they will rebel against the United States.

These people are good Americans. They serve in our military. They just have a different culture, and it has never been recognized by our government as it should. It was done in Alaska in 1971. It is long overdue here.

I ask unanimous consent that the time between 6 and 6:30 be controlled by the majority, and the time between 6:30 and 7 be controlled by the minority.

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

The Senator from Hawaii.

Mr. AKAKA. Mr. President, I yield as much time as he needs to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. OBAMA. Mr. President, I rise in support of the Native Hawaiian Government Reorganization Act of 2005.

Although I am a proud Illinoisan, proud to be the junior Senator from Illinois, many of you know that I was born and raised in Hawaii. Anyone who has been fortunate enough to visit or call Hawaii home, as I once did, and as my grandmother and sister and adorable niece still do, anybody who has spent time in Hawaii cannot help but recognize the uniqueness of the place. In addition to its scenic landscapes and rich history, it is the living legacy of aloha—the spirit of openness and friendliness that is ingrained in the shared, local culture that shapes and enhances each island encounter and experience.

Throughout Hawaii's history, individuals of all nationalities, races and creeds have found solace in Hawaii. In large part this stems from the culture of Native Hawaiians, who have always acknowledged and celebrated diversity. This incorporation of new cultures and practices over the years has strengthened and unified the community. And as the child of a black father and a white mother, I know firsthand how important Native Hawaiian efforts are to foster a culture of acceptance and of tolerance.

For this reason, I am proud to join Senator DANIEL AKAKA to extend the Federal policy of self-governance and self-determination to Native Hawaiians. Native Hawaiians are a vital part of our Nation's cultural fabric, and they will continue to shape our country in the years to come.

The Native Hawaiian Government Reorganization Act provides both the process and opportunity for Native Hawaiian communities to engage themselves in and reorganize their governing entity to establish a federally recognized government-to-government relationship with the United States of America. The process set forth in the bill empowers Native Hawaiians to explore and address the longstanding issues resulting from the overthrow of the kingdom of Hawaii.

There are three main provisions of the Native Hawaiian Government Reorganization Act.

First, the bill establishes the Office of Native Hawaiian Relations in the Department of the Interior to serve as a liaison between the Native Hawaiians and the United States.

Second, the bill establishes the Native Hawaiian Interagency Coordinating Group that will be comprised of Federal officials from agencies that administer Native Hawaiian programs. These provisions are intended to increase coordination between Native Hawaiians and the Federal Government.

And third, the bill provides a process for reorganizing the Native Hawaiian government entity. Once the entity is reorganized and recognized, there is a process of negotiations to resolve longstanding issues such as the transfer of and jurisdiction over lands, natural resources, and assets.

Support for this bill comes not only from the people of Hawaii but from people all across America. This bill also is supported by the indigenous peoples of America, including American Indians and Alaska natives. As Americans, we pride ourselves in safeguarding the practice and ideas of liberty, justice, and freedom. By supporting this bill, we can continue this great American tradition and fulfill this promise by affording Native Hawaiians the opportunity to recognize their governing entity and have it recognized by the Federal Government.

As someone who grew up in Hawaii and has enormous love for the Hawaiian culture, I also think it is important, as I know the two Senators from Hawaii will acknowledge, that there have been difficulties within the community of Native Hawaiians, oftentimes despite the fact that we are visitors to Hawaii; that many times particularly young Native Hawaiians have had difficulties in terms of unemployment, in terms of being able to integrate into the economy of the islands, that some of the historical legacies of what has happened in Hawaii continue to burden the Native Hawaiians for many years into the future.

This bill gives us an opportunity not to look backward but to help all Hawaiians move forward and to make sure that the Native Hawaiians in that great State are full members and not left behind as Hawaii continues to progress.

This is an important piece of legislation. I take a minute to commend the senior Senator from Hawaii, Mr. INOUYE, and most of all Senator AKAKA, particularly, for his tireless efforts to bring this to the floor. When people all across the country didn't know about this issue, Senator AKAKA was the one who made sure we did. He has been a champion for the people of Hawaii. He is always working hard and thinking big to realize this ideal for the native population of his State. They are truly fortunate to have Senator AKAKA as their Senator.

I urge my colleagues in the Senate to vote for the Native Hawaiian Government Reorganization Act of 2005. I will be proud to add my vote to the roll call.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Mr. President, before I yield time to the Senator from Alaska, I would like to say a word about secession. This bill in no way allows the State of Hawaii to secede from the United States. To reiterate my prior statement, I support addressing the legal and political relationship between Native Hawaiians and the United States within Federal law. I do not support independence. I do not support secession of the State of Hawaii from the United States.

This bill extends the Federal policy of self-governance and self-determination to Hawaii's indigenous peoples, thereby providing parity in Federal policies toward American Indians, Alaska natives, and native Hawaiians. The bill focuses solely on the relationship between the United States and Native Hawaiians within the context of Federal law.

None of the numerous federally recognized tribes have been accused of seeking to cause their State to secede from the Union because of their legal and political relationship with the United States. Such claims are false and meant to instill fear in those who are unfamiliar with the nature of government-to-government relations between tribal entities and the United States.

Given Hawaii's history, I have a small group of constituents who advocate for independence. Why? Because there hasn't been a structured process to deal with the longstanding issues resulting from the overthrow. The absence of a process to resolve the issue has led to frustration and desperation. My bill provides a structured process to begin to address these longstanding issues. Contrary to the claim of divisiveness, my bill goes a long way to preserve the unity of the people of Hawaii.

I yield time from our side to Senator MURKOWSKI of Alaska.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Ms. MURKOWSKI. I thank the Senator from Hawaii for his leadership on this issue, for his leadership on behalf of the people of Hawaii. There is so much in common that the Alaskans in the north share with our neighbors in the Pacific. I would like to take a few

moments to speak a little bit about the history and how the history of our Alaska Natives ties in with the Native Hawaiians and why I stand today in support of the legislation offered by Senator AKAKA.

As Abraham Lincoln is revered by the African American community as our first civil rights President, Richard Nixon is held in esteem by America's native people for his doctrine of self-determination. President Nixon knew that in order for the native people to break out of the despair and poverty that gripped their lives, they would need to be empowered to take control of their own destiny. One of President Nixon's legacies to America's first peoples is the Indian Self Determination and Educational Assistance Act. Another one is the Alaska Native Claims Settlement Act. These two pieces of legislation eliminated any doubt as to whether the Native people of Alaska were recognized as among the first people of our United States and were, therefore, eligible for the programs and services accorded to Native people.

Yet it took more than a century from the time the United States acquired Alaska from Russia for the legitimate claims of Alaska's native people to be resolved. One hundred and three years to be exact. President Nixon signed the Alaska Native Claims Settlement Act into law on December 18, 1971. It has been amended by Congress to clarify one ambiguity or another on numerous occasions since.

The Indian Commerce Clause of the United States Constitution, which provides the legal basis for our Nation's special relationship with its native people, speaks of the authority of Congress to regulate commerce with the Indian tribes. It is now well established that this provision of the Constitution is the legal basis for our Nation's special relationships with the Native peoples of Alaska.

Some of Alaska's native people regard themselves as Indians. But the Eskimo and Aleut peoples of Alaska, who have also been recognized by this Congress and the courts as deserving of the special relationship, most certainly would not regard themselves as Indians.

In Alaska, the basic unit of native organization is the village and while some villages refer to themselves as ''tribes,'' many native villages do not.

The Inupiaq Eskimo villages carry names like the native village of Barrow, the native village of Kaktovik, and the regional governing body of North Slope Inupiaq Eskimos refers to itself as the Inupiaq Community of the Arctic Slope.

Alaska's native peoples are Aleuts, Eskimos and Indians and their units of organization include entities like traditional councils, village councils, village corporations, regional consortia and subregional consortia. Yet neither the Congress nor the Federal courts deny all fall within the purview of the Indian Commerce Clause.

Leading constitutional scholars, including our esteemed Chief Justice John Roberts, have argued that Native Hawaiians also fall within the purview of the Indian Commerce Clause. I think it is high time that this Congress confirm that they do.

The American Indian Law Deskbook, 2d edition, authored by the Conference of Western Attorneys General, an association of state attorneys general, quotes the U.S. Supreme Court's decision in United States v. Antelope for this point.

> Congress may not bring a community or body of people within the range of its Indian Commerce Clause by arbitrarily calling them an Indian tribe, but . . . the questions whether, to what extent, and for what time they shall be recognized and dealt with as tribes are to be determined by the Congress, and not by the courts.

As anyone who has been to law school knows, when the courts apply arbitrariness as the standard of review, they are highly deferential to the initial decision maker, whether that decision is made by the executive branch or the legislative branch.

And the new 2005 edition of Cohen's Federal Indian Law treatise, which has historically been regarded as the definitive authority on Federal Indian Law notes that ''no Congressional or executive determination of tribal status has been overturned by the courts'' and indeed the Supreme Court has never refined the arbitrariness standard to which I referred.

The Alaska Native Claims Settlement Act was most importantly, a settlement of land claims. But it has turned out to be so much more for Alaska's native people. It created native owned and native controlled institutions at the regional and village level. These institutions, the Alaska Native Corporations, have functioned as leadership laboratories, helping a people who traditionally lived a subsistence lifestyle gain the skills necessary to run multi-million-dollar economic enterprises. I am not only referring to the profit-making corporations created by the act, but also the people serving institutions that manage Indian Self Determination Act programs.

The Alaska native health care delivery system is a prime example of President Nixon's self-determination policies at work. At one time the Federal Government administered the delivery of health care to the native people of Alaska through the Indian Health Service. Today, the native people administer their own health care delivery system under a self-governance compact with the Federal Government.

This healthcare system is recognized around the world as a laboratory for innovation. It is a pioneer in the use of telemedicine technology to connect clinics in remote villages to doctors at regional hospitals, and at the advanced Alaska Native Medical Center in Anchorage. Confidence in the quality of care delivered by the native healthcare system rose when native people took over the system.

But for me the most gratifying thing is to see young native people who are leading their communities into the new millennium. You see them in management and developmental positions everywhere in the Alaska native healthcare system.

The institutions created and fostered by the Alaska Native Claims Settlement Act have helped countless native young people pursue educational opportunities at the undergraduate and graduate level. Young people from the villages of rural Alaska are going off to school and returning with MBAs and degrees in law and medicine, nursing, education and social work.

As I visit the traditional native villages in my State of Alaska, it is evident to me that the Alaska Native Claims Settlement Act accomplished much more than settling land claims and creating native institutions. This legislation empowered a people. The Native people of Alaska have regained their pride in being native. Even as native people are pursuing careers that their ancestors never considered, there is a resurgence of interest in native languages and native culture in many of our native communities.

The empowerment of Alaska's Native people also enriches the broader Alaska community. Thousands of Alaskans participate in programs offered by the Alaska Native Heritage Center in Anchorage. The Athabascan Old Time Fiddler's Festival and the World Eskimo-Indian Olympics enable the native people of Interior Alaska to share their culture with the Alaska community.

At the time the Alaska Native Claims Settlement Act became law, some believed that it would balkanize the State of Alaska and separate people from one another. As we approach the 35th anniversary of the Alaska native land claims settlement, I can state with confidence that this single step of recognizing the legitimate claims of Alaska's native peoples has made our State a better place. It strengthened our ties to the past. It strengthened our sense of community. It enables all of us, native and non-native alike to take pride in Alaska.

Some 112 years have passed since the overthrow of the Kingdom of Hawaii, depriving the Native Hawaiian people of their self-determination and their land. Some 112 years after the Native Hawaiian people came under the control of the United States, I am sad to note that their status among the aboriginal peoples of the United States remains in controversy.

This controversy persists even though the Congress has enacted more than 150 separate laws that recognize a special relationship between the Native Hawaiian people and the United States. Among these laws is the Hawaiian Homes Commission Act of 1921, which set aside lands for Native Hawaiians much like the Alaska Native Allotment Act set aside lands for Alaska Natives.

Now you would think that if Native Hawaiians were regarded as not having the status of Indian people under the Commerce Clause, that the Congress would not have set aside land for them or made them eligible for the sorts of programs and services for which native people are eligible. But the Congress has done so time and time again and Presidents continue to sign these bills into law.

I am referring to the inclusion of Native Hawaiians in laws like the Native American Programs Act of 1974 and the Native American Graves Protection and Repatriation Act, which protect the interests of all of America's native peoples.

I also refer to laws such as the Native Hawaiian Healthcare Act and the Native Hawaiian Education Act which specifically rely on Congress's plenary power over matters involving Indians for their authority.

This controversy persists even though this Senate passed by a margin of 65–34, an Apology Act in 1993 which was ultimately signed into law as Public Law 103–150. Through this Apology Act, the Congress expressed its commitment to provide a proper foundation for reconciliation between the United States and the Native Hawaiian people.

The bill before us, S. 147, is the logical next step in the process of reconciliation. It is the product of many years of hard work by our esteemed colleagues, Senator AKAKA and Senator INOUYE. It has earned the support of the Governor of Hawaii, the Honorable Linda Lingle, and the support of the Hawaii Legislature. It is endorsed by every major Indian group in our Nation—the National Congress of American Indians, the Alaska Federation of Natives and the Council on Native Hawaiian Advancement. It has been carefully considered by the Senate Committee on Indian Affairs which has reported the bill favorably to the full Senate.

First and foremost, it conclusively resolves the issue of whether Native Hawaiians are aboriginal peoples alongside American Indians and Alaska natives. This is a process that the native people of Alaska waited 108 years to resolve. It is important for the Congress to resolve these issues in order to assure that the programs we have enacted for the benefit of Native Hawaiians are free of constitutional challenge.

It provides for the organization of Native Hawaiians in a form that the adult members of that community determine by an open and transparent ballot. And it empowers that Native Hawaiian organization to negotiate with the State of Hawaii and the United States of America over the direction that Native Hawaiian self-determination may take. This is a modest piece of legislation that simply establishes a framework for negotiations to take place in the future.

Some of the opponents of this legislation have set out a parade of horribles that will flow from its enactment. I, for one, am unwilling to speculate on the outcome of the negotiations between the United States, the State of Hawaii, and the organization of Native Hawaiians established by this legislation. This legislation on its face states that it does not authorize Indian gaming, it does not vest the Native Hawaiian organization formed under its provisions with civil or criminal jurisdiction, and it does not require that Federal programs and services to other aboriginal peoples of the United States be reduced in order to provide access to the native peoples of Hawaii. It also does not create Indian reservations in Hawaii.

Sharing and inclusion are fundamental values to the native people of Alaska. The Alaska Federation of Natives, which is the oldest and most respected organization representing all of Alaska's native peoples, strongly supports the inclusion of Native Hawaiians among our first peoples, just as it supports the legitimate claims of the Virginia tribes and those of the Lumbees of North Carolina. I ask unanimous consent that the AFN's resolution of support be printed in the RECORD.

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

IN SUPPORT OF THE HAWAIIAN PEOPLE

Whereas: the aboriginal people of the Hawaiian Islands, like Alaska Natives and Indians of the Lower 48 states, have long been the victims of colonial expansionism and racial discrimination; and

Whereas: the Office of Hawaiian Affairs, a unit of state government, has for years administered trust funds for the benefit of Native Hawaiians under the aegis of a Board of Directors elected by Native Hawaiians; and

Whereas: in the recent Rice v. Cayetano ruling, the U.S. Supreme Court held that this electoral process violates the Fifteenth Amendment to the United States Constitution, which prohibits the use of race as an eligibility factor in voting; and

Whereas: the Rice decision opens the door to additional lawsuits that would threaten the status and well-being of Hawaiians—and could create serious implications for Alaska Natives and other indigenous Americans; and

Whereas: the most experienced legal strategists in Hawaii, including the Governor and the Congressional Delegation, have determined that the best response to the Rice decision is that the United States Congress enact legislation specifically recognizing the Hawaiians as an ''indigenous people'' of the United States; and

Whereas: the State of Hawaii, particularly when compared to Alaska, has generally treated its indigenous population with respect and it is now making a unified effort to avoid the damage that Rice could do its own future; and

Whereas: there are several compelling reasons why AFN and the statewide Alaska Native community should now stand up for the Hawaiian people during the struggle for their appropriate legal status:

(1) because it is the right and just thing to do;

(2) because all Americans have a vested interest in healthy social relationships, racial tolerance, and political cohesion; and

(3) because the Hawaiian Congressional Delegation—and above all, Senators Daniel Inouye and Daniel Akaka—have always been there for us in our long fight for Alaska Native rights, including subsistence; Now therefore be it

Resolved, That the Board of Directors of the Alaska Federation of Natives declares its unqualified concern for, and support of, the Hawaiian people in their quest for federal recognition as indigenous people of the United States; and be it further

Resolved, That the Alaska Federation of Natives' Board of Directors direct the President and staff to assist the State of Hawaii's political leadership in this critical effort, by all appropriate means.

Ms. MURKOWSKI. Celebrating the distinctive cultures and ways of our first peoples strengthens of us. The Alaska Native Claims Settlement Act has stood the test of time and proven to be a good thing for the people of Alaska—native and non-native alike.

During his introductory remarks, the Senator from Tennessee, Mr. ALEXANDER, drew some distinctions between the situation of the Native Hawaiians and those of Alaska Natives. I would like to offer a few observations for the RECORD.

It is true that some Alaska Natives now and at the time the Alaska Native Claims Settlement Act of 1971 was enacted live in Alaska Native villages. Those villages have never been regarded as Indian reservations. Non-Natives live in Alaska Native villages alongside Alaska Natives.

But more significantly, the Alaska Native Claims Settlement Act of 1971 did not require that one reside in one of the Alaska Native villages or even in the State of Alaska to be a beneficiary of the settlement. All it required it that an individual have as a result of one's ancestry a specified quantum of Aleut, Eskimo or Indian blood to be an initial shareholder in an Alaska Native Corporation. The Federal Government determined who was eligible to receive stock by formulating a roll of Alaska Natives.

Recognizing rates of intermarriage among Alaska Natives, Congress has amended this legislation to give descendants of a corporation's original shareholders an opportunity to participate in the corporations on a co-equal basis with those shareholders who had the requisite blood quantum.

At the time that the claims act was passed Alaska Natives resided in every urban center of Alaska and many resided outside of the State of Alaska. They too lived as everyone's next door neighbor and were mixed in with the State's population.

In the 34 years since the claims act was passed more and more Alaska Natives have relocated to regional hubs, to Alaska's largest cities, and to locations outside Alaska. Today, Anchorage is regarded as Alaska's largest Native village. Some even live in Hawaii. Yet they have not lost their status as Alaska Natives in fact as in law. All remain eligible for services customarily provided to American Indians and Alaska Natives under the law.

I trust in the judgment of my respected colleagues, Senator AKAKA and

Senator INOUYE, and my friend, Governor Lingle, that passage of S. 147 will enrich the lives and spirits of all of the people of Hawaii.

I ask that my colleagues support cloture to enable us to debate S. 147. With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. AKAKA. Mr. President, I thank the Senator from Alaska for her support. I yield whatever time is left to the Senator from Arkansas, Mrs. LINCOLN.

The PRESIDING OFFICER. The Senator has 18 seconds.

Mrs. LINCOLN. Mr. President, first of all, I compliment my colleagues from Hawaii, Senator INOUYE, and Senator AKAKA especially, for sharing his time and for the incredible work they have done on behalf of the people they represent in the State of Hawaii. I wanted to take this opportunity to——

The PRESIDING OFFICER. The Senator's time has expired. The next 30 minutes, by unanimous consent, is to be controlled by the majority. Does the Senator from Arkansas have a unanimous consent request?

Mrs. LINCOLN. Yes. I ask unanimous consent to proceed for 5 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. GREGG. Reserving the right to object, and I have no desire to object, my time was starting at 6 o'clock, and then Senator SESSIONS has 10 minutes. He needs to leave by 6:20. He is not here. I think that was the original agreement.

Would the Senator be willing to start at 6:20 and have 5 minutes then?

Mrs. LINCOLN. If there is an objection, I will certainly yield.

The PRESIDING OFFICER. Is there an objection?

Mr. GREGG. That will still be on our time, as I understand it. If the Senator is agreeable, I suggest that at 6:20 she be recognized for 5 minutes.

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

Mr. GREGG. Mr. President, I apologize to the Senator, but Senator SESSIONS advised me he wants me to be completed by 6:10.

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

REPEAL OF THE ESTATE TAX

Mr. GREGG. Mr. President, I rise today to support the effort which is being pursued in the Senate in a bipartisan way, I certainly hope, to rid ourselves of the death tax, especially as it applies to smaller estates.

The death tax makes virtually no sense from a standpoint of tax policy. Before I was elected to the Senate and before I got into public office, I was an attorney. At the time, I went back to graduate school for 3 years and got a graduate degree in tax policy and taxation, an LLM, as it is called. One of the areas I specialized in at that time was estate tax planning. It always seemed ironic to me that this was the only tax that was energized not by economic activity—in other words, usually when you are taxed, you do something that generates economic activity. You have a job so you have income; you make an investment and make a sale of that investment, so you have capital gains. Whatever it is, it is an economic event that you energize, that you initiate, and it has generated some sort of income to you.

The death tax is the only tax we have which has nothing to do with economic events. It just has to do with an unfortunate luck of the draw. You are crossing the street and you get run over by a postal truck and die, which is enough of an action to upset your day, and then the IRS comes by and they run over you again. So you end up not only having your day totally ruined because you got run over by the postal truck to begin with, but then your family has their day ruined because they not only lost you, but they suddenly have to pay this huge tax if you are an entrepreneur.

The problem is that it hits most discriminatorily that small entrepreneur in our society who basically creates jobs—the small business person—a person who has made an investment and built an asset throughout their life. Maybe it is people who go out and start a restaurant, maybe employ 10, 15, 20 people; people who go out and start a printing business or make an investment in real estate, an apartment, build housing for people. They are just getting going, they don't have a whole lot of assets, and they are not very liquid usually—in fact, these folks are not liquid at all because it is mostly tied up in real estate—and suddenly they have this traumatic event with the key person in the family dying who maybe built this business and then they get hit with a tax.

Not only is it a tax which has nothing to do with economic activity, it is actually a tax which has the ironic and unintended consequence, I presume—but it is exactly what happens—of actually crushing economic activity and reducing economic activity and, in many cases, costing jobs because the small family business or the farm, which was being operated by this sole proprietor, in most instances, or this small family unit, suddenly can't find itself capable of meeting the costs of paying the estate tax—it didn't ever plan for that or if they did plan for that the cost of planning for that was pretty high—and so they have to sell their assets which usually means the people they employ are at risk or maybe they have to just close down the whole operation.

So the economic activity contracts, and instead of having a business that might have been growing, you end up with a forced sale, the practical effect of which is you contract economic activity.

First you have this really incomprehensible concept that you are going to tax people not for economic gain, but simply because they had a terrible thing happen, which is they died, maybe accidentally, and then you are going to say that instead of encouraging economic activity, which is what the purpose should be of our tax laws, you are actually going to create a tax which contracts economic activity. So it is discriminatory, inappropriate, and irrational, and on top of that, to make things worse, the United States has the third highest estate tax, death tax rate of the industrialized world. In fact, our rate is so high that we are even above—and this is hard to believe—we are even above France. When you get above France in an area of taxation, you have really started to suffocate economic activity, entrepreneurship, and creativity because they are sort of the poster child for basically how to make an economy nonproductive and encourage people not to work and basically be a socialist state.

This whole concept of a death tax, first, makes no sense from the standpoint of tax policy; it is not generated by economic events, and it makes no sense from the standpoint of economic policy because it usually leads to contraction of growth rather than expansion of growth. And it certainly makes no sense that the United States, which should be a bastion of the promotion of entrepreneurship and a bastion of supporting family farmers, the family restaurant, the family gas station, the family entrepreneur, is taxing those families at a rate which is higher than the French do.

There is a proposal—in fact, really there is a series of proposals—in the Senate today and the next few days which will allow us to put in place a more rationalized approach to the death tax. To get to that point, we have to have, it appears, a cloture vote on full repeal, which was the House position. But three or four of our colleagues have put forward ideas that do not involve full repeal—I support full repeal—but these are more modest approaches. Senator KYL has been leading the effort in this area. Senator BAUCUS appears to be pursuing this effort. Senator SNOWE, I know, is pursuing it. There are options floating around the Congress—the Senate specifically—which, hopefully, can be pulled together and moved forward.

It truly is time to do this. We need to put in place a clear statement of what the tax policy is going to be if you have the unfortunate experience of being run over by a postal truck. And it should be a clear statement that if you are a small entrepreneur with a family-type business or a farm, that your family is not going to be wiped out by the IRS coming in on top of this terrible event and taking basically a disproportionate and inappropriate share of your assets and basically contracting and eliminating your business and putting your family's livelihood at risk.

The reason we need to do it now, even though most of this won't take effect until 2010, I can tell you as an estate tax planner before I took this job,

before I got into public service, you need that lead time to do it right. You just can't overnight plan for tax policy. You have to have lead time, you have to have a clear statement of what the tax policy is going to be, and consistency is critical. Putting this in place now so it will be effective in 2011, which is what most of the proposals are, is absolutely essential if we are going to have an effective reform of this death tax law which we presently have.

Mr. President, I see the Senator from Alabama is in the Chamber. I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I couldn't agree more with Senator GREGG's comments. He is someone who has had experience with the estate tax. He understands these ramifications well.

My college professor, Harold Apolinsky, in Birmingham, one of the great estate tax lawyers in the country, has dedicated his career in recent years to eliminating this tax. He said it is the worst thing happening to our country, and it absolutely ought to be eliminated. He said: Even if it affects my business, I am doing this because I think it is the right thing to do. He has inspired me to be active in this area.

I would like to share three stories.

I was traveling in a small town in Alabama. A man came up to me with his son. They have three motels. He was sharing with me their frustration that they had to take out an insurance policy that cost the family $80,000 a year because if something happened to him, they had no cash—they had built motels, they were investing in a growing economy and expanding this small business and they had no cash—and they would be faced with a death tax.

I want my colleagues to think about this: Against whom is this small business family competing? It is competing against Holiday Inn, Howard Johnson's, Courtyard Marriott, and who all else—huge international corporations that never pay a death tax—never pay it. But this closely held family business can be devastated. And if we don't change the law, as we all know, in 2011, this tax will again be 55 percent of net worth over the base amount.

We need to be encouraging these kinds of businesses. I got a call yesterday from Robert Johnson, the founder and CEO of Black Entertainment Television. He told me that the death tax was going to make it impossible for African Americans to continue to develop wealth. He said he is competing against CBS, ABC, NBC, and Fox. He is not as big as they are, but he is competing. He has made some money. If something happens to him, the family is going to have to take out of his business huge amounts of cash reserves. What then will happen? BET will be put on the sale block, and it will be bought, as he said, by some big conglomerate. It will not be bought by an African American because they won't have the money to do it. He said we are capping off the growth rate, instead of allowing that company to devolve to his heirs so it would continue to be run in that fashion.

Think about a person who may own 5,000 acres of land, let's say. That sounds like a lot. They have managed well. They have been a good steward for 50, 60 years. They saved money. They drove an old pickup truck. They have a modest home. They are frugal. We know people like that.

What about International Paper? They own millions of acres of land. International Paper will never pay a death tax. But yet this landowner who is competing—maybe they have a forestry business—competing, in a way, directly against International Paper. But every generation of this family, Robert Johnson, the motel owner, has to pay a tax the big guys don't pay. Do you want to ask why we are seeing consolidation of wealth in America today? I submit to you that is the reason. Independent bankers, funeral home directors, they are selling out in large numbers. They can't afford to manage their business. They have to get liquid so if something happens to them, they can pay the death tax. It brings in less than 1.3 percent of the income to the United States Government. I submit the way it is working today is destroying competition. It is hurting, savaging, killing off vibrant, growing small businesses, the family-owned entities that need to be competing against the big guys.

It reminds me of going into a forest of trees and there is this little tree trying to grow up in the middle of the forest and somebody just comes in every generation and chops off the top of the little tree. How can it ever compete against the big guys if it has to pay a tax they don't pay?

I believe it is important for us for a lot of different reasons. This is why I think we ought to eliminate the whole thing: some of these companies are $50 million, $100 million companies, but they are tiny—$200 million, $300 million, but they are tiny compared to these big, international corporations. Polls show that the death tax is the most unfair tax—Americans consider it the most unfair tax because people have already paid their money. You earn money, and then you pay, if you are in the higher income bracket, a 35-percent tax rate, and then you buy an asset with it, and a few years later, you die, and Uncle Sam comes in and he wants 55 percent of it. What kind of a tax system is that? It is really a confiscation.

Also, this is very important: Any good tax should be clear, fair, easy to collect, and does not cost a lot of money to collect. When you evaluate the death tax by those standards, it is the worst tax of all.

Alicia Munnell, a professor of finance at Boston College and a former member of President Clinton's Council of Economic Advisers, has written two times that in her opinion the cost of compliance and avoidance—as the big, wealthy people spend a lot of money trying to avoid this tax—may be as high as the revenue raised. How horrible is that, to have a tax that costs as much to collect as it brings in in revenue?

I have a deep concern about the scoring that has been produced by the Joint Tax Committee on this death tax repeal. I do not believe it is accurate. I have not believed it has been accurate for quite some time. The Wall Street Journal just devastated their analysis a couple of days ago in an article. I believe it is absolutely incorrect. I would note that they scored the reduction of the capital gains tax a few years ago, reduced it from 20 to 15 percent, as costing the Federal Government billions of dollars. The truth is, the Federal tax revenues from capital gains increased when the capital gains tax was reduced, and they missed it by more than $80 billion. They had a reduction projected, we ended up with a substantial increase, and the difference between their projection and reality was over $80 billion. Do you know they won't tell us how they compute this death tax cost? They will not tell the Members of this Senate what their working numbers are.

So I will give some more information on my concerns about the score, but I will again note that it brings in less than 1.3 percent of the revenue to the Government. It is time to eliminate it. It will be great for our economy. It will eliminate a tax that costs as much to administer as it does to collect. It will stop savaging small businesses. It will stop preying on families during the most painful time in their lives: the death of a loved one.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. ISAKSON. Mr. President, I commend the Senator from Alabama, Mr. SESSIONS, on his remarks.

Mr. ISAKSON. Mr. President, Senator SESSIONS is absolutely correct, Senator GREGG is absolutely correct, and this Senate will be absolutely correct if we vote to go to cloture so we can proceed on the total repeal, or at least an additional repeal, of the estate tax. There are a lot of reasons, but I want to try and make my point succinctly and I want to make it briefly because I want to point out how punitive the estate tax is today.

Most Americans are employed by small business; 75, 76, 77 percent of all Americans are employed by small business. It may be a restaurant, it may be a laundry, it may be a farm, it may be a construction company, it may be a utility contractor just like the ones that are in town today lobbying all of us for the best interests of their business. Most people work a lifetime to build a business. They employ people to whom they pay income. The people to whom they pay income pay income

taxes. Yet when the tragedy of death comes, an individual owner of a small business dies, immediately they are confronted with one of the most punitive and confiscatory taxes that has ever been devised in the history of taxation.

Granted, we did a good job when we passed the accelerated improvements in the unified credit or the deduction on the estate tax. This year, based on the bill we passed a few years ago, there is a $2 million exemption, and that is a help, and it goes to $3.5 million in a couple of years. Then, magically, the estate tax is repealed in 2010, only to return to us a year later, to return to us at 55 percent. So we are asking people who work a lifetime to save and build a business, to plan, based on a tax that is here today, gone tomorrow, and then returns with a vengeance a year later.

To best illustrate what the estate tax does to American small business, ranchers, and family farmers, I would like to do a little demonstration on the Senate floor. For the sake of argument, let's just round the 55 percent estate tax off to 50 percent, and let's assume for a moment that a small business owner, a family farmer, passes away and dies and their estate becomes taxed at 50 percent. After the credit that is available now, or when we get back to 2011, no credit at all, the United States of America and the department of revenue, the IRS, want to tell the heirs of that estate that within 9 months of the death of that individual, they want this much of that person's estate. If one sheet of paper is the whole estate, they want half of it in taxation.

So when the first generation owner of a small business passes that business on to the second generation, after the Government gets its half, there is only this much left.

Let's assume that family is able, because of savings and because of borrowing and because of productivity, to pay that 50 percent tax without liquidating the business, and that second generation small business owner operates that business, employs the workers in that business, pays them the income that pays the taxes, but let's assume that second generation person meets their demise. And when they die, before they can pass that family business on to the next generation, once again, the IRS gets half of what is left.

So in two generations, what was a full estate ends up with three-fourths of it going to the United States Government, and one-fourth of it left to the individual or family. Of course, that is in reality not really what happens because before that last passing takes place, that business is sold or liquidated, or it is leveraged to such an extent that the amount of cost of the debt service on the leverage makes that business go from profitable to unprofitable. That is why the estate tax is punitive. That is why it is wrong for this country.

I want to address another point that Senator SESSIONS made that is so important for us to focus on as we listen to the two sides of this debate tonight and tomorrow. You will have some come and they will take that score on how much the repeal is going to cost us, and they will talk about that score, saying that is a reason we should not repeal the estate tax or the death tax. I submit, as Senator SESSIONS did, that score is dead wrong because just as the scoring of the reduction in the capital gains tax was dead wrong a few years ago, this scoring is equally dead wrong and it is wrong for this reason: If that family business that was reduced to almost nothing has to be sold, then along with what is sold is the jobs that went with it, the income that went with it, and the future taxes that were paid because of it.

Think of this for a second. If someone has stock they have to sell and liquidate in order to pay the one-time capital gains tax, then it is gone forever from the standpoint of the income production that they otherwise would pay with dividends year in and year out. Wouldn't we rather have people hold assets such as businesses and stocks and real estate and pay taxes on its profitability and its income year after year after year? Wouldn't we rather that happen than all at once to take 50 percent, cause the business to be sold, the stock to be liquidated, the real estate to be divided, and the revenue never to be paid again? It is shortsighted and it is wrong.

I hope the Members of the Senate, when we come to the cloture vote tomorrow, will recognize the death tax is the third bite of the apple. We charge people income tax when they earn income, with what is left they make investments, and then as those investments pay dividends or pay income, we tax that, and then we say: When you die, we want half of that asset. It is wrong. It is wrong for individuals, it is wrong for family farmers, it is wrong for landowners, and it is wrong for America.

I urge all of my colleagues when the cloture vote comes tomorrow to vote yes to bring about a meaningful debate on the repeal of the estate tax or the death tax, and let's take that third bite of the apple away from the Government and put it back in the hands of the people, so those assets, farms, and investments can be productive, not just for one year, but for a lifetime.

I yield the floor.

The PRESIDING OFFICER. Who seeks time?

Mr. ISAKSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator should note that he is on majority time by a previous unanimous consent agreement. Is there objection to the Senator proceeding? There being no objection, the Senator from Connecticut is recognized.

Mr. DODD. Will the Chair repeat his statement?

The PRESIDING OFFICER. The Senator is speaking under the majority time previously agreed to under a unanimous consent agreement. I presume there is no objection to the Senator proceeding.

Mr. DODD. I hear no objection, Mr. President. Since no one is on the floor, obviously, that makes it easier.

MARRIAGE PROTECTION AMENDMENT

Mr. DODD. Mr. President, if I can, I wanted to spend a couple of minutes on a matter that this body voted on this morning. I was unavoidably absent this morning at a family matter in Rhode Island, so I was not here for the vote. But I wanted to just take a minute or so here to say to my colleagues and to others that had I been present this morning, I would have voted no on the motion for cloture, and had cloture been invoked, I would have voted against the amendment. I am speaking of the proposed constitutional amendment that would have banned same-sex marriages.

Like many of my colleagues who have spoken on this matter, I believe this is a matter that belongs in the States. This is not a matter that ought to be a part of the Constitution. I have been here for a number of years in the Senate, and over the history of this great country of ours there have been over 11,000—more than 11,000 proposed constitutional amendments. The Congress and the Nation in its wisdom over the years have adopted only a handful of those proposals—27 is the number of amendments that have been adopted since the formation of our country. The reason for that, of course, is the Founders insisted that it be not an easy matter to amend the Constitution and that we ought to amend the Constitution to correct problems in the governmental structures or to expand the category of individual rights such as the first 10 amendments achieved in our Nation.

Our Nation's constitutional history clearly demonstrates that change to our Constitution is appropriate on only the rarest occasions—specifically, to correct problems in the government structure or to expand the category of individual rights such as the first 10 amendments which compose the Bill of Rights. Notably, the amendment to establish prohibition is the only time that the Federal Constitution was amended for a reason other than those I just mentioned.

It was repealed 13 years after its enactment and has been judged by history to be a failure insofar as it sought to restrict personal liberty.

The Framers deliberately made it difficult to amend the Constitution. They did not intend it to be subject to

the passions and whims of the moment. Time has proven their wisdom. Since 1789, when the first Congress was convened, there have been 11,413 proposals to amend the Constitution. Sixty-four have been offered in this Congress alone. Luckily, only 27 have been successful. If all or even a substantial fraction of these proposed amendments were adopted, our founding document would today resemble a Christmas tree, a civil and criminal code rather than a constitution, and the United States would be a very different Nation.

It is unfortunate that the majority leadership of the Senate does not share James Madison's view that the Constitution should only be amended ''for certain, great, and extraordinary occasions.''

Supporters of this proposed amendment would like you to believe that there is currently an ''assault'' on traditional marriage by some American couples and families that warrants Federal action in the form of a constitutional amendment to ''protect'' the institution of marriage. They have utterly failed to marshal even a minimal degree of credible facts to support such a claim.

Indeed the facts suggest that there is no such crisis. The Defense of Marriage Act, DOMA, was enacted in 1996 to provide a federal definition of marriage and to stipulate that no state should be required to give effect to a law of any other State with respect to a definition of marriage.

There has been no successful challenge to the DOMA in the decade since its enactment. Courts have never identified a Federal right to same-sex marriage. States have never been forced to recognize an out-of-state marriage that is inconsistent with its own laws.

And no church, temple, mosque, or synagogue has been forced to perform marriages inconsistent with the beliefs of those who worship in them. For Congress to step in now and dictate to the States how they ought to proceed in this matter thus runs counter to the facts. It also runs counter to the principles of federalism and personal liberty that many proponents of this constitutional amendment claim to hold dear.

I am disappointed that we find ourselves spending valuable time on the Senate floor debating this issue. Less than 2 years ago, the majority leader brought the same measure to the Floor. It failed by a vote of 48 to 50. There is no reason to think that it will not fail again.

It is no coincidence that approximately 5 months before the upcoming midterm elections the Senator floor is being held hostage by the majority's misguided priorities. I fear that some of those leading the charge on this legislation are more interested in dividing Americans for partisan gain than uniting the country to solve problems.

Make no mistake: married couples are under considerable strain these days. But the cause of that strain is not the conduct of other American couples going about their daily private lives. Instead, married couples and all Americans are feeling the strain of high gas prices, soaring health care costs, schools in need of reform, a sluggish economy, and a war in Iraq in which American men and women are fighting with courage. Yet this administration and others in this body have little to offer to relieve these strains. Instead, they seek legislation that will only divide and distract Americans from the common challenges we should be facing together.

This proposed constitutional amendment is not the best use of our time. We should be addressing the real needs of American families. We should be legislating. That is what we are elected to do—to address issues like autism, underage drinking, the growing problem of obesity among our nation's children, and the threat of terrorism. But today we have not been afforded that opportunity. Instead, today feels like Groundhog Day.

It is another election year and we are here discussing another issue that has nothing to do with the great challenges of our time.

Only on one occasion did we deviate from that practice and that was the adoption of the amendment dealing with the prohibition of the consumption of alcoholic beverages. That was a complete deviation from the two situations in which the Founders intended that we would amend the Constitution of the United States.

I might point out that it was only a few years after the adoption of the amendment on prohibition that it was repealed by the Congress of the United States and the people across this country.

It would be a mistake, in my view, to repeat another error like that which was committed in the early part of the 20th century when we adopted the prohibition amendment.

Supporters of this amendment like to say that this debate is about an assault on the institution of marriage. I do not believe that to be the case. I do believe, however, that there is currently an assault on families. I am disappointed this body is not spending the time allocated for this debate talking about the important issues families today. For example, we could be talking about the bill dealing with autism that my colleague from Pennsylvania and I have authored and we are trying to get attention on. Obviously the issues of energy prices, education, health care—there are any number of issues I can think of that we might have spent time discussing. We should be trying to come up with some answers rather than debate a question which has marginal significance and minimal importance for most people and which ought really to be left to the States.

Let me also suggest that the motivations behind this may not be helping families but instead inciting a political debate for the elections coming up this fall. What worries me more than anything else, however, is I think it is designed to make people angry, to divide us as a country. I am deeply concerned about the growing divisions occurring in our Nation. This is a time when we ought to be coming together, when our leadership ought to be asking us to sit down and try to come up with answers on some of the overwhelming problems we face—not problems that are so overwhelming we can't answer them. Instead, we are spending that valuable time on a matter that is clearly designed to do nothing more than inflame the passions of people in this country rather than appealing to calm, to rationality, to common sense, to good discourse as a way of addressing the underlying issues. This is a great disappointment.

Again, I would have voted no on the motion to invoke cloture. I am pleased my colleagues from both parties, in a bipartisan way, rejected that cloture motion. It was a good conclusion reached here, and I regret I was not able to be here to cast a vote along with my colleagues who expressed a similar point of view.

THE ESTATE TAX

If I may, I wish to turn to the matter at hand; that is, the debate regarding the estate tax. The last time this body was scheduled to consider legislation to repeal the estate tax, the majority leader decided to postpone consideration of this bill in the wake of the devastation wrought by Hurricane Katrina. The general consensus was it was unseemly for us to be talking about having one-half of one percent—and that is what we are talking about, one-half of 1 percent of the population of this country—receive a bonanza, if you will, by repealing the obligation to share part of their estates to contribute to the growth and benefit of our Nation. The decision was it would be unseemly.

In fact, my good friend from Iowa, the chairman of the Finance Committee, for whom I have a great deal of respect, said, ''It's a little unseemly to be talking about doing away with or enhancing the estate tax at a time when people are suffering.''

I agree with my colleague from Iowa. I agreed with him then; I agree with him now. If it was unseemly to be talking about enhancing the wealth of the wealthiest in our society at a time when the Nation was suffering from the devastation of Hurricane Katrina only a few short months ago, I suggest that problems have not abated so substantially that we can now make the case that it is no longer unseemly, if you will, to use his language, to adopt a provision here that would make it far more difficult for us to address all of our other priorities as a Nation.

I hope our colleagues will agree and join with others in voting against cloture on the motion to proceed to what I consider to be irresponsible legislation.

Today's discussion is about priorities, as it always should be. I have

supported lower taxes for working Americans, including responsible estate tax reform. I think it is wrong to have excessive estate taxes imposed on ordinary farmers and small businesses owners out there who try to leave those businesses or land to their families. Because of the modest incomes most people in these groups make, they could find it impossible to do so under an excessive tax.

I note the presence of my good friend from Arkansas on the Senate floor who speaks eloquently about the farmers in her State who have been left, generation after generation, farms and land for succeeding generations to continue their great traditions. The Presiding Officer comes from a State with a strong agricultural tradition. All of our States have strong small business components, and all of us understand the importance of allowing those families to pass on to succeeding generations the ability to continue those efforts. But I hope my colleagues agree as well, that talking about the total elimination of this estate tax is, I think, irresponsible. It goes too far when we start talking about providing such a massive benefit for only the largest one-half of 1 percent of estates.

I represent the most affluent State in the United States on a per capita basis. I presume as a percentage of my population I have a larger number of estates that would benefit from total repeal than most of the other members of this body, with the exception of my colleague, Senator LIEBERMAN. I can tell you that the few estates that can benefit as a result of the distinction we are making between reform of the estate tax and total repeal seems to go too far, considering the revenue loss it would mean to our country.

We are talking about a revenue loss on an annual basis that exceeds the entire amount of money we commit to elementary and secondary education. Think of that. The entire amount of money in the Federal budget toward elementary and secondary education would be lost as a result of the complete and total repeal, rather than a modest, intelligent, thoughtful, rational reform of this estate tax. We should not bankrupt our Nation's future for a measure that would deliver no benefit to anyone outside a few extremely wealthy estates.

I might point out that some of the most wealthy Americans, people who would benefit the most from this total repeal, have been the loudest, clearest voices urging us not to do so. We ought to take note that the Gates family, people like Warren Buffett, people like John Kluge, people who have made great fortunes in this country and made those great fortunes in their own time, through creative work, not inherited wealth, are urging us, despite the fact that they would benefit to the tune of billions of dollars with a total repeal—listen to the Warren Buffetts, the Bill Gateses, the John Kluges, when they tell you this would be an unwise decision to make to just completely repeal a tax that is so important for continuing our ability to meet our obligations.

Let's not forget we are a nation at war, with American troops fighting and dying in Iraq and Afghanistan, at a terrible human and monetary cost. Repealing the estate tax will cost some $776 billion over 10 years, which would fully be applied beginning after 2011. Not a penny of this cost would be offset. It would all be added to our Nation's debt, which is already now at $8.4 trillion.

I made the case a few weeks ago—how big is $8.4 trillion? If we were to go out on the Capitol steps out here and hand out a hundred-dollar bill every single second, 7 days a week, 24 hours a day, how long do you think it would take to pay off $8.4 trillion? I will tell you the answer. It would take more than 2600 years—24 hours a day, 7 days a week, a one-hundred-dollar bill every second, handing it out. It would take 2,635 years. That is the amount of debt we have accumulated over the last few years, and now we are about to add to that to the tune of almost another trillion dollars here if you take what the revenue loss would be and the added interest cost of some $213 billion. That would be the revenue loss that would result from repealing the estate tax. More than a trillion dollars that would benefit no one at all outside the largest one-half of 1 percent of the estates in the United States; 99.5 percent of the estates in the United States would not gain at all by the proposals to have a modification or reform of the estate tax. Each year of repeal on average would cost roughly the same in today's terms as everything the Government now spends on homeland security and education.

Over the past 5½ years, the current administration has radically altered our Nation's economic and social well-being, in my view. Median incomes have stagnated, poverty rates have risen, and more and more people are living without health insurance. Our troops have struggled with inadequate body armor and other necessities of battle. Farmers, workers, and small business owners are contending with rising interest rates, higher energy and health care costs, and growing global competition. While these problems have grown, the administration has severely reduced our Nation's ability to meet them by driving our Federal budget from surplus into deep deficit.

Since the current President took office, the Federal budget has declined from a surplus of $128 billion to a deficit of more than $300 billion. The national debt has risen to $8.4 trillion. In just 5 and a half years, the administration has added more debt from foreign creditors than every other President in the history of the United States combined—in the last 5 years.

Repealing the estate tax would make these problems far worse, not better, and further hurt America's ability to address our most pressing issues.

A few months ago, the administration and the majority of this body enacted a budget reconciliation bill, the so-called Deficit Reduction Act. This bill made deep cuts to health care, childcare, and education, with the burden falling most heavily on working Americans—in particular on low-income parents and children, the elderly, and people with disabilities. The American people were told these cuts were necessary because of the deep budget deficits our country was facing. Yet here we are today, having been told only a few months ago that this great budget reconciliation act was necessary, despite the fact that we are going to ask those who are the least capable in many cases of providing for their needs, feeling the tremendous pressure they are, here we are today only a few weeks later being told that we can afford to take $1 trillion out of the budget to serve one-half of 1 percent of the estates in this great country of ours.

Where is the logic in that? Mr. President, 99.5 percent of the estates in our country would not be adversely affected by what we are talking about. They would not pay an estate tax. Only one-half of 1 percent would. Yet $1 trillion gets lost as a result of that decision, over the next 10 years, at a time, as I mentioned earlier, when we are not paying for the war and we find ourselves in tremendous need if we start talking about education, health care, and homeland security, just to mention two or three items.

Some proponents of the estate tax repeal have propagated the myth that the estate tax disproportionately harms farmers and small businesses by forcing them to sell their family farm or business in order to pay the tax. This just is not true. It is a scare tactic used by those who will benefit from repeal to create support for their cause. In reality, when the New York Times asked the American Farm Bureau Federation for real-life examples of a family farmer forced to sell by the estate tax, not a single example could be found. Not a single one.

Contrary to the misinformation that has been spread, no one but the very largest estates would ever pay this tax on inherited wealth. This year, an individual can pass on as much as $2 million and a couple can pass on as much as $4 million to their heirs, completely free of any taxation whatsoever. With these exemptions, 99.5 percent of all the estates in the United States would owe no tax at all. Those that will owe, only owe on the value of their estate that exceeds the $2 or $4 million that I just mentioned. With the exemption levels scheduled to rise in 2009 to $3.5 million for individuals and $7 million for couples, the percentage who will owe a single cent in estate tax falls to a mere 0.3 percent of the population that would pay any estate tax at all.

So 99.7 percent of the American population would have no obligation whatsoever. Yet we are about to enact legislation here that would repeal this altogether.

I do not understand that at all. How do you explain to people today that your child or your spouse serving in Iraq or Afghanistan? We are being told we don't have enough money for body armor or to up-armor the vehicles they drive, or that homeland security has to be cut because we don't have the revenues to support it. Yet we turn around and do something like this? Where is the logic in this? Under these rules, the number of Americans affected by the estate tax has declined dramatically already under current law, from 50,000 people in 2000 to only 13,000 today, and by 2009 the number will fall to 7,000. Out of a nation of 300 million people, 7,000 people in our 50 States would not be obligated to pay any estate tax at all.

Seven-thousand out of three hundred million, yet we lose $1 trillion in revenue.

Again, where is the logic or common sense in a proposal like that given the damage it would do?

As I said, my State of Connecticut ranks consistently year after year at or near the top of the Nation in per capita income and other such measures. In my State and across America, people of all incomes have worked hard, obviously, to get where they are.

I don't like class warfare. I don't like drawing those distinctions. Many of these people I mentioned, pay taxes and have worked hard, and I respect that.

I urge my colleagues to listen to some of the men and women who have accumulated the greatest wealth as a result of their ingenuity and hard work. What are they saying about this in terms of the benefit to the country and the cost it would have?

In my State, I probably have a greater percentage of constituents than almost any other State in the country who would benefit if there is a total repeal. I stand here today, telling you that an overwhelming majority of the very people who would benefit from this, think it goes too far; that we are going too far with this proposal.

I urge my colleagues to join those who have urged us to be more modest, to have a more commonsense approach than repeal or near-repeal. Again, it would be a major failure to lose the revenue equal to that which we spend on all of the education for elementary and secondary school students, all of the spending on homeland security, to once again drive us further and further into debt. I think it is a great tragedy to be passing that on to the coming generations, to say we want to give a tax break only to the top five-tenths of 1 percent, or three-tenths of 1 percent of the population. That is an indictment that future generations will look back on and ask: What were they thinking at the beginning of the 21st century that they would take such a significant step as to deprive this Nation of the ability to have the revenue we need in order to meet our obligations?

When the vote on cloture on this matter occurs, I urge Members to vote no.

There is a way to do this, and I think many of us are willing to support responsible reform in the estate tax area. But the notion of total repeal, I think, is highly irresponsible.

I urge my colleagues to join in the condemnation of that suggestion.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

NATIONAL HUNGER AWARENESS DAY

Mrs. LINCOLN. Mr. President, I want to take this opportunity to spend a few moments to talk about the 36 million Americans, including 13 million children, who live on the verge of hunger.

I want to divert our conversation a little bit. I have actually waited quite some time to be able to speak about it. I started yesterday trying to get just a few minutes on the floor to bring about an awareness because today is National Hunger Awareness Day.

I often think about the children and the working American families who struggle to make ends meet. But I focus my thoughts and prayers on them today because today is National Hunger Awareness Day, 1 day out of our year. I started yesterday trying to grab 5 minutes where we could bring our attention to something so incredibly important and something so easy to fix.

There is a time when Americans are called to remember the hungry children and adults living across our great Nation. Most importantly, it is a day when we are called to put our words into actions and to help end hunger in our communities and across America.

I guess the realization that I have come to in these last 24 hours is, I have searched just to capture 5 minutes on the floor of the Senate. I suppose I could have submitted my comments for the RECORD. And maybe I am foolish to think by coming to the floor I could spark just a little bit of interest in my colleagues or others across this Nation to think about an issue that affects all of us—an issue where our fellow man is hungry, or another mother has a child out there that is suffering from hunger, that we can't stop for just a moment and realize that hunger is a disease that has a cure. It has a cure—a cure that we can provide, a cure that we all know about. And, if we took the time to think about it, to address it, we could actually cure this disease.

It is hard to find 5 minutes, it is hard to come down here and really make the difference that we want to make, but I believe this day and this issue are far too important to miss again the opportunity to talk about 36 million Americans living in food insecurity.

Two years ago today, I joined with my friends and colleagues, Senator SMITH, Senator DOLE, and Senator DURBIN to form the Senate Hunger Caucus. At that time, we pledged to raise awareness about the hunger experienced by millions of Americans, a majority of which are children and elderly, and to forge a bipartisan effort to end hunger in our Nation.

I am proud that we are working with local, State, and national antihunger organizations to raise awareness about hunger, to build partnership, and develop solutions to end hunger.

An example of a bipartisan initiative to end hunger is the Hunger Free Communities Act which I introduced along with Senators DURBIN, SMITH, and LUGAR. This bill calls for a renewed national commitment to ending hunger in the United States by 2015. Yet we find it hard to find 5 minutes to focus our attention on such an incredible issue.

It reaffirms congressional commitment to protecting the funding and integrity of Federal food and nutrition programs, and creates a national grant program to support community-based antihunger efforts in fighting the disease on the battlefield, right there at the line of attack in our communities.

I am also proud to be a cosponsor of the FEED Act, the bill that would award grants to organizations that effectively combat hunger while creating opportunity by combining ''food rescue'' programs with job training—not just feeding a fish but teaching a man or a woman how to fish so that they do not just eat for a day, that they feed themselves for a lifetime.

Close to one-third of the food in this country that is processed and prepared goes to waste—one-third, whether it is in places such as Washington where there are multiple receptions going on at one time, banquets and other events that happen across the country. One-third of that food goes to waste.

This bill would help organizations safely recover unserved or unused food while providing culinary skills training to unemployed individuals. Two birds with one stone—using something that otherwise would be thrown away. How simple that seems and yet how hard it is to bring it forward into the light of day and talk about making that effort a reality.

I urge my colleagues to support these worthy and commonsense pieces of legislation.

If it is so hard to find 5 minutes just to talk about it, I wonder how long it is going to take us to pass these commonsense pieces of legislation.

Some people may ask: What can I do to help end hunger in America?

I want to talk about some of the ways Americans can help join the hunger relief effort. Acting on this call to feed the hungry is important, and I urge all Americans who are able to take part in ending this disease.

One critical component of this effort is the willingness of Congress and the American people to support the Federal food and nutrition programs. These programs provide an essential

safety net to working Americans, preventing the most vulnerable among us from suffering and even dying from malnutrition. Our continued investment in these programs is vital to the health of this Nation.

Why does it come to mind right now? Think about all of those children across this great country who have received the nutrition they need in school during the school year as school lets out for the summer. Where will they go for that nutritious breakfast? Where will they go for that lunch that they need to sustain them because there is no dinner waiting at home?

These are critical and important programs. Without spending the time and the effort to not only make them a reality but properly fund them in a way where they can actually meet the needs of the children across this country will take our attention.

The most significant of these programs is the Food Stamp Program. It provides nutritious food to over 23 million Americans a year. More Americans find themselves in need of this program every single year. As their wages are stagnant, as they have less and less opportunity to climb a ladder of opportunity because they may not be getting the education they need, they are finding more and more dependency on programs like this to be able to feed their families.

I understand our current budget constraints. I know we all do. Yet I didn't create this mess. The spending that has been freewheeling in this Congress over the last several years has been unbelievable. Yet as my colleagues mentioned, we failed to adequately support and fund issues such as our veterans' benefits; issues like educating our children and providing them with the skills they need to be competitive.

I come here to talk about the main sustenance of life. I understand these budget constraints, but I believe as one man to another, as one woman to another, one human being to another, food, simple nutrition, is something we cannot turn a blind eye to. Even in these tight fiscal times, I believe that we have to maintain our commitment to feed the hungry among us. We must first protect programs such as the Food Stamp Program, the National School Breakfast and School Lunch Program, the Summer Feeding Program, the WIC, and the Children and Adult Care Food Program. These are all critical programs that keep Americans who are on the verge of hunger and destitution from finding themselves there permanently.

Another important tool for local organizations is the Community Food and Nutrition Program, and with support from this program, the Arkansas Hunger Coalition has sponsored a Web site, a quarterly newsletter, an annual conference, a mini grant program, along with many civic, school, and community presentations on hunger which raise public awareness and promote innovative solutions.

Organizations such as the Arkansas Hunger Coalition operate on limited budgets. Yet they are a vital source of information for food pantries, soup kitchens, and shelters that together work to share the importance of food security to the people of our home State of Arkansas.

I urge Americans to contact their congressional representatives to voice their support for these nutritional programs. This critical issue of ending hunger, the unbelievable number of hungry Americans is something that we have to bring greater awareness to not just today but every day.

I urge my colleagues to protect them from cuts and structural changes that will undermine their ability to serve our Nation's most vulnerable citizens.

In addition to the Federal food programs, eliminating hunger in America requires the help of community organizations. Government programs provide a basis for support, but they cannot do the work alone. Community and faith-based organizations are essential to locating and rooting out hunger wherever it persists.

We rely on the work of local food banks and food pantries, soup kitchens, and community action centers across America to go where government cannot. The reason I have stayed so persistent in coming to the floor of this Senate to talk about this issue on a day that we have designated for awareness is because I tried so desperately to put myself in the shoes of other mothers who are not perhaps as lucky as I am. When a child looks into your eyes and says: Mommy, I am hungry, they have no response, whereas I do.

This is a critical issue for us as a nation. It shows where the fabric of our community and our country lies. It shows where our priorities are, and it shows who we are as Americans and what values we truly grasp for our fellow man.

Recently, I have been so proud as my twin boys have gotten invitations to birthday parties. There is a note at the bottom of the invitation. It says: Please don't bring a gift, but in lieu of a gift would you please give to a worthy organization, our local food bank or shelter.

My children with their birthday coming up soon said: Mom, we don't need those gifts again this year. Let's add something for those people who need it the most. Let's make sure that we have fun at our party but that we don't take the gift that we don't need and instead ask our friend to help us in feeding the hungry and sheltering the homeless.

I will try, and I know my colleagues will, too, to work as hard as we can to provide the resources these community organizations need to continue with the difficult but necessary work they perform, to encourage our neighbors, our children, our schools, and others to be as actively involved as they possibly can.

Private corporations and small businesses also have a role to play in eliminating hunger in our great Nation. Our corporations and small businesses generate most of our Nation's health and have throughout history supported many of our greatest endeavors. Many corporations and businesses already contribute to efforts to eliminate hunger. I hope others will begin to participate as opportunities to do so present themselves in the future.

A couple of great examples of how business and nonprofits can partner to feed hungry people occurred these past few months. Together with America's Second Harvest, Tyson Food, in my home State of Arkansas, donated 6 million pounds of protein—one of the more difficult elements of nutrition to get into food banks is protein—6 million pounds of protein from one corporate citizen. Wal-Mart raised $10 million to support food banks all across this country. I am so grateful to these companies and to nonprofit organizations for their leadership in this effort to feed those who have limited access to food and nutrition.

I have also seen some of the important work being done by organizations in the local Washington, DC, area. We see it all around us. All we have to do is open our eyes and make sure we are aware. The Arlington Food Assistance Center works to provide food to those in need in the Arlington, VA, area. I have supported some of their efforts through the local school drive. Not only is it important in terms of providing the needs of food assistance through the Arlington food bank system and the assistance center, but think what it does for our children. It gives them a learning experience of how they, too, can give back not just to their community or their school but to their fellow man, someone desperately in need of a nutritious meal, a family who needs a nutritious breakfast.

Think of what it teaches our children. Despite the fact that Arlington County is one of the wealthiest areas in the country, plenty of local residents do not have enough to eat. The Arlington Food Assistance Center seeks to remedy the problem by distributing bread and vegetables, meat, milk, eggs, and other food items. Our church group routinely goes for a ''gleaning'' program where local farmers allow us to get into the fields and collect part of their crops that have been left in order to provide fresh fruits and vegetables in our area food banks.

Lastly, this effort needs the commitment of individual Americans. Our greatest national strength is the power that comes from individual initiative and the collective will of the American people. I believe we are called by a higher power to care for our fellow man and our fellow women.

As a person of faith, I feel I am called to serve the poor and the hungry. I know many of my colleagues agree. If we believe in this call, we must live it every day in our schools and in our

homes, in our workplaces and our places of worship, in our volunteering and in our prayer. This personal responsibility is a great one, but it holds tremendous power. As we have seen throughout American history, when individuals in this Nation bind together to serve a common cause, they can achieve the greatest of accomplishments. By sharing the many blessings and resources our great Nation provides, I am confident we can alleviate hunger, a disease that we know there is a cure for, both at home and abroad.

I ask all of my colleagues to take a moment to honor on this day of awareness the very brave men and women and children who live in food insecurity and whom we have an opportunity to serve.

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

Mrs. LINCOLN. Absolutely, I yield to my good friend from Illinois who has done so much on the issue of hunger.

Mr. DURBIN. Let me say at the outset it is my great honor to cochair with the Senator from Arkansas this effort relative to hunger, hunger awareness. It has brought us together in terms of offering resolutions, in terms of offering legislation, filling grocery bags. We have done a lot of things together in this effort.

I am fortunate to work with Senator LINCOLN. She comes to this issue driven by her faith and her family. They are linked together in her speech today and in her life. There is hardly a decision she makes—I know from having worked with her for so many years—that is not driven by her understanding of the impact of life on her family and what it means to so many other families.

As we have met in a variety of places, filling boxes and bags with groceries, we both had cause to reflect on what leads to hunger in a prosperous Nation. How does a country so rich as America end up with hungry people? How can this be? Yet we know, as she knows, it turns out to be a lot of people are working hard to avoid hunger. It can be a mother with a low-wage, minimum wage job, a mother who has been stuck in a minimum wage that this Congress has refused to increase for 9 straight years. Think about that: $5.15 an hour for 9 years. This poor mother, trying to keep her family together, put her kids in a babysitter's hands or daycare, and then put food on the table finds that many times one job, sometimes two jobs are not enough, and she ends up at that food pantry.

We expect the poorest of the poor to come in there and many times find the working poor. That is the face of hunger found with many of our senior citizens. I cannot imagine these poor people, many of them alone in life, struggling with medical bills and fixed incomes, never knowing where they are going to turn for a helping hand, who stumble into a food pantry where they can find a loving face, a warm embrace and a bag full of groceries to keep them going.

I found that this last week when I was up in Chicago at the Native American Center on the North Side where a lot of American Indian families rely on their pantry. I said hello to the ladies who were running it. They said, sadly: Senator, business is just too darn good here. There are a lot of people coming in from all around the city of Chicago.

I find it in my hometown, Springfield, IL, at St. John's bread line, which has been there for years. I have been over there serving food once in a while. So many people rely on them.

In Chicago, only 9 percent of the half-million people who seek services from the Chicago Food Depository are homeless. The rest have a home to go to but nothing in the refrigerator and nothing in the cupboard. These people cannot afford the food they need.

Think of that: 37 million people in America, this great and prosperous country, living in poverty; many low-income families supported by jobs that do not pay a livable wage in a country where this Congress will not enact a law to raise that minimum wage. It could be that paying for health care has caused many of these families to be unable to afford food.

America's Second Harvest released a national hunger study showing that in Chicago 41 percent of households neglected their food budget to cover utility costs. You can understand that in the cold winter in Chicago. Last year, natural gas bills went up 20 percent. We were lucky. It could have been worse. And many of these families had to decide: Pay the utility bill, risk a cutoff or buy some food? It may be a combination of factors, but the food budget is often the first thing they cut.

Today, June 7, is National Hunger Awareness Day. Senator LINCOLN and I have come to the Senate encouraging our colleagues and all those following this debate to celebrate and commend the heroic efforts of so many emergency food banks, soup kitchens, school meal programs, community pantries, and so many others that make a difference in fighting hunger.

I don't know if Senator LINCOLN's hometown is the same as mine, but there is a day each year when the letter carriers all pick up food. You put out the bags of food for them. They pick them up. God bless the letter carriers; they collect that food, give it to the pantries to give to hungry people. Here are men and women who probably are footsore from all the miles they have to walk, and they walk an extra mile for the hungry of America. My hat is off to them.

Federal nutrition programs are critically important and they are not reaching enough people. Many parents still skip meals so their kids can eat. Many kids do not have the balanced meals they deserve.

Let me add, too, I am sure the Senator, as a mother of twins, will appreciate this. When I go to school lunch programs, sometimes it is depressing. Giving kids a helping of tater tots, next to a slice of pizza is not exactly my idea of fighting obesity, encouraging nutrition, and feeding kids the right things.

We need to have good nutrition programs. We need to work overtime to make sure the food given to these kids does make a difference. At the Nettlehorst School on Broadway Avenue in Chicago, which I visited a few weeks ago, we opened a salad bar for the kids for school lunch. Guess what. They were all crowded around, filling up their salad trays. They will eat good food if you present it in the right way. We need good nutrition programs with good food to make sure our kids grow the right way.

Hunger drains the strength of the people who, for a variety of reasons, are unable to provide enough food, or the right kinds of food, for themselves or their family. A few blocks away, near a school over on Pennsylvania Avenue, in Southeast Washington, DC, get there early enough in the morning, around 8 o'clock, stand by the drugstore and watch these kids file in to buy bags of potato chips and pop or soft drinks to eat as breakfast on the way to school. Too many of these children rely on that for their only nutrition. I wish their parents could do better or do more. I wonder, sometimes, if they are able to. I don't know if they are. But what those kids are buying costs them money. Maybe those parents could have done a better job. Maybe the school could do a better job. As a Nation, we all need to do a better job.

In a land of abundance, the kind of sacrifice that many families have to make to feed their family members is deplorable and unnecessary. We should end hunger in the United States. Working together, we can.

I salute my colleague from the State of Arkansas. The hour is late, and she has a couple of kids at home waiting for her to get home, maybe to fix dinner. But whatever the reason, she took the time to come to the Senate tonight to remind all of us of our civic responsibility, our social responsibility and our moral responsibility to view hunger as a challenge that we can face and conquer.

I see the Senator from Alabama is probably here to speak. I have another statement to make, but I will defer to him since he has been waiting. Then when he is finished, I will ask to speak again.

The PRESIDING OFFICER (Mr. DEMINT.) The Senator from Alabama.

DEATH TAX

Mr. SESSIONS. Mr. President, with regard to the death tax, I will be offering some remarks later in the process that deal with the estimated cost of the elimination of this tax which does not account for the lack of stepped-up basis that will not occur if the death tax is eliminated and other factors that demonstrate that the allegations being made about large losses of revenue are not true. That is an important

factor in the debate. I will not go over that tonight.

I take this moment on another subject to read to the Senate a letter we received, received by Senator FRIST, the majority leader, today, from the administration, William Moschella, U.S. Department of Justice. He deals with the Native Hawaiian bill.

I said earlier today, the Native Hawaiian legislation is exceedingly important. It has to do with whether this great republic is going to allow itself, through the vote of its own legislature, to create within its own boundaries a sovereign entity, a sovereign Nation, that, according to those who support it, even on the Web site of the State of Hawaii, indicates that it could result in an independent nation being created. So any principled approach—and the Senate, of all bodies in the Government, ought to be principled; we should think about the long-term—to dealing with this issue should convince us in the most stark way that this is not a path down which we should travel. This is not a way this Nation should go.

We should say no now and no to any other attempt to divide, balkanize or disrupt the unity of our Nation. We had a Civil War over that. The Presiding Officer is from South Carolina. I am from Alabama. That issue was settled in the 1860s. We don't need to go back to it.

It is important that we read the language of the Department of Justice and how they deal with it. It is very similar to strong language from the U.S. Civil Rights Commission that also voted to oppose this legislation.

The letter is to Majority Leader Bill Frist:

DEAR MR. LEADER: The Administration strongly opposes passage of S. 147. As noted recently by the U.S. Civil Rights Commission, this bill risks "further subdivid[ing] the American people into discrete subgroups accorded varying degrees of privilege." As the President has said, "we must honor the great American tradition of the melting pot, which has made us one nation out of many peoples." This bill would reverse that great American tradition and divide people by their race. Closely related to that policy concern, this bill raises the serious threshold constitutional issues that arise anytime legislation seeks to separate American citizens into race-related classifications rather than "according to [their] own merit[s] and essential qualities." Indeed, in the particular context of native Hawaiians, the Supreme Court and lower Federal courts have invalidated state legislation containing similar race-based qualifications for participation in government entities and programs.

While this legislation seeks to address this issue by affording federal tribal recognition to native Hawaiians, the Supreme Court has noted that whether native Hawaiians are eligible for tribal status is a "matter of dispute" and "of considerable moment and difficulty." Given the substantial historical, structural and cultural differences between native Hawaiians as a group and recognized federal Indian tribes, tribal recognition is inappropriate for native Hawaiians and would still raise difficult constitutional issues.

Sincerely,

WILLIAM E. MOSCHELLA,
Assistant Attorney General.

I am pleased the Department of Justice has given this letter to us. It represents an opinion of the agency of Government charged with justice. The Department of Justice is well aware of equal protection requirements. They are well aware of voting rights and the 15th amendment. They are well aware of all of the issues involving tribal questions. They have to deal with that on a regular basis. They understand this. This is part of what they do. The import of this letter is to say that the Native Hawaiians do not comply with tribal requirements. Indeed, a lawyer for the State of Hawaii has admitted as much in previous filings with the Supreme Court. It is not a tribal situation. It is a unique situation.

We are going to create under the bill, if the bill were to become law—hopefully, it will not, but I am troubled by the prospect of maybe even proceeding to this bill tomorrow. It is almost breathtaking to me that that would occur. But what we will see as we go forward is that we are talking about creating an entity, a sovereign entity which will be controlled by individuals who are given a right to vote. And their right to vote in this entity will be entirely contingent upon their race.

Indian tribes were different. Indian tribes were entities with long-established governing councils. They are native groups that have had centuries of cohesion. Many of them entered into treaties with the United States and they were given certain rights and privileges. But Hawaii came into the Union; 94 percent voted to come into the Union. They bragged and were quite proud of their melting pot reputation. They never suggested that they would later want to come back and have this sovereign entity be created. The reason it is fundamentally unfair is that there was a queen in Hawaii in the 1880s, but she did not preside over a tribe. She didn't preside over a racial group. She presided over the people in her territory of all races and entities. There were Asians, Irish, Filipinos, Chinese, and others that were there. They would not get to vote in this race-based government, even if they were there at the time she was queen. And she never pretended that she was presiding only over Native Hawaiians. Of course, I don't know how you could say a third-generation Irish or Chinese American or Japanese American who was in Hawaii, they are not a Native Hawaiian anyway, but that is the way they are defining this. There is only that certain racial group.

So these would not be able to participate, even though they were multigenerational residents of Hawaii at the time they became a State, at the time the queen's government was ended.

It is not the right thing to do. It would create a precedent of far-reaching implications and would jeopardize the unity and cohesion of our Government and would, for the first time, create a sovereign entity within the United States. You are not allowed to vote in it unless you belong a certain race.

It is a bad idea of great significance. We should not go down that road. I hope the Senate will not.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

CHICAGO SCHOOLS

Mr. President, in 1932, America had suffered through three grinding years of the Great Depression. Millions of Americans were out of work and out of hope. Many people feared that capitalism, as we knew it, and democracy had failed. Campaigning for President that year, Franklin Delano Roosevelt promised the American people bold, persistent experimentation to alleviate the crisis facing this Nation.

He said: It is commonsense to take a method and try it. If it fails, admit it frankly and try another. But above all, try something.

I have just finished a book by Jonathan Alter of Newsweek about the first 100 days of Franklin Roosevelt's Presidency. If there is one thing that really was the hallmark of that Presidency, it was Franklin Roosevelt's boldness, his willingness to try new ideas. He just wasn't going to give up on America. He believed that there was no crisis, no challenge we face that could not be overcome.

For the last 5 years, the Chicago public schools have been led by a team of visionary leaders who also believe in bold, persistent experimentation. Through their hard work and willingness to try to find new solutions, Chicago Public School Board President Michael Scott and Chicago public schools CEO Arne Duncan have helped transform Chicago's school system into a national model for public school reform.

This past weekend, Michael Scott, my friend, announced that he will be leaving his position as president of the Chicago public school board this summer. Earlier today I met with him and Arne Duncan in my office in the Capitol. I have every confidence that Chicago public schools will remain a national model for improvement under the leadership of Arne Duncan and whoever the next school board president may be. I look forward to updating the Senate in the future about Chicago's continued progress and our determination to truly leave no child behind.

Some may not remember, but former Secretary of Education William Bennett went to Chicago and pronounced that school district as the worst in America. That may have been an exaggeration at the time, but not by much. Some would have given up at that

point, and many cities have. But not the city of Chicago. They made a conscious decision to change that school system.

Mayor Daley, Paul Valles, Arne Duncan, Michael Scott, and Gary Chico, these were all names of leaders who stepped up, with many professionals giving them support, and accepted the challenge to turn that school district around.

Let me speak about Michael Scott in particular. His service has meant so much to the Chicago public schools, to the city of Chicago, and I believe, with his example, to the Nation. Michael Scott grew up on the west side of Chicago, the Lawndale neighborhood. He didn't train himself to be an educator. He went to Fordham University in New York where he earned a degree in urban planning. He moved back to the west side after his college years.

He started in Chicago politics as a housing activist in the same Lawndale neighborhood where he was born and raised. In the tumultuous time he lived, Michael Scott stood out as a consensus builder. Eventually he served under three different Chicago mayors: Jane Byrne, Harold Washington, and Richard Daley. Five years ago tomorrow, Mayor Daley tapped Michael Scott as the first member of a new team charged with the daunting mission of keeping Chicago public schools a national model for reform.

At the time he was a successful businessman and executive of AT&T. When Michael Scott's appointment was announced, he said: This is not about me; it's about the children.

For the past 5 years, Michael Scott has kept his word. Listen to these statistics, if you want to understand how far the Chicago public schools have advanced due to the hard work of the people I mentioned earlier and Michael Scott.

In 1992, nearly half of Chicago's elementary schoolchildren tested in the lowest 20 percent in reading and math compared to other students across America. Now fast forward 12 years to 2004. Less than 25 percent of Chicago's students tested in the bottom 20 percent and student performance has improved since 2004. That is real progress, real progress against great challenges. Michael Scott believes that parents are the children's first and best teachers, and he has worked hard to make parents active partners in the education of their children.

An annual 2-day conference that he personally founded, entitled ''The Power of Parents Conference,'' has been attended by more than 4,000 Chicago parents since 2002. The belief that every child in every neighborhood has the right to attend a good public school, along with a commitment to bold persistent experimentation, are the foundation of Mayor Daley's Renaissance 2010 School Improvement Plan.

Under that plan and with the leadership of Mayor Daley, Michael Scott and Arne Duncan, Chicago has pushed to replace approximately 207 underperforming schools with 100 new innovative schools, including charter and small schools.

Michael Scott is a product of the Chicago public school system himself. Michael brought an unusually broad range of experience to his job as one of the leaders of that system. His resume includes work in community advocacy, corporate management, urban development, and local government administration. He built new partnerships with all of those worlds to help improve Chicago's public schools.

In 2003, the Chicago public school system established the privately funded Chicago board of education textbook scholarship program. The program awards a $1,000 scholarship to one graduating student from each of the city's 85 public high schools. The scholarships are funded by private business, many of which donated money on the spot when they heard Michael Scott make his appeal to fund this program.

Also under Michael Scott's leadership, Chicago public schools established a new office of business diversity to help Chicago's minority and women-owned businesses navigate the system's complex bidding process and ensure that they can compete fairly for contracts.

While student scores have gone up, spending in some areas has gone down, thanks to the improved fiscal management in the public schools. One example: By restructuring the transportation system, Chicago public schools saved $14 million—$14 million more that can be spent to teach the kids.

Under Michael Scott's leadership, the bond rating for the Chicago public schools was upgraded from A to A-plus, which will produce even more savings for taxpayers and more funds for the kids. Someone once said that the real test of faith in the future is to plant a tree. Before signing on as school board president, Michael Scott served as president of the Chicago Park District. In that job, he saw that plenty of trees were planted. He strengthened the park district's finances, which is widely accredited with making neighborhood parks one of the best features of one of the best cities in America.

As board president of Chicago public schools, Michael Scott helped plant something even more important to our future than trees. He helped plant the seeds of knowledge in the minds of tens of thousands of young people. Together with Chicago students, parents, educators, and business and community and political leaders, he has produced a model for public school improvement from which all of America can learn.

While Chicago public schools will miss his leadership, they and the children who depend on him will continue to benefit for years from Michael Scott's outstanding public service these past 5 years.

In closing, I will quote from an editorial that appeared in the Chicago Defender newspaper on April 28, 2003, about a third of the way through Michael Scott's tenure. The editorial was entitled ''Successful students will be Scott's, Duncan's Monument.''

> Michael Scott and Arne Duncan are monument makers. Not in the usual sense—the one that explains the ancient pleasure taken by politicians who create structures commemorating something that's a recreation of their self image.
>
> Nor in the sense that Mesopotamia's Nebuchadnezzar built Babylon's Hanging Gardens in the sixth century B.C., one of the seven wonders of the world. Nor in the sense that his successor Saddam Hussein erected bronze statues of himself, monuments that came tumbling down recently with a noticeably historic thump.
>
> Scott, President of the Chicago Board of Education, and his chief executive, Arne Duncan, are building neither stone nor bronze images.
>
> The two educators are building a human monument that will rise and flourish in the term of educated, productive graduates of Chicago's public schools. . . . Future students will thrive in each newly renovated school. . . . That will be Scott's and Duncan's monument.

As Michael Scott's tenure closes at the Chicago public school system, I want to acknowledge the fine contribution he made with his public service, both in the park district and the Chicago public schools. He is such a talented man that he has brought his talent and given his time to help others time and time again. That is the true definition of public service.

I wish Michael the very best in his next endeavor. I am sure it will include not only the private sector, but also a public commitment because he is a person who believes that is part of our civic responsibility. I thank him for all of his leadership in the Chicago public school system, and I wish him and his family the very best in the years to come.

ESTATE TAX

Mr. President, at this moment in history, we are considering the estate tax. It is one of the many taxes that Americans face. Some have characterized it, with a very effective public relations campaign, as the ''death tax.'' They have been so good at describing it as a death tax as to convince many people across America that when you die, you pay a tax to your Federal Government. And unless you have been through a death in the family that you followed closely, you might be misled into believing that.

In fact, the public relations campaign has been so good in characterizing the Federal estate tax as a death tax that I had an experience a couple years ago that I shared with my colleagues in the Senate. I drove out to Chicago O'Hare to take a flight to Washington. I stopped at the sidewalk there, United Airlines, and handed over a bag to be checked in. The person checking my bag took a look at me and looked at the bag and said, ''Senator, please, if you don't do anything else, get rid of the death tax.'' I didn't have the heart to tell that baggage handler that unless he won the Powerball or the Mega-

million lottery soon, he would not have to worry about it because, you see, the so-called death tax is an estate tax that is paid by 2 or 3 out of every 1,000 people who die in America each year. That is .2 or .3 percent of the people who die in America pay the tax. It is a very narrowly gauged and narrowly directed tax to the wealthiest people in America.

If you listen to the argument by the Republicans on the floor of the Senate, you think that this is an onerous, unfair tax, borne by some of the most deserving, hard-working, common people in this country, who struggle day to day to get by, and then find after they have passed away that the greedy hands of Government reach into their estate and yanks thousands of dollars out of it. That is not even close to reality. So we are actually going to debate on the floor of the Senate the notion that we need to, if not repeal, virtually repeal the estate tax in America.

It is interesting to note that this estate tax is one that affects very few. It is also interesting to note the context of this debate. This was supposed to come up about 9 months ago. We were supposed to repeal the estate tax on the wealthiest people in America, but then God intervened. Hurricane Katrina struck the Gulf coast. For 24 hours, we watched on live television as our neighbors, fellow Americans, suffered. Some died, some drowned. Many were perched on their roofs praying to be rescued. Then we saw the devastation of the flood.

The sponsors of this estate tax repeal decided this may not be the best moment to cut taxes on the wealthiest in America. Senator CHUCK GRASSLEY of Iowa, a man I greatly respect, said as follows on September 14 of last year:

> It's a little unseemly to be talking about eliminating the estate tax at a time when people are suffering.

Senator GRASSLEY was right. But I say to him that it is still a little unseemly to bring up this issue of eliminating the estate tax on the wealthiest people in America when so many people are still suffering around this country. We know what is happening in New Orleans, that devastation still has been unaddressed and people are still out of their homes, hospitals are unopened, schools are unopened, and families are still separated from communities and neighborhoods that they called home. It is still there.

Senator GRASSLEY's point is still there as well. It is unseemly for us to be reducing the revenues of this country by cutting taxes on the wealthiest people at a time when there is so much need.

People ask, what could we do with this estate tax? If you took the revenues that we will be taking out of the Federal Treasury by this reduction in the estate tax, here is what you could do with those revenues: You could provide health insurance for every uninsured child in America and have enough left over to give them full college scholarships or give every family in America a $500 tax cut or eliminate 75 percent of the shortfall in Social Security, thus buying years of longevity and stability for Social Security, or provide clean food and water to the 800 million people on Earth who lack it or pay for the war in Iraq for the next 10 years.

It is not an insignificant amount of money that we are talking about here. The elimination of the estate tax would take from the Federal Treasury funds which could have been used for tax relief for working families. Instead, this Republican proposal is to give a tax cut to the wealthiest people in America.

How many people pay this estate tax? This pie chart tells it all. In 2009, only .2 percent of estates in America will be subject to the tax. Two or, at most, 3 out of every 1,000 people who die will pay any estate tax whatsoever. And now the Republican leadership has decided these people need a break.

Senator LAUTENBERG of New Jersey decided to find out how repealing the estate tax would affect three people. The first one was the Vice President. Under this proposed estate tax cut from the Republican side, it means more than $12 million in Federal tax liability will be eliminated for the Vice President. And then Paris Hilton, with her little Chihuahua there, it is $14 million for her. Lee Raymond, former CEO of Exxon, a man who was given a $400 million going-away gift at his retirement by ExxonMobil—well, the repeal of the estate tax gives Mr. Raymond another going-away gift of $164 million in tax breaks.

These are truly deserving people, don't get me wrong. When I look at Ms. Hilton, who looks like a lovely young lady, I can see how this $14 million could have a significant positive impact on her otherwise very spare and Spartan lifestyle.

You wonder how in good conscience we can be debating tax cuts for the wealthiest people in America when there are so many things, so many compelling reasons for us to be more serious about in the work that we do in the Senate. This effort reflects the same twisted priorities that the Republican leadership continues to bring to the floor of the Senate.

We just have spent—wasted, I might add—the better part of the week of the Senate's time on the so-called marriage protection amendment. It was called for a vote after all sorts of fanfare and announcements from the White House, and the final vote was 49-to-48. This proposal for a constitutional amendment didn't even win a majority of the Senators voting; only 49 voted for it. It certainly didn't come up with the 60 votes it needed to move forward in debate. It wasn't even close to the 67 votes that are needed to enact it.

Why did we waste our time? Because the Republican leadership in the Senate knew that for political reasons they had to appeal to those folks who believe this is a critically important issue. They want to fire them up for the next election. Even though the American people, when asked, said that this so-called gay marriage amendment ranked 33rd on their list of priorities, they had to move it forward.

Now comes another plank in their platform for the November election, the estate tax. The wealthiest people in America are pushing hard for this estate tax. This morning, the Wall Street Journal printed an article that said that 18 families—listen closely—18 families in the United States of America have spent $200 million lobbying to pass this change in the estate tax—18 families.

Ask yourself why. Why would they spend $200 million? Because they will earn a lot more if this estate tax is repealed. But the cost of the estate tax is dramatic in terms of America's debts. If we repeal the estate tax, we will have $776 billion as the cost of the estate tax repeal in the first 10-year period fully in effect from 2012 to 2021. The cost of the estate tax repeal explodes under the proposal that is before us, meaning, of course, this red ink is more debt for America.

Already we are facing a dramatically deteriorating budget picture in America. Go back to the close of the previous administration, which shows a $128-billion surplus under President Clinton as he left office, and then look at the debt that has been built up under the years of the Bush administration, a debt that will explode even higher with the repeal of the estate tax on the wealthiest people in America, a debt which, unfortunately, we will have to pass on to our children.

Look at the wall of debt. When President Bush took office, the gross national debt of America—this is our mortgage I am talking about—was $5.8 trillion. Now, by 2006, it is up to $8.6 trillion. How did he manage that, almost a 50-percent increase in the debt of America in a matter of 5 years? And now look where it is headed. By the year 2011, because of the Bush-Cheney tax policies, this national debt will be up to $11.8 trillion—$11.8 trillion for our national mortgage. This President has virtually doubled the debt of America with his policies in a matter of 8 years. How can he accomplish this? He can do it with terrible policies, and this is one of them.

President George W. Bush is the first President in the history of the United States of America to cut taxes in the midst of a war—the first. Why? It defies common sense. We have a war that costs us between $2 billion and $3 billion a week. It is an expense for our Nation over and above all the other expenses we commonly face.

Every previous President, when faced with that challenge, has called on Americans to sacrifice, save, and pay more in taxes to pay for the war, but not President Bush. The Bush-Cheney

policy is, in the midst of a war with skyrocketing costs, cut taxes—meaning, of course, driving us deeper and deeper into debt, pushing more of that debt burden on our children.

This is not a tax cut which the Republicans are proposing, it is a tax deferral. They want to cut the taxes on the wealthiest estates in America and put a greater tax burden on our children and grandchildren. That is the legacy of the Bush-Cheney tax policy.

But how does this President take care of the debt? First consider this: As Senator CONRAD has brought this chart to the floor before, President Bush has decided that the way to deal with our debt is to borrow from others. President Bush has more than doubled foreign-held debt in 5 years. It took 42 Presidents, including his father, 224 years to build up the same level of foreign-held debt as President George W. Bush has done in 5 years. For 224 years, we had about $1 trillion in debt held by foreign governments. Under President George W. Bush, that figure has virtually doubled in just 5 years.

The obvious question is, Who are these mortgage holders? Which foreign governments are financing America's debt? The top 10 foreign holders of our national debt are Japan, $640 billion, China—no surprise—$321 billion, United Kingdom, oil exporters, South Korea, Taiwan, Caribbean banking centers, Hong Kong, Germany, Mexico, and the list goes on and on.

It is no surprise that the same countries, which are our mortgagers, which are holding the debt of America, are the same countries which are eating our lunch when it comes to sucking jobs out of the United States and pushing imports into the United States. They are the same countries. That is what we are dealing with. And the Republican recipe for this imbalance in this debt is to make it worse: Cut the estate tax in the midst of a war. It is not only unseemly, going back to Senator GRASSLEY's quote, it is unthinkable that at a time when we are asking for so much sacrifice from our soldiers—130,000 of them today risking their lives in Iraq, another 20,000 or 30,000 in Afghanistan, all their families at home praying for their safe return, the anxiety of their friends and relatives as they worry over them each day—at a time when so many in America are giving so much and sacrificing so much, comes the Republican majority and says: Let us give the most comfortable, the most well-off people with the cushiest lives in America a tax break—a tax break.

What are we thinking? Why would we be cutting taxes in the midst of a war? Why would we be heaping debt on our children? Why? So that 2 or 3 people out of every 1,000 who have huge estates worth millions of dollars can escape paying their Federal taxes. It is incredible to me, but true, that when you look at this chart, the number of taxable estates in the year 2000 was 50,000 nationwide. Under this bill, the number of taxable estates has gone down to 13,000 and will be reduced to 7,000. So this tax responsibility that once applied to 50,000 taxable estates annually in the United States will be a tiny fraction of that when it is over.

We also have to reflect on another reality as to why this issue is before us. I mentioned this to my Democratic colleagues, and I say this with some understanding that it is an indictment on our political system, of which I am a part. Why is it that we are so focused on helping the wealthiest people in America instead of focused on helping the hardest working, the working families, the middle-income families? The explanation is sad but true. We spend a lot of our time as Members of the Senate and House of Representatives in the company of very wealthy people. We run across them in the ordinary course of Senate business, but there is another part of our lives as well. We are out raising money for political campaigns that cost millions of dollars. People who can afford to help us are often very wealthy themselves. Some are very wonderful folks, very generous, very helpful to each one of us. But we spend a lot of time in their lifestyle seeing where they live, how they spend their time, understanding their hobbies and their lifestyles and naturally developing a friendship and empathy with the wealthiest people in America.

Our campaign financing system draws us into these situations. It is understandable that with this empathy comes an understanding that some of them are going to face taxes when they die for all the money and the wealth they have accumulated. Their pleas have not fallen on deaf ears in the Senate. Their pleas to repeal the estate tax have resulted in this bill before us now.

I think it really is a testament to campaign financing in America that instead of spending time with average people, working people struggling to get by, dealing with their issues and their concerns, we would instead draw the attention of the Senate to the most well-off people in this country and how we can reduce their tax burden and their responsibility to this Nation.

There are a few wealthy people who stand out in this debate. One of them is a gentleman by the name of Warren Buffett who is with Berkshire Hathaway, a company out of Omaha, NE, one of my favorite wealthy people, the second wealthiest person in America. He is the first to say our tax system in this debate is an outrage and disgraceful. He said at a luncheon he attended not long ago that it is true that America is engaged in class warfare, and as the second wealthiest person in America, his class was winning. It is pretty clear he is doing pretty well.

But Warren Buffett understands something which many of the families that are pushing for this estate tax repeal don't understand. He understands he is the luckiest person alive because he was born in America. He was given an opportunity people around this world people would die for. He was given the opportunity to prove himself and succeed, and he has done it. He was given a chance to accumulate his wealth and use it wisely, and he is now given a chance to pay back to this country, which has given him such a great opportunity, something for all he has benefited. And Warren Buffett considers that a pretty fair trade. I think it is, too.

To hear the Republicans on the other side of the aisle say the wealthiest people in America who live the most comfortable lives should be asked to not pay taxes back to support schools, to support health care, to support the defense of our country, to say that somehow they need more disposable income—$14 million for Paris Hilton, I can understand that—from the Republican point of view, that is really helping the truly needy. But from the point of view of most Americans, it is ridiculous that we would consider this kind of a tax cut at a time when this country is facing mounting deficits, at a time when we are at war, at a time when we are asking so much sacrifice from so many wonderful American families.

So, Mr. President, I am opposed to this resolution. I hope we come to our senses. I hope we understand that we were elected to this body to do more than just provide for those with great lobbyists and those with big bankrolls and those who come here in the corridors of power and catch our attention. We were elected to represent the people who are not here—the voiceless, the powerless, the disenfranchised, the homeless. The people expect us to step up on behalf of the entire American family, not just those who are well off but the entire American family, and do our best to help.

I hope we defeat this effort. I hope we stop it in its tracks. I hope we put an end to this tax policy of the Bush-Cheney administration which has driven America to depths of indebtedness that one could never have imagined. I hope we will put an end to this accumulation of national debt which we are passing along to our children with abandon. I hope we will put an end to this foreign borrowing with which this administration has become so enamored which has made us servile to some of the other nations around the world that would readily exploit our economy, our businesses, and our workers.

If we are going to do that, we have to make a stand—a stand for sensible tax policy, a stand for prudence, a stand for something which was once known as fiscal conservatism—fiscal conservatism. It is a great concept. It used to be the concept of the Republican Party, but that was before they discovered supply-side economics and this whole concept of the Bush-Cheney tax policy.

I urge my colleagues, when this comes up for a vote tomorrow, to vote

against cloture, vote against this giveaway to a handful of families that are already doing quite well, thank you.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

ORDER OF PROCEDURE

Mr. SESSIONS. Mr. President, on behalf of the majority leader, I ask unanimous consent that immediately following the leader's remarks on Thursday morning, the Senate resume the motion to proceed to H.R. 8, regarding the death tax. I further ask unanimous consent that there be 1 hour equally divided between the two leaders or their designees for debate, with 10 minutes of the minority time reserved for Senator DURBIN and 10 minutes reserved for Senator DORGAN prior to the vote on invoking cloture on the motion to proceed; provided further that the last 20 minutes be reserved for the Democratic leader to be followed by the majority leader. I further ask unanimous consent that regardless of the outcome of that vote, Senators ROBERTS and CLINTON be recognized to speak as in morning business for up to 25 minutes equally divided. I further ask unanimous consent that following that debate, the time until 12:45 p.m. be equally divided again between the two leaders or their designees, with a vote on invoking cloture on the motion to proceed to S. 147 occurring at 12:45 p.m. on Thursday; provided further that if cloture is not invoked on both of the motions to proceed, the Senate then proceed to executive session for consideration en bloc of the following nominations on the Executive Calendar: No. 627, Noel Hillman, U.S. District Judge for New Jersey; No. 628, Peter Sheridan, U.S. District Judge for New Jersey; No. 633, Thomas Ludington, U.S. District Judge for the Eastern District of Michigan; No. 634, Sean Cox, U.S. District Judge for the Eastern District of Michigan; provided there be 10 minutes of debate for each of the Senators from New Jersey, 10 minutes for Senator STABENOW, and 10 minutes each for the chairman and ranking member. Following the use or yielding back of time, I ask that the Senate proceed to consecutive votes on the nominations as listed; however, no earlier than 2 p.m.

I further ask unanimous consent that following those votes, the Senate proceed to the consideration of Executive Calendar No. 663, Susan C. Schwab, to be the United States Trade Representative. I further ask unanimous consent there be 30 minutes for Senator DORGAN, 15 minutes for Senator CONRAD, 10 minutes for Senator BAUCUS, 30 minutes for the chairman. I further ask unanimous consent that following the use or yielding back of time, the Senate proceed to a vote on the confirmation of the nomination, with no intervening action or debate; finally, I ask unanimous consent that following that vote the President be immediately notified of all of the Senate's previous action and the Senate resume legislative session.

I further ask unanimous consent that if cloture has been invoked on the motion to proceed to H.R. 8, the Senate resume debate at this time with all time consumed to this point counting against cloture and the bill not be displaced upon the adoption of that motion if cloture is invoked on a motion to proceed to S. 147. If cloture is invoked on the motion to proceed to S. 147, then the Senate begin consideration of that under the provisions of rule XXII upon the disposition of H.R. 8.

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

EXECUTIVE SESSION

NOMINATION OF RICHARD STICKLER TO BE ASSISTANT SECRETARY OF LABOR FOR MINE SAFETY AND HEALTH

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to executive session for the consideration of Executive Calendar No. 553, Richard Stickler.

The PRESIDING OFFICER. The nomination will be stated.

The assistant legislative clerk read the nomination of Richard Stickler, of West Virginia, to be Assistant Secretary of Labor for Mine Safety and Health.

CLOTURE MOTION

Mr. SESSIONS. Mr. President, the nomination has been held up since March 8 when it was reported by the HELP Committee. Therefore, I now send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 553, the nomination of Richard Stickler, of West Virginia, to be Assistant Secretary of Labor for Mine Safety and Health.

Bill Frist, Michael B. Enzi, Judd Gregg, Elizabeth Dole, Sam Brownback, Rick Santorum, Chuck Grassley, John McCain, David Vitter, Jim DeMint, Jim Bunning, Norm Coleman, Richard Shelby, Thad Cochran, John Cornyn, Orrin Hatch, Kay Bailey Hutchison.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the mandatory quorum be waived.

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

LEGISLATIVE SESSION

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate return to legislative session.

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

MORNING BUSINESS

Mr. SESSIONS. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

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

Mr. DURBIN. Mr. President, today is National Hunger Awareness Day, and I rise to recognize the importance of ending domestic hunger.

Domestic hunger has affected the lives of more than 38 million people in the United States annually. This includes over 14 million children who live below the poverty line.

The face of hunger is diverse. In Illinois, one in every ten people is food insecure. Homeless people are often hunger, but so are single mothers working two jobs to make ends meet. So are our senior citizens whose income does not allow them to eat adequately.

In Chicago, only 9 percent of the half-million people who seek services from the Chicago Food Depository are homeless. Many people simply cannot afford the food they need and often seek emergency food programs.

How can this happen in a country as privileged as ours?

Remember that 37 million Americans are living in poverty.

Many low-income families are supported by jobs that do not pay livable wages.

It could be that paying the health care or housing bills is more than they can manage.

America's Second Harvest released a National Hunger Study showing that in Chicago, 41 percent of households neglect their food budget to cover utility costs.

It may be a combination of factors, but the food budget is often the first thing they cut.

Today, we celebrate and commend the heroic efforts of emergency food banks, soup kitchens, school meal programs and community pantries working to ease the pain of hunger.

Federal nutrition programs work, but they are not reaching enough homes. Many parents are still skipping meals so their children can eat.

Hunger drains the strength of people who, for a variety of reasons, are unable to provide enough food or the right kinds of food for themselves or their families. In a land of abundance, this kind of sacrifice is as deplorable as it is unnecessary.

We should end hunger in the United States and, working together, we can.

Mrs. DOLE. Mr. President, for the past 3 years I have come to the Senate floor on National Hunger Awareness Day to help raise concerns about the far too prevalent problem of hunger, both here in the United States and around the world. In fact, as a freshman Senator, I delivered my maiden speech on this topic and have since made it one of my top priorities in the Senate. Two years ago on Hunger Awareness Day, Senators SMITH, DURBIN, LINCOLN, and I launched the Senate Hunger Caucus, with the express

purpose of providing a forum for Senators and staff to focus on national and international hunger and food insecurity issues. Today we have 37 Members dedicated to this cause. I have stated repeatedly that the battle against hunger can't be won in a matter of months or even a few years, but it is a victory that we can certainly claim if we continue to make the issue a top priority.

It is truly astounding that 34 million of our fellow citizens go hungry or are living on the edge of hunger each and every day. In my home State of North Carolina, nearly 1 million of—our 8.6 million residents are dealing with hunger. Our state has faced significant economic hardship over the last few years, as once-thriving towns have been hit hard by the closing of textile mills and furniture factories. I know this story is not unlike so many others across the Nation. While many who have lost manufacturing jobs have been fortunate to find new employment in the changing climate of today's workforce, unfortunately having a steady income these days doesn't always guarantee a family three square meals a day.

Our Nation is blessed to have many faith-based and other nonprofit service organizations that seek to address this need. Feeding the hungry is their mission field—groups such as the Society of St. Andrew, the only comprehensive program in North Carolina that gleans available produce from farms, and then packages, processes and transports excess food to feed the hungry. In 2005, the Society gleaned nearly 7.2 million pounds of food—or 21.5 million servings—just in North Carolina. Amazingly, it only costs about 2 cents a serving to glean and deliver this food to those in need. And all of this work is done by the hands of 13,000 volunteers and a tiny staff.

The Society of St. Andrew has operations in 21 other States, and just last year, the organization saved 29.5 million pounds of fresh, nutritious produce and delivered 88.6 million servings to hungry families in the 48 contiguous States.

We should be utilizing the practice of gleaning much more extensively today—considering that 96 billion pounds of good food—including that at the farm and retail level—is left over or thrown away in this country each year.

Like any humanitarian endeavor, the gleaning system works because of cooperative efforts. Private organizations and individuals are doing a great job—but they are doing so with limited resources. It is up to us to make some changes on the public side and assist in leveraging scarce dollars to help feed the hungry.

One of the single biggest concerns for gleaners is transportation—how to actually get the food to those who need it. I am proud to say that with the help of organizations like the American Trucking Association, America's Second Harvest, and the Society of St. Andrew, we are taking steps to ease that concern. Last year, I reintroduced legislation, S. 283, which would change the Tax Code to give transportation companies incentives for volunteering trucks to transfer gleaned food.

I am also proud to be an original cosponsor of S. 1885, the so-called FEED Act, with my colleagues Senators LAUTENBERG and LINCOLN. The basic idea behind this legislation is simple: Combine food rescue with job training programs, thus teaching unemployed and homeless adults the skills needed to work in the food service industry.

It is astonishing that each year, approximately 20 percent of the food produced in this country never even reaches a consumer's table. With support from the FEED Act, community kitchens across our Nation have the potential to make good use of this food and to serve more than 2 million meals to those in need each year. In Charlotte, NC, the Community Culinary School is already recruiting students from social service agencies, homeless shelters, halfway houses and work release programs who rescue food from restaurants, grocers and wholesalers and then prepare nutritious meals, while receiving training for jobs in the food service industry.

Hunger also affects far too many children in our Nation. In fact, an estimated 13 million children in America are dealing with hunger. This is a travesty that can and must be prevented. As we know, when children are hungry they can not learn, but the obvious way to ensure that these children have a hot meal—and therefore the potential to do well in school—is through the National School Lunch Program. It feeds more than 28 million children in 100,000 schools each day. While the program provides reduced price meals to students whose family income is below 130 percent of the poverty level, State and local school boards have informed me that many families struggle to pay this fee, and for some families, the fee is an insurmountable barrier to participation. That's why I am a strong supporter of legislation to eliminate the reduced price fee for these families and to harmonize the free income guideline with the WIC income guideline, which is 185 percent poverty.

I am very proud that a five State pilot program to eliminate the reduced price fee was included in the reauthorization of Child Nutrition and WIC in 2004. And this year, 13 of my colleagues, including the chairman and ranking member of the Senate Agriculture Committee, have joined me to encourage the Appropriations Committee to include funding for this pilot program. I look forward to working with them on this important issue that truly has the potential to alleviate hunger for many American children and to help ensure their success in school.

In closing, I implore our friends on both sides of the aisle—as well as the good people throughout our great country—to join us in this heartfelt mission—this grassroots network of compassion that transcends political ideology and provides hope and security not only for those in need today—but for future generations as well.

HONORING OUR ARMED FORCES

MARINE CORPORAL CORY L. PALMER

Mr. CARPER. Mr. President, I would like to set aside a few moments today to reflect on the life of Marine Cpl Cory L. Palmer. Cory epitomized the best of our country's brave men and women who have fought to free Iraq and to secure a new democracy in the Middle East. He exhibited unwavering courage, selfless devotion to his country, and above all else, honor. In the way he lived his life—and how we remember him—Cory reminds each of us how good we can be.

Cory was born to Charles and Danna Palmer on May 10, 1984. He was the youngest of three sons. After graduating from Seaford High School in 2002, Cory studied computer engineering at West Virginia University for one semester and then decided to join the Marine Corps. Friends, family, and school officials recalled Cory Palmer as courageous yet humble, fun-loving and adventurous, an all-around good person. He viewed the Marine Corps as an opportunity to gain life experience and as a way to serve his country.

Cory was proud to be a member of the Marine Corps 2nd Recon Battalion, A Company, 1st Platoon. After his initial recruit training at Parris Island, Cory underwent marine combat training at Camp Geiger, located in North Carolina. He excelled in all of his military training and graduated from sniper school, advanced sniper school, jump school, combatant dive school and special survival training school. For his dutiful service, Cory had been awarded the Good Conduct Medal, the National Defense Service Medal, the Sea Service Deployment Ribbon, the Global War on Terror Service Medal, the Global War on Terrorism Expeditionary Medal, the Iraqi Campaign Medal, and the Combat Action Medal.

Cory was on his second deployment in Iraq. His death was caused by injuries sustained when the humvee he was riding in was hit by an explosive device near Fallujah.

Cory was a remarkable and well-respected young soldier. His friends and family remember him as a kind-hearted and mischievous young man who loved the outdoors. Cory was an avid sportsman and explorer who had planned on going hiking and fishing with his two older brothers, Thad and Kyle, upon his return. Cory also had a softer side that he wasn't afraid to show. He served as a mentor and role model to his friends and even took the time to hand-make gifts for his family.

As a youngster, Cory came to the Governor's Fall Festival in Dover that I hosted as Governor and ran with many of us in the 5-kilometer race that kicked off the festival every year.

When I visited Cory's family in their Seaford home a little more than a week ago, they shared with me a photo of Cory running in one of those races a decade before his tragic death.

I rise today to commemorate Cory, to celebrate his life, and to offer his family our support and our deepest sympathy on their tragic loss.

STAFF SERGEANT CURTIS HAINES

Mr. PRYOR. Mr. President, it is with the greatest pleasure that I rise today to honor SSG Curtis Haines of Hope, AR. He is a member of the Arkansas Army National Guard's Company A, 1–153rd Infantry of the 39th Brigade Combat Team based in Prescott, AR. For his heroic service in Iraq, Staff Sergeant Haines was recently presented the Soldier's Medal for Bravery at a ceremony in the Prescott High School auditorium.

On May 6, 2004, at a military checkpoint in Baghdad, a car bomb explosion occurred. An Iraqi citizen was seriously injured, on fire, and trapped in a burning vehicle. Without regard for his own safety, Staff Sergeant Haines rescued the man from his vehicle, carried him to safety, and administered medical aid. Because of his heroic actions, Staff Sergeant Haines ultimately saved the man's life.

Mr. President, I ask my colleagues to join me in congratulating Staff Sergeant Haines on receiving this well-deserved honor. Also, please join me in thanking all of our brave men and women in uniform for their service. They risk their lives every day to protect our freedoms and deserve our respect and support for the sacrifices they have made and continue to make for our country.

PRIVATE FIRST CLASS NICHOLAS R. COURNOYER

Mr. GREGG. Mr. President, I rise today to pay tribute to U.S. Army PFC Nicholas R. Cournoyer of Gilmanton, NH, for his service and his supreme sacrifice for his country.

Nicholas, also called Nick by family and friends, grew up in Gilmanton and was a graduate of the Guilford High School class of 2000. On January 22, 2005, he answered a call to serve our country during these tense and turbulent times by enlisting in the U.S. Army. He was sent to Fort Benning, GA where as a member of an infantry training battalion he successfully completed Infantry One Station Unit Training, which combines in one location basic training with advanced individual training. Upon graduation, he left for assignment in June 2005 with the 2nd Battalion, 22nd Infantry Regiment, 1st Brigade Combat Team, 10th Mountain Division, Light Infantry, Fort Drum, NY, where he served as an infantryman. On August 11, 2005, he deployed with his unit to Iraq in support of Operation Iraqi Freedom.

Tragically, on May 18, 2006, this brave 25-year-old soldier was killed in action along with three of his comrades and an interpreter when an improvised explosive device explosion detonated near their military vehicle during combat operations in the vicinity of Baghdad in Iraq. His awards and decorations include the Bronze Star Medal, Purple Heart, Army Achievement Medal, Army Good Conduct Medal, Iraq Campaign Medal, Global War on Terrorism Service Medal, Army Service Ribbon, Overseas Service Ribbon, Combat Infantryman Badge, and Weapons Qualification Badge.

Patriots from the State of New Hampshire have served our Nation with honor and distinction from Bunker Hill to Baghdad—and Nick served in that—fine tradition. Daniel Webster said, ''God grants liberty only to those who love it, and are always ready to guard and defend it.'' Nick was a courageous and dedicated volunteer who loved his family and his country and was proud of being a soldier. He served honorably doing the job he wanted to do. This generous, fun-loving young man had a big heart and understood that the freedoms and opportunities provided by this Nation need continuous defense and that they are among the most precious gifts he can give to his family and loved ones.

My heartfelt sympathy, condolences, and prayers go out to Nick's parents, Denis and Lenda, his sister Natalie, and his family and friends who have suffered this grievous loss. Because of his devotion and sense of duty, the safety and liberty of each and every American is more secure. May God bless PFC Nicholas Cournoyer.

WEIGHT GAIN PREVENTION IN CHILDREN

Mr. DEWINE. Mr. President, one of my great passions as a Senator has been advocating for children and advancing initiatives that improve their health and welfare. I wish to share with my colleagues the results of a new study, funded in part by the National Institutes of Health, which reports on two simple steps that can be taken to counter a serious health crisis among America's youth.

The crisis is obesity among all ages and most seriously among children. The Journal of the American Medical Association reported last month that one-third of all children in the United States are either overweight or dangerously close to becoming so and, as a result, are at increased risk of becoming obese adults and developing diabetes and other health problems.

A new ''America on the Move Family Study,'' presented at the Pediatric Academic Societies Meeting, April 30, 2006, provides the first clinical evidence that overweight children can effectively prevent additional weight gain by making small changes to their daily lifestyle. The study was conducted by the University of Colorado at Denver and Health Sciences Center, the primary research arm for America On the Move Foundation, a national nonprofit dedicated to helping individuals and communities across the country improve health and quality of life. This study was designed to evaluate whether overweight children could reduce their risk of gaining additional weight through a combination of increasing physical activity and eliminating 100 calories a day from their diet.

In the study, investigators randomized 216 families with at least 1 overweight child to either a lifestyle intervention group or a control group. Families in the intervention group were asked to eliminate 100 calories a day from their diet by emphasizing a reduction of dietary sugar and an increase in physical activity by 2,000 steps daily. Families in the control groups were asked to monitor their diet and exercise levels. After 6 months, significantly more overweight children in the intervention group maintained or reduced their percent body mass index, BMI, compared to the self-monitoring group, 67 percent versus 53 percent.

The results of this study are striking. By taking two simple, common sense steps—engaging in more physical activity and reducing caloric intake by small amounts—families can help their children control weight gain and reduce obesity. Such steps can have an enormous impact on their health. I applaud this study for bringing this important message to the public's attention.

REDUCE KIDS' ACCESS TO GUNS

Mr. LEVIN. Mr. President, researchers from the Centers for Disease Control and Prevention estimate that 1.69 million children in the United States live in households where firearms are kept unlocked and loaded. Tragically but not coincidentally, guns kill an average of nearly eight children and teenagers each day. In addition, the Children's Defense Fund estimates that at least four times as many are injured in nonfatal shootings. The vast majority of these shootings could be prevented if safe gun storage practices were more widely used.

Some parents believe that simply educating their children about the dangers posed by firearms is enough to keep them safe. Unfortunately, this is not the case. A new study shows that parents who keep guns in their home may have dangerous misperceptions about their child's familiarity with and access to guns.

The study, which was conducted by researchers from Harvard University and the San Francisco General Hospital, compared interview responses from 201 families who have guns in their homes. For each set of interviews, children were questioned separately from their parents. More than 70 percent of the children interviewed for the study said that they knew where to find a gun in their home. Surprisingly, 39 percent of the parents who said their children did not know the storage location of their firearms were contradicted by their children. Additionally, 22 percent of the parents who said their children had not handled their guns

were contradicted by their children. These discrepancies are troubling and indicate that simply trying to hide the location of firearms in the home is not enough to adequately protect children from injuring themselves or others with a gun.

According to recent published reports, an estimated 35 percent of homes nationwide include guns. Common sense tells us that when guns and ammunition are secured, the risk of children injuring or killing themselves or others with a gun is significantly reduced. Last year, a study published in the Journal of the American Medical Association found that the risk of unintentional shooting or suicide by minors using a gun is reduced by as much as 61 percent when ammunition in the home is locked up. Simply storing ammunition separately from the gun reduces such occurrences by more than 50 percent.

While educating children about the dangers of guns is certainly necessary, the use of safe storage practices is critically important to the safety of children and families when guns are kept in the home. We should all urge firearms owners around the country to take steps to adequately secure their guns and ammunition.

EMERGENCY ENERGY ASSISTANCE FOR DISABLED VETERANS

Mr. JOHNSON. Mr. President, recently I joined my colleague, Senator NELSON of Nebraska, in introducing the Emergency Energy Assistance for Disabled Veterans Act. I am supporting this bill because I am concerned about inadequate reimbursement rates offered to veterans who must travel to VA facilities for treatment. The VA beneficiary travel program reimburses veterans 11 cents for every mile they are required to drive in order to visit a VA doctor. This reimbursement often is not enough to cover the cost of the trip, especially given high gas prices and the lengthy distances some veterans must travel.

The State of South Dakota is home to almost 77,000 veterans—approximately 10 percent of the State's population. Today gasoline averages $2.97 per gallon. In rural States such as South Dakota, many veterans must travel more than 120 miles each way in order to reach a veterans hospital. South Dakotans living in Selby and Gettysburg must travel as much as 170 miles. With the price of gas rising, the fixed mileage reimbursement leaves these veterans behind.

Oil companies are reaping substantial profits without reinvesting these profits in the infrastructure that helps keep gasoline markets operating smoothly. I am deeply concerned that these companies are being paid billions in profits while at the same time receiving tax cuts and incentives. On the opposite end of the spectrum, veterans are forced to make tough choices in order to afford driving to the VA for treatment. The men and women who defended our Nation should not have to choose between buying groceries and visiting a doctor at the VA.

For over 30 years, mileage reimbursement rates for veterans have remained stagnant, whereas Federal employees received an 8-cent increase for a similar travel program in September 2005. Currently, Federal employees are reimbursed 44.5 cents per mile when using a private vehicle for official Government business. We owe our Nation's veterans the same benefit.

President Bush has consistently supported VA budgets that short change veterans health care by billions of dollars. Unfortunately, under current law, money to reimburse veterans for travel is allocated from the same accounts used to provide medical care. This bill changes the funding formula and would mandate a separate allowance to reimburse travel costs. This will reduce the competition between programs that are equally meritorious and necessary but are forced to compete for the same pot of funds.

Mr. President, I encourage my colleagues to support the Emergency Energy Assistance for Disabled Veterans Act. It is time we rectified this glaring injustice and provide our veterans with the support they deserve.

25TH ANNIVERSARY OF THE FIRST DOCUMENTED AIDS CASE

Mr. FEINGOLD. Mr. President, it was 25 years ago this week that a little-noticed report from the Centers for Disease Control documented a peculiar cluster of deadly pneumonia cases in Los Angeles. That report was the first official mention of AIDS, although the disease had no name at the time. Since 1981, AIDS has become an international human catastrophe, killing more than 25 million people, orphaning more than 15 million children, and infecting more than 65 million people. Today, there are 40 million people living with HIV.

This issue affects us on both a global and a domestic scale. There are over 1.2 million people in the United States living with HIV/AIDS, and there are over 40,000 new infections each year. While the United States made great strides to contain the disease and reduce the number of deaths throughout the 1990s, it now appears that this trend is reversing. The death rate is beginning to destabilize, and the infection rate is growing at a staggering rate among certain populations, particularly people of color. African Americans have the highest AIDS case rates of any racial or ethnic group—more than nine times the rate for Whites.

There is still much to be done in the United States to combat HIV/AIDS, but the prevalence of HIV/AIDS in the rest of the world, particularly in sub-Saharan Africa, is truly devastating. In my role as ranking member of the Africa Subcommittee of the Senate Foreign Relations Committee, I have seen firsthand the devastation this disease has caused in Africa. Africa has accounted for nearly half of all global AIDS deaths, and it is estimated that by the year 2025 the total number of HIV infections in Africa could reach an astounding 100 million. In some African countries, the disease has caused the average life expectancy to drop below 40. HIV/AIDS has ravaged countries, economies, and families.

The most vulnerable in our global society are in many cases those who are most at risk from HIV/AIDS. Women and girls, who in Africa are often left physically, economically, and politically vulnerable, suffer disproportionately from HIV/AIDS. Nearly 60 percent of all people living with HIV in Africa are women; girls in sub-Saharan Africa aged 15 to 19 are infected by HIV at rates as much as five to seven times higher than boys their age. Gender inequalities, cultural norms, transactional sex, and all forms of violence against women and girls increase their susceptibility to HIV/AIDS. Women and girls desperately need legal protection and economic empowerment so that they can make safe health choices. These are fundamentally connected issues.

There is some cause for hope in our battle against this terrible disease; the United States has committed an unprecedented amount of money to the fight, and we are beginning to see some results. This is no cause for complacency, however. According to a recent U.N. report, while the spread of HIV/AIDS appears to be slowing down worldwide and some countries are reporting progress in bringing the pandemic under control, others are failing to reach key targets for prevention and treatment.

Most troubling is the fact that the rate of new HIV infections dramatically outpaces current efforts to reach people with life-sustaining antiretroviral therapy. According to Family Health International, for each new person who received antiretroviral therapy in 2005, another seven people became infected. We must bring increased focus to prevention efforts and do a better job of reaching out to those who are most vulnerable to this disease.

It is also becoming increasingly clear that we cannot address HIV/AIDS in isolation and that we need to deepen coordination between HIV/AIDS initiatives and other development goals. HIV/AIDS does not just affect isolated individuals but families, communities, and entire economies. One problem that has become apparent as we commit increasing funds to address HIV/AIDS is that international AIDS programs are siphoning off trained local health care workers from national health care systems. The World Health Organization has reported that the total number of health care workers per 1,000 people in Africa is 2.3—less than one-tenth the density in the Americas. This ''brain drain'' issue must be addressed. We need to

strengthen national health and social systems by integrating HIV/AIDS intervention into programs for primary health care, mother and child health, sexual and reproductive health, tuberculosis, nutrition, and education. Not only will it be more cost-efficient to work with existing systems, but it will also increase access for people who otherwise might not seek out counseling, testing, or treatment. As we look ahead to the next 5, 10 years and beyond, strong national health systems will be crucial for sustainability.

The 25-year anniversary of this terrible disease is an opportunity to take stock of where we have been and to renew our commitment to overcoming the challenges that lie ahead in the fight against HIV/AIDS.

75TH ANNIVERSARY OF THE NATIONAL HOUSING CONFERENCE

Mr. SARBANES. Mr. President, I rise today to recognize the 75th anniversary of the National Housing Conference, NHC, an organization of over 900 members dedicated to forwarding the cause of affordable housing and community development. For the past 75 years, the National Housing Conference has been an important contributor to the national debate on housing policy. Over the years, NHC has worked to achieve the goal set forth in the landmark Housing Act of 1949: ''a decent home and a suitable living environment for every American family.''

Organized in New York City in 1931 by the efforts of reformer and social worker Mary Simkhovitch, NHC has the distinction of being the first nonpartisan, independent coalition of national housing leaders from both public and private sectors. This pioneering advocacy group included bankers, builders, civic leaders, realtors, organized labor, architects, and residents. Early on, NHC was instrumental in the efforts to raise public awareness in New York City about the plight of hundreds of thousands of its people and the consequences slums had on the general welfare.

In 1945, NHC moved its headquarters to Washington, DC, and took on a tremendous challenge: get rid of the slums, and eliminate substandard housing. Through the 1940s NHC forged partnerships and mobilized grassroots forces around the country in an effort to pass Federal legislation to meet this challenge. Finally, NHC's efforts were rewarded with the passage of the landmark Housing Act of 1949, the most sweeping, ambitious housing legislation the Nation had ever had. The act called for ''a decent home and a suitable living environment for every American family.''

In the 1960s, NHC was again instrumental in the passage of the Housing and Urban Development Act of 1965, which resulted in the creation of a Cabinet-level department devoted to housing.

Throughout the 1970s, 1980s, and 1990s NHC was a constant presence in the national debate on housing policy, and continued to advocate on behalf of better housing opportunities for all Americans.

NHC continues to be a force in shaping this Nation's housing policy. Today, as NHC celebrates this milestone, it has rededicated itself to a central mission: fulfilling the dream of the 1949 Housing Act—''a decent home and a suitable living environment for every American family.'' I commend the National Housing Conference for its past efforts and honor the organization on this very special anniversary.

COAST GUARD CUTTER ''ACACIA''

Ms. STABENOW. Mr. President, today at a 10 a.m. the U.S. Coast Guard will decommission the Cutter *Acacia* in a ceremony in Charlevoix, MI.

The Acacia's keel was laid in 1942 in Duluth MN, and was commissioned on September 1, 1944. The cutter is named after the original *Acacia*, a U.S. Lighthouse Service vessel sunk off the coast of British West Indies by a German U-boat on March 17, 1942. The *Acacia* is the last of the Coast Guard's 180-foot World War II era buoy tenders still in service and has called Charlevoix, MI, home since 1990.

The *Acacia* has served as a buoy tender on the Great Lakes for 62 years and its area of responsibility extends from Chicago at the south end of Lake Michigan to Alpena on Lake Huron. The cutter's primary mission is maintaining aids to navigation but has also performed search and rescue missions, as well as providing icebreaking assistance during the winter. The *Acacia*, also know as ''The Big A'' or ''Ace of the Great Lakes'' has performed an unheralded but vital mission in the Great Lakes for more than six decades.

I commend the *Acacia* crew both past and present for their tireless service to maintain the Great Lakes navigational aids. Each fall the *Acacia* and its crew begin a race against the Lakes brutal winter weather when they set out to remove buoys in Lake Michigan and Lake Huron. These buoys can weigh over 18 tons and are covered in ice. Pulling buoys out of the frigid and unpredictable Great Lakes in October, November and December is back breaking work in rough seas and sub zero weather. However, it is crucial to keep these waterways open for commercial shipping as long as possible before the ice closes the shipping lanes and grinds any buoys left behind into scrap metal.

Mr. President, the *Acacia* and her crew have served the Great Lakes faithfully since the 1940s and we will miss her fondly.

PROCLAMATION

Mr. DEWINE. Mr. President, I request unanimous consent that my proclamation honoring the Bicentennial of the Steubenville Herald-Star newspaper be printed in the RECORD.

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

A PROCLAMATION HONORING THE BICENTENNIAL OF THE STEUBENVILLE HERALD-STAR NEWSPAPER

Whereas; The Herald-Star Newspaper was founded on June 7, 1806 in Steubenville by William Lowry and John Miller, who named it the Western Herald, and

Whereas; It is the oldest newspaper in Jefferson County and is also one of the oldest daily circulated newspapers in Ohio, and

Whereas; John Miller left the paper to fight the British during the War of 1812, where he received lands in Missouri, and earned the rank of Colonel—eventually becoming the territorial governor, and

Whereas; President Woodrow Wilson's grandfather, James Wilson bought the Western Herald in 1815. The newspaper stayed in the Wilson family for nearly three decades, and

Whereas; With the establishment of a telegraph between Steubenville and Pittsburgh, the Western Herald became one of the most widely read and influential papers in the area, and

Whereas; The Western Herald once employed journalists who went on to become powerful players in the newspaper industry, like R.B. Allison, who left Steubenville to purchase the St. Louis Post-Dispatch, and

Whereas; The Western Herald and the Steubenville Star merged in 1897 to become the Herald-Star, and

Whereas; The Herald Star is now operated by Ogden Newspapers Inc, and now resides at 401 Herald Square in downtown Steubenville.

Now, therefore, I, Mike DeWine, United States Senator from the Great State of Ohio, would like to commend The Heald-Star for two centuries of commitment to one of this country's founding ideals—the freedom of the press—and congratulate past, present and future employees for their success.

ADDITIONAL STATEMENTS

COLLBRAN JOB CORPS

• Mr. SALAZAR. Mr. President, today I recognize and commend the fantastic work and accomplishments of the students and staff at the Collbran Job Corps located in Collbran, CO.

Last year, the Collbran Job Corps was awarded the outstanding Organization of the Year award by the Colorado Special Olympics Hall of Fame for their outstanding service and dedication to the Special Olympics in Colorado. This recognition was well deserved as Collbran Job Corps has actively participated and supported the Colorado Special Olympics for almost 20 years.

Recently, the students and staff at the Collbran Job Corps Center collaborated to form a robotics team that competed in national competitions against other robotics teams from universities, colleges, and the private sector. In May, Collbran team was awarded 1st place honors in a regional robotics competition in Denver and won an opportunity to compete in the International Robotics Competition in Atlanta against robotics teams from around the globe. The judges at the international competition in Atlanta

awarded Collbran the Engineering Inspiration Award for their ability to inspire other competitors.

The students and staff at the Collbran Job Corps certainly live up to their mission statement: ''Believe, Achieve, and Succeed.'' Their first place victory at the Denver regional competition and excellent showing and award at the International Robotics Competition demonstrates that Collbran is meeting and excelling above and beyond this mission statement.

Collbran Job Corps students are well known throughout western Colorado for their achievements and commitment to the betterment of their community. They have actively been involved in community projects that utilized the skills of students in the construction trades, including the CISCO Networking Program, business technology occupations, as well as those in culinary arts training. The longstanding sense of commitment to enhancing community spirit and outreach serves as a benchmark to other Job Corps sites throughout the country.

Recently, the Department of Labor national Office of Job Corps selected Collbran Job Corps as a Career Success Standards, CSS, Pilot Center and national trainer. The CSS sets a standard for behavioral expectations of students participating in the Job Corps program in support of the President's High Growth Training Initiative. The Collbran Center was selected as a result of their outstanding core values, positive and engaging student culture, and consistent high performance.

Collbran Job Corps highlights the positive impacts the Job Corps opportunity has had on the lives of the disadvantaged youth who participate and the positive effect those youth contribute back to their communities and the strong values of community. As the budget and appropriations process proceeds, I hope the Senate will continue to support the Job Corps program and keep the wonderful example of Collbran Job Corps in mind. I know I will.

I commend the Collbran Job Corps Center for believing, achieving, and succeeding.●

TRIBUTE TO WILLIAM ''J'' THOMPSON

● Mr. PRYOR. Mr. President, it is with the greatest pleasure that I rise today to honor William ''J'' Thompson of Highland, AR. J Thompson works as a lineman for the Southern Electric Cooperative, and since 2004, he has also been a first responder and truck captain for the Highland Volunteer Fire Department.

On Christmas Eve, 2005, J Thompson responded to an emergency call from the Highland Police Department. A young man had been stopped by a police officer and had admitted to taking several tranquilizers. Shortly thereafter, he lost consciousness and was unresponsive to the officer. When Mr. Thompson arrived on the scene, the young man had stopped breathing. He was pulled from the vehicle, and it was discovered that he had no pulse. At this point, Mr. Thompson administered CPR, and the individual started breathing and regained a pulse.

Without the heroic actions of J Thompson, this young man would not be alive today. My home State of Arkansas is fortunate to have men of his caliber volunteering their time and expertise to their communities.

Mr. President, I ask my colleagues to join me in applauding William ''J'' Thompson and all the remarkable volunteer firemen for their selfless commitment to safety and humanitarian efforts in our country.●

IN MEMORIAM: ROBERT L. DUVALL, III

● Mr. BOND. Mr. President. I take this opportunity to honor the life of Bob Duvall, not only out of great respect for his contributions to technology advancements in the defense industry but also for all of those who have played a key role in the strength of our Armed Forces and Nation's security. Warfighters and commanders among all service groups have directly benefited from his engineering contributions. Mr. Duvall passed away on May 24, 2006. He was 61.

Mr. Robert L. Duvall, III, was born in Cheverly, MD, on October 8, 1944 and grew up in the suburbs of Washington, DC. His father was an electrical engineer for the Chesapeake and Potomac Telephone Company and inspired him to pursue a career in engineering. In 1967, he graduated from Cornell University, Ithaca, NY, with a degree in electrical engineering and subsequently went to work at Hughes Aircraft Company in California. Mr. Duvall furthered his education with a master's degree in electrical engineering from the University of Southern California in 1975.

After Mr. Duvall's placement within the defense industry, his technical expertise expanded to include a variety of disciplines, including circuit design, optics, infrared technology, optoelectronics, and systems integration. It was within the infrared technology and laser systems integration sector that his contributions made the most notable and recognized impact to the military capability of the United States. Early contributions and developments during his 20-plus years with Hughes Aircraft led to innovation in Naval and Air Force laser pointing and tracking technology. His contributions are better known for supporting the U.S. Army's Second Generation Forward Looking Infrared, FLIR, developments in the early 1990s.

Mr. Duvall's pioneering efforts with Hughes Aircraft and subsequently his current position as vice president of advanced technology at DRS Technologies have indeed made a difference for our present generation of warfighters. Our sons and daughters enter into battle with the decisive ability to ''own the night'' and precisely target and defeat the threat because of the incredible contribution he made as a member of our defense industry. There is no doubt Mr. Duvall contributed directly to the saving of many lives and the avoidance of great loss because of his efforts and expertise.

Mr. Duvall is survived by his wife Shirley and his two children Mark and Michelle. Their loss should not be felt alone and should not be remembered alone. It is indeed with great respect and admiration for his contribution to our Nation's defense that we pause today to recognize Mr. Robert L. Duvall, III. His effort will have a lasting effect on many, and no doubt others lives will continue because of him.●

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination which ws refered to the Committee on the Judiciary.

(The nomination received today is printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 9:22 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1235. An act to amend title 38, United States Code, to improve and extend housing, insurance, outreach, and benefits programs provided under the laws administered by the Secretary of Veterans Affairs, to improve and extend employment programs for veterans under laws administered by the Secretary of Labor, and for other purposes.

H.R. 1953. An act to require the Secretary of the Treasury to mint coins in commemoration of the Old Mint at San Francisco, otherwise known as the ''Granite Lady'', and for other purposes.

H.R. 3829. An act to designate the Department of Veterans Affairs Medical Center in Muskogee, Oklahoma, as the Jack C. Montgomery Department of Veterans Affairs Medical Center.

H.R. 5401. An act to amend section 308 of the Lewis and Clark Expedition Bicentennial Commemorative Coin Act to make certain clarifying and technical amendments.

The enrolled bills were subsequently signed by the President pro tempore (Mr. STEVENS).

At 12:00 p.m., a message from the House of Representatives, delivered by

Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 5126. An act to amend the Communications Act of 1934 to prohibit manipulation of caller identification information, and for other purposes.

H.R. 5245. An act to designate the facility of the United States Postal Service located at 1 Marble Street in Fair Haven, Vermont, as the ''Matthew Lyon Post Office Building''.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 399. Concurrent resolution recognizing the 30th Anniversary of the victory of United States winemakers at the 1976 Paris Wine Tasting.

H. Con. Res. 422. Concurrent resolution supporting the goals and ideals of the Vigil for Lost Promise day.

The message also announced that pursuant to section 703(c) of the Public Interest Declassification Act of 2000 (50 U.S.C. 435 note), and the order of the House of December 18, 2005, the Speaker appoints the following member on the part of the House of Representatives to the Public Interest Declassification Board for a term of three years: Admiral William O. Studeman of Great Falls, Virginia.

At 1:19 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5441. An act making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes.

At 5:23 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 193. An act to increase the penalties for violations by television and radio broadcasters of the prohibitions against transmission of obscene, indecent, and profane language.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5521. An act making appropriations for the Legislative Branch for the fiscal year ending September 30, 2007, and for other purposes.

At 7:24 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 2803. An act to amend the Federal Mine Safety and Health Act of 1977 to improve the safety of mines and mining.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 5126. An act to amend the Communications Act of 1934 to prohibit manipulation of caller identification information, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 5245. An act to designate the facility of the United States Postal Service located at 1 Marble Street in Fair Haven, Vermont, as the ''Matthew Lyon Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

H.R. 5441. An act making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes; to the Committee on Appropriations.

H.R. 5521. An act making appropriations for the Legislative Branch for the fiscal year ending September 30, 2007, and for other purposes; to the Committee on Appropriations.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 399. Concurrent resolution recognizing the 30th Anniversary of the victory of United States winemakers at the 1976 Paris Wine Tasting; to the Committee on Agriculture, Nutrition, and Forestry.

H. Con. Res. 422. Concurrent resolution supporting the goals and ideals of the Vigil for Lost Promise day; to the Committee on Health, Education, Labor, and Pensions.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, June 7, 2006, she had presented to the President of the United States the following enrolled bill:

S. 1235. An act to amend title 38, United States Code, to improve and extend housing, insurance, outreach, and benefits programs provided under the laws administered by the Secretary of Veterans Affairs, to improve and extend employment programs for veterans under laws administered by the Secretary of Labor, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

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

EC–6997. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, the Inspector General Department of Defense Semi-Annual Report to Congress, October 1, 2005–March 31, 2006, along with the classified Annex to the Semi-Annual Report on Intelligence-Related Oversight; to the Committee on Homeland Security and Governmental Affairs.

EC–6998. A communication from the Chief Executive Officer, Corporation for National and Community Service, transmitting, pursuant to law, the Corporation's Inspector General Semi-Annual Report for the period from October 1, 2005 through March 31, 2006 and the Corporation's Report on Final Action; to the Committee on Homeland Security and Governmental Affairs.

EC–6999. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the Semi-Annual Report of the Inspector General for the period from October 1, 2005 through March 31, 2006 and the Management Response; to the Committee on Homeland Security and Governmental Affairs.

EC–7000. A communication from the Chairman, Board of Governors, United States Postal Service, transmitting, pursuant to law, the Semi-Annual Report of the Inspector General for the period from October 1, 2005 through March 31, 2006 and the Management Response; to the Committee on Homeland Security and Governmental Affairs.

EC–7001. A communication from the Chairman, Railroad Retirement Board, transmitting, pursuant to law, the Board's Semi-Annual Report of the Inspector General for the period from October 1, 2005 through March 31, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–7002. A communication from the Chairman, Federal Housing Finance Board, transmitting, pursuant to law, the Board's Semi-Annual Report of the Inspector General for the period from October 1, 2005 through March 31, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–7003. A communication from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting, pursuant to law, the Administration's Semi-Annual Report of the Inspector General for the period from October 1, 2005 through March 31, 2006 and the Management Response; to the Committee on Homeland Security and Governmental Affairs.

EC–7004. A communication from the Chairman, National Credit Union Administration, transmitting, pursuant to law, the Administration's Semi-Annual Report of the Inspector General for the period from October 1, 2005 through March 31, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–7005. A communication from the Administrator, Environmental Protection Agency, transmitting, pursuant to law, the Agency's Semi-Annual Report of the Inspector General for the period from October 1, 2005 through March 31, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–7006. A communication from the Acting Secretary of the Interior, transmitting, pursuant to law, the Department of the Interior's Semi-Annual Report of the Inspector General for the period from October 1, 2005 through March 31, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–7007. A communication from the Chairman, United States International Trade Commission, transmitting, pursuant to law, the Commission's Semi-Annual Report of the Inspector General for the period from October 1, 2005 through March 31, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–7008. A communication from the Secretary of Energy, transmitting, pursuant to law, the Department of Energy's Semi-Annual Report of the Inspector General for the period from October 1, 2005 through March 31, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–7009. A communication from the Secretary of Labor, transmitting, pursuant to law, the Department of Labor's Semi-Annual Report of the Inspector General for the period from October 1, 2005 through March 31, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–7010. A communication from the Secretary of Veterans Affairs, transmitting, pursuant to law, the Semi-Annual Report of the Inspector General for the period from October 1, 2005 through March 31, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–7011. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the Semi-Annual Report of the Inspector General for the period from October 1, 2005 through March 31, 2006 and the Management Response; to the Committee on Homeland Security and Governmental Affairs.

EC–7012. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the Fiscal Year

2005 Federal Student Loan Repayment Program Report; to the Committee on Homeland Security and Governmental Affairs.

EC–7013. A communication from the Chairman, U.S. Merit Systems Protection Board, transmitting, pursuant to law, a report entitled ''Contracting Officer Representatives: Managing the Government's Technical Experts to Achieve Positive Contract Outcomes''; to the Committee on Homeland Security and Governmental Affairs.

EC–7014. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled ''Letter Report: Review of Relocation and Related OCTO Employees' Expenses Paid For by the Office of the Chief Technology Officer For Fiscal Years 2001 Through 2003''; to the Committee on Homeland Security and Governmental Affairs.

EC–7015. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled ''Fiscal Year 2005 Annual Report On Advisory Neighborhood Commissions''; to the Committee on Homeland Security and Governmental Affairs.

EC–7016. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled ''Letter Report: Comparative Analysis of Collections to Revised Revenue Estimates for Fiscal Year 2005''; to the Committee on Homeland Security and Governmental Affairs.

EC–7017. A communication from the Deputy Archivist of the United States, National Archives and Records Administration, transmitting, pursuant to law, the report of a rule entitled ''Official Seals and Logos'' (RIN3095-AB48) received on May 31, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–7018. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16-381, ''Organ and Tissue Donor Registry Establishment Act of 2006'' received on May 31, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–7019. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16-382, ''Closing of a Portion of S Street, S.E., a Portion of 13th Street S.E., and Public Alleys in Squares 5600 and 5601, S.O. 04–11912, Act of 2006'' received on May 31, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–7020. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–383, ''Tobacco Settlement Trust Fund and Tobacco Settlement Financing Amendment Act of 2006'' received on May 31, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–7021. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–384, ''Closing of Public Streets and Alleys in Squares 702, 703, 704, 705, and 706, and in U.S. Reservation 247, S.O. 05–6318, Act of 2006'' received on May 31, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–7022. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–385, ''National Guard Operations Coordination Temporary Act of 2006'' received on May 31, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–7023. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–386, ''My Sister's Place, Inc. Grant Authority Temporary Act of 2006'' received on May 31, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–7024. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–387, ''Disclosure of Mental Retardation and Developmental Disabilities Fatality Review Committee and Mental Retardation and Developmental Disabilities Incident Management and Investigations Unit Information and Records Temporary Amendment Act of 2006'' received on May 31, 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–7025. A communication from the Director, Office of Personnel Management, transmitting, the report of proposed legislation entitled ''Performance Appraisal Certification Technical Corrections Act of 2006''; to the Committee on Homeland Security and Governmental Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. McCAIN:

S. 3457. A bill to provide a national franchise and other regulatory relief to video service providers who offer a-la-carte programming for cable television, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BAYH (for himself and Mrs. BOXER):

S. 3458. A bill to require the Consumer Product Safety Commission to issue regulations mandating child-resistant closures on all portable gasoline containers; to the Committee on Commerce, Science, and Transportation.

By Mr. CHAMBLISS:

S. 3459. A bill to provide for the liquidation or reliquidation of certain entries relating to high-density, fiberboard-core laminate panels entered in May 2003 through September 2003; to the Committee on Finance.

By Mr. CHAMBLISS:

S. 3460. A bill to provide for the liquidation or reliquidation of certain entries relating to high-density, fiberboard-core laminate panels entered in June 2004 through October 2004; to the Committee on Finance.

By Mr. CHAMBLISS:

S. 3461. A bill to provide for the liquidation or reliquidation of certain entries relating to high-density, fiberboard-core laminate panels entered in February 2003 through May 2003; to the Committee on Finance.

By Mr. CHAMBLISS:

S. 3462. A bill to provide for the liquidation or reliquidation of certain entries relating to high-density, fiberboard-core laminate panels entered in October 2002 through February 2003; to the Committee on Finance.

By Mr. CHAMBLISS:

S. 3463. A bill to provide for the liquidation or reliquidation of certain entries relating to high-density, fiberboard-core laminate panels entered in May 2002 through August 2002; to the Committee on Finance.

By Mr. CHAMBLISS:

S. 3464. A bill to provide for the liquidation or reliquidation of certain entries relating to high-density, fiberboard-core laminate panels entered in May 2002 through June 2002; to the Committee on Finance.

By Mr. CHAMBLISS:

S. 3465. A bill to provide for the liquidation or reliquidation of certain entries relating to high-density, fiberboard-core laminate panels entered in March 1999 through March 2001; to the Committee on Finance.

By Mr. CHAMBLISS:

S. 3466. A bill to provide for the liquidation or reliquidation of certain entries relating to high-density, fiberboard-core laminate panels entered in March 2002 through May 2002; to the Committee on Finance.

By Mr. CHAMBLISS:

S. 3467. A bill to provide for the liquidation or reliquidation of certain entries relating to high-density, fiberboard-core laminate panels entered in January 2002 through March 2002; to the Committee on Finance.

By Mr. CHAMBLISS:

S. 3468. A bill to provide for the liquidation or reliquidation of certain entries relating to high-density, fiberboard-core laminate panels entered in March 2001 through October 2001; to the Committee on Finance.

By Mr. CHAMBLISS:

S. 3469. A bill to provide for the liquidation or reliquidation of certain entries relating to high-density, fiberboard-core laminate panels entered in February 2005 through July 2005; to the Committee on Finance.

By Mr. CHAMBLISS:

S. 3470. A bill to provide for the liquidation or reliquidation of certain entries relating to high-density, fiberboard-core laminate panels entered in October 2004 through February 2005; to the Committee on Finance.

By Mr. CHAMBLISS:

S. 3471. A bill to provide for the liquidation or reliquidation of certain entries relating to high-density, fiberboard-core laminate panels entered in March 2004 through June 2007; to the Committee on Finance.

By Mr. CHAMBLISS:

S. 3472. A bill to provide for the liquidation or reliquidation of certain entries relating to high-density, fiberboard-core laminate panels entered in August 2003 through March 2004; to the Committee on Finance.

By Mr. CHAMBLISS:

S. 3473. A bill to provide for the liquidation or reliquidation of certain entries relating to high-density, fiberboard-core laminate panels entered in November 2001 through December 2004; to the Committee on Finance.

By Mr. CHAMBLISS:

S. 3474. A bill to provide for the liquidation or reliquidation of certain entries relating to high-density, fiberboard-core laminate panels entered in July 2002 through October 2002; to the Committee on Finance.

By Mr. OBAMA:

S. 3475. A bill to provide housing assistance for very low-income veterans; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. AKAKA:

S. 3476. To amend the Homeland Security Act of 2002 to establish employee professional development programs at the Department of Homeland Security; to the Committee on Homeland Security and Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FEINGOLD (for himself, Ms. MURKOWSKI, Mr. BIDEN, and Mr. LUGAR):

S. Res. 503. A resolution mourning the loss of life caused by the earthquake that occurred on May 27, 2006, in Indonesia, expressing the condolences of the American people to the families of the victims, and urging assistance to those affected; to the Committee on Foreign Relations.

By Mr. LAUTENBERG (for himself, Mr. GRAHAM, Mr. MENENDEZ, Mrs. CLINTON, Mr. REID, Mr. KENNEDY, Mr.

BIDEN, Mr. LIEBERMAN, Mr. LEVIN, Mr. KERRY, Ms. STABENOW, Ms. MIKULSKI, Mr. SCHUMER, Mrs. BOXER, Mr. DODD, Mr. BINGAMAN, Mr. ALLEN, Ms. COLLINS, Mr. SANTORUM, Mr. BURR, Mr. SALAZAR, Mr. DEMINT, Mrs. LINCOLN, Mr. DORGAN, Mr. REED, Mr. DEWINE, Mr. KOHL, Mr. HATCH, Mr. COLEMAN, and Mr. ROCKEFELLER):

S. Res. 504. A resolution expressing the sense of the Senate that the President should not accept the credentials of any representative of the Government of Libya without the expressed understanding that the Government of Libya will continue to work in good faith to resolve outstanding cases of United States victims of terrorism sponsored or supported by Libya, including the settlement of cases arising from the Pan Am Flight 103 and LaBelle Discotheque bombings; considered and agreed to.

By Mr. GRASSLEY (for himself, Mr. SALAZAR, Mr. LUGAR, Mr. HARKIN, Mr. DEWINE, Mr. OBAMA, Mr. HAGEL, Mr. DORGAN, Mr. COLEMAN, Mr. KERRY, Mr. TALENT, Mr. NELSON of Nebraska, Mr. THUNE, Ms. CANTWELL, Mr. KOHL, and Mr. JOHNSON):

S. Con. Res. 97. A concurrent resolution expressing the sense of Congress that it is the goal of the United States that, not later than January 1, 2025, the agricultural, forestry, and working land of the United States should provide from renewable resources not less than 25 percent of the total energy consumed in the United States and continue to produce safe, abundant, and affordable food, feed, and fiber; to the Committee on Agriculture, Nutrition, and Forestry.

ADDITIONAL COSPONSORS

S. 420

At the request of Mr. KYL, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 420, a bill to make the repeal of the estate tax permanent.

S. 484

At the request of Mr. WARNER, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 484, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 495

At the request of Mr. CRAPO, his name was added as a cosponsor of S. 495, a bill to impose sanctions against perpetrators of crimes against humanity in Darfur, Sudan, and for other purposes.

S. 918

At the request of Mr. OBAMA, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 918, a bill to provide for Flexible Fuel Vehicle (FFV) refueling capability at new and existing refueling station facilities to promote energy security and reduction of greenhouse gas emissions.

S. 1064

At the request of Mr. COCHRAN, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 1064, a bill to amend the Public Health Service Act to improve stroke prevention, diagnosis, treatment, and rehabilitation.

S. 1272

At the request of Mr. NELSON of Nebraska, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1272, a bill to amend title 46, United States Code, and title II of the Social Security Act to provide benefits to certain individuals who served in the United States merchant marine (including the Army Transport Service and the Naval Transport Service) during World War II.

S. 1353

At the request of Mr. REID, the names of the Senator from North Dakota (Mr. DORGAN), the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of S. 1353, a bill to amend the Public Health Service Act to provide for the establishment of an Amyotrophic Lateral Sclerosis Registry.

S. 1575

At the request of Mr. BINGAMAN, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1575, a bill to amend the Public Health Service Act to authorize a demonstration program to increase the number of doctorally-prepared nurse faculty.

S. 1691

At the request of Mr. CRAIG, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S. 1691, a bill to amend selected statutes to clarify existing Federal law as to the treatment of students privately educated at home under State law.

S. 1722

At the request of Ms. MURKOWSKI, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1722, a bill to amend the Public Health Service Act to reauthorize and extend the Fetal Alcohol Syndrome prevention and services program, and for other purposes.

S. 2025

At the request of Mr. BAYH, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2025, a bill to promote the national security and stability of the United States economy by reducing the dependence of the United States on oil through the use of alternative fuels and new technology, and for other purposes.

S. 2140

At the request of Mr. HATCH, the names of the Senator from Georgia (Mr. CHAMBLISS) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 2140, a bill to enhance protection of children from sexual exploitation by strengthening section 2257 of title 18, United States Code, requiring producers of sexually explicit material to keep and permit inspection of records regarding the age of performers, and for other purposes.

S. 2284

At the request of Ms. MIKULSKI, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 2284, a bill to extend the termination date for the exemption of returning workers from the numerical limitations for temporary workers.

S. 2416

At the request of Mr. BURNS, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 2416, a bill to amend title 38, United States Code, to expand the scope of programs of education for which accelerated payments of educational assistance under the Montgomery GI Bill may be used, and for other purposes.

S. 2467

At the request of Mr. GRASSLEY, the names of the Senator from Delaware (Mr. CARPER) and the Senator from Colorado (Mr. SALAZAR) were added as cosponsors of S. 2467, a bill to enhance and improve the trade relations of the United States by strengthening United States trade enforcement efforts and encouraging United States trading partners to adhere to the rules and norms of international trade, and for other purposes.

S. 2545

At the request of Mr. DEWINE, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 2545, a bill to establish a collaborative program to protect the Great Lakes, and for other purposes.

S. 2616

At the request of Mr. SANTORUM, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 2616, a bill to amend the Surface Mining Control and Reclamation Act of 1977 and the Mineral Leasing Act to improve surface mining control and reclamation, and for other purposes.

S. 2658

At the request of Mr. BOND, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 2658, a bill to amend title 10, United States Code, to enhance the national defense through empowerment of the Chief of the National Guard Bureau and the enhancement of the functions of the National Guard Bureau, and for other purposes.

At the request of Mr. LEAHY, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 2658, supra.

S. 2661

At the request of Mr. SANTORUM, his name was added as a cosponsor of S. 2661, a bill to provide for a plebiscite in Puerto Rico on the status of the territory.

At the request of Mr. MARTINEZ, the names of the Senator from Indiana (Mr. BAYH) and the Senator from South Carolina (Mr. GRAHAM) were added as cosponsors of S. 2661, supra.

S. 2707

At the request of Mr. SUNUNU, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 2707, a bill to amend the United States Housing Act of 1937 to exempt qualified public housing agencies from the requirement of preparing an annual public housing agency plan.

S. 2810

At the request of Mr. GRASSLEY, the names of the Senator from Hawaii (Mr. INOUYE) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 2810, a bill to amend title XVIII of the Social Security Act to eliminate months in 2006 from the calculation of any late enrollment penalty under the Medicare part D prescription drug program and to provide for additional funding for State health insurance counseling program and area agencies on aging, and for other purposes.

S. 3069

At the request of Mr. DODD, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from Wisconsin (Mr. KOHL), the Senator from Arkansas (Mrs. LINCOLN), the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from Ohio (Mr. VOINOVICH) were added as cosponsors of S. 3069, a bill to amend section 2306 of title 38, United States Code, to modify the furnishing of government markers for graves of veterans at private ceremonies, and for other purposes.

S. 3275

At the request of Mr. ALLEN, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 3275, a bill to amend title 18, United States Code, to provide a national standard in accordance with which nonresidents of a State may carry concealed firearms in the State.

S. CON. RES. 71

At the request of Mr. AKAKA, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. Con. Res. 71, a concurrent resolution expressing the sense of Congress that States should require candidates for driver's licenses to demonstrate an ability to exercise greatly increased caution when driving in the proximity of a potentially visually impaired individual.

S. CON. RES. 96

At the request of Mr. BROWNBACK, the names of the Senator from New Mexico (Mr. DOMENICI) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. Con. Res. 96, a concurrent resolution to commemorate, celebrate, and reaffirm the national motto of the United States on the 50th anniversary of its formal adoption.

S. RES. 331

At the request of Ms. LANDRIEU, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. Res. 331, a resolution expressing the sense of the Senate regarding fertility issues facing cancer survivors.

S. RES. 420

At the request of Mr. LAUTENBERG, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. Res. 420, a resolution expressing the sense of the Senate that effective treatment and access to care for individuals with psoriasis and psoriatic arthritis should be improved.

AMENDMENT NO. 4189

At the request of Mrs. BOXER, her name was added as a cosponsor of amendment No. 4189 intended to be proposed to S. 2012, a bill to authorize appropriations to the Secretary of Commerce for the Magnuson-Stevens Fishery Conservation and Management Act for fiscal years 2006 through 2012, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCCAIN:

S. 3457. A bill to provide a national franchise and other regulatory relief to video service providers who offer a-la-carte programming for cable television, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN. Mr. President, today I am introducing the Consumers Having Options in Cable Entertainment, CHOICE, Act of 2006. This bill would encourage broadcasters and cable companies that own cable channels to sell their channels individually to subscribers. It would also promote cable programming distribution over the Internet.

For almost 10 years I have supported giving consumers the ability to buy cable channels individually, also known as a la carte, to provide consumers with more control over the viewing options in their home and their monthly cable bill. Cable companies have resisted this and have continued to give consumers all the ''choice'' of a North Korean election ballot. There is only one option available: buy a package of channels, whether you watch all the channels or not. The alternative is to not receive cable programming at all. Why have cable companies and cable programmers refused to give consumers the ability to buy and pay for only those channels consumers watch? Simply because they do not have to. They are the only game in town. But not for long, I hope.

Telephone companies have realized that consumers want more and are poised to provide consumers across the nation with an alternative to the local cable company. Many of these telephone companies, including AT&T, are also ready to offer consumers the ability to purchase channels a la carte. Such companies will offer two crucial benefits to consumers: more competition in the video service provider market, and more options for programming packages. Together, these two offerings will allow consumers to have greater control over the content that enters the home and the ability to manage their monthly cable bills.

According to a Government Accountability Office, GAO, report, in communities where there are two cable companies competing for customers, cable rates are 15 percent less than in communities without any competition. A subsequent GAO study suggests that in some markets the presence of another cable competitor may reduce rates by an astounding 41 percent. Unfortunately, today less than 5 percent of communities have two companies competing to provide consumers cable television service.

The CHOICE Act would help bring competition to the cable television market. Choice in cable television delivery is long overdue for consumers who have suffered steep rate hikes year after year. Since 1996, cable rates have increased 58 percent or nearly three times the rate of inflation. The Federal Communications Commission, FCC, has found that rates increased 7 percent in 2001 and 2002, and 5 percent in 2003. The FCC's most recent report found that rates again rose 5 percent in 2004, double the rate of inflation, but only 3.6 percent where the local cable company faced competition. I can only imagine the savings consumers could reap if presented with a choice of providers of cable service and a choice of channels. For this reason I call on Congress to pass the CHOICE Act.

A recent USA Today/Gallup poll found that a majority of Americans would like to buy cable channels individually and an AP/Ipsos poll found that a remarkable 78 percent of Americans would like to do so. According to Nielsen Media Research, households receiving more than 70 channels only watch, on average, about 17 of these. Consumers know that they could have greater control over their monthly bill if given the ability to choose their channels. This was recently confirmed by the FCC. This year the FCC found that consumers could save as much as 13 percent on their monthly cable bills if they could buy only the channels they want.

Mr. President, consider the situation of a senior citizen on fixed income living in Sun City, Arizona, who watches only a few news and movie channels, but continues to pay for high priced channels such as ESPN, Fox Sports, and MTV—channels that other consumers enjoy, but channels that certain seniors may not want and possibly cannot afford. In fact, the general manager of the Sun City cable system has told my staff that he has tried to drop several expensive music video channels from the company's channel lineup to make room for channels his viewers want to receive and to decrease costs, but the owners of the music video channels have forbid him to do so without serious repercussions. So the residents of Sun City continue to subsidize the cost of these channels for viewers around the country. That is why AARP, representing 35 million senior citizens, supports the ability for viewers to buy channels on an a la carte

basis. But again, cable companies don't have to listen to these 35 million viewers because there is no real threat of losing them. They have nowhere to turn.

The CHOICE ACT, Mr. President, is not a mandate on cable providers. Instead it is designed to encourage choice and competition by granting significant regulatory relief to video service providers, such as telephone and cable companies, that agree to both offer cable channels on an a la carte basis to subscribers and to not prohibit any channel owned by the video service provider from being sold individually. In exchange, video service providers would receive the right to obtain a national franchise; would be permitted to pay lower fees to municipalities for the use of public rights of way; would benefit from a streamlined definition of ''gross video revenue'' for the calculation of such fees; and would gain a prohibition on the solicitation of institutional networks, in-kind donation, and unlimited public access channels.

In addition, broadcasters that have an ownership stake in a cable channel would get the benefit of the FCC's network non-duplications rule if the broadcaster does not prohibit the channel from being sold individually. The FCC's network non-duplication rule provides exclusivity for broadcasters by not allowing another broadcaster with the same network affiliation from broadcasting in the same community. The bill would also modify Section 616(a) of the Communications Act that currently prohibits video service providers from using coercion or retaliatory tactics to prevent cable channels from making their services available to competing companies to extend this provision to distribution over the Internet.

For example, if Time Warner Cable offered CNN, a cable channel it owns, on an a la carte basis to its cable subscribers and allowed other cable companies, satellite companies, and video programmers who choose to distribute CNN to make it available on an a la carte basis, Time Warner Cable would be eligible for a national franchise and other regulatory relief. If Disney, which owns ESPN, allowed other cable companies, satellite companies, and video programmers who choose to distribute ESPN to make it available on an a la carte basis, Disney's ABC broadcast stations would have the benefit of the FCC's network non-duplication rule.

Mr. President, contrary to what some might want the American people to believe, the CHOICE Act does not force video service providers or broadcasters to do a single thing. It is their choice whether to act or not act. The bill provides them with such a choice even though they currently don't provide meaningful choices to their customers. This bill is incentive-based legislation that would encourage owners of cable channels to make channels available for individual purchase and would do nothing to prevent cable companies from continuing to offer a bundle of channels or tiers of channels.

The cable industry regularly touts the value of its package of channels, noting that it costs less than taking a family of four to a movie or professional sporting event. However, watching cable television is not always a family event. Several channels have programming that consumers find objectionable or that parents believe is unsuitable for young children. Complaints about indecent cable programming have increased exponentially in recent years. In 2004, the FCC received 700 percent more cable indecency complaints than it received in 2003. Most of the cable programs about which indecency complaints have been filed with the FCC aired during hours when many children are watching television.

Cable and satellite companies currently provide subscribers with a variety of methods of blocking the audio and video programming of any channel that they do not wish to receive. However, subscribers are still required to pay for these channels that they find objectionable. The ''v-chip'' does not effectively protect children from indecent programming carried by video programming distributors. Most of the television sets currently in use in the United States are not equipped with a v-chip; of the 280 million sets currently in United States households, approximately 161 million television sets are not equipped with a v-chip. Households that have a television set with a v-chip are also likely to have one or more sets that are not equipped with a v-chip.

Again, Mr. President, I am aware that not all consumers want to block and not pay for certain channels, but shouldn't all consumers have the choice to do so? Cable programmers and broadcasters have started offering individual television programs for download on the Internet. This is the purest form of a la carte—where one can watch and pay for only specific programs they choose. In addition, many of these same broadcasters and cable programmers make their channels available for individual purchase in Hong Kong, Canada, and other countries. Why do these cable programmers treat the American cable subscriber differently than a subscriber in Hong Kong or Canada or an Internet user? It remains unclear.

Lastly, Mr. President, I know that the cable programmers and broadcasters will not be the only group that may have some concerns with this bill. Many of my friends in local government are also likely to be interested in the reduced ''rights of way'' fee and streamlined definition of ''gross video revenue'' under this bill. Cable companies pay these fees to municipalities to use the right-of-way land under sidewalks, streets and bridges to reach customers' homes and then pass these fees on to subscribers. However, these fees often surpass the costs of managing ''rights of way'' land, and municipalities use these funds for other expenditures. Just last month at a hearing before the Senate Commerce Committee, Michael A. Guido, Mayor of Dearborn, Michigan, confirmed that these fees are often used to pay for other city expenses, such as emergency vehicles.

In 2004, State and local governments collected approximately $2.4 billion in these fees, slightly more than $37 per year from every household subscriber. Americans for Tax Reform believes that the ''franchise fee is just a stealth tax on our consumption of the cable television,'' as do other economists and taxpayer advocacy groups. To this end, the legislature in my home state of Arizona just recently passed a bill to reduce such fees and taxes on cable television subscribers.

The Phoenix Center, a non-partisan legal and economic think tank, has found that the introduction of competition to cable companies could allow the fee to be lowered ''significantly without doing any harm to local governments.'' Based upon this research, the CHOICE Act would reduce the fee from 5 percent to 3.7 percent for eligible video service providers and allow local governments to petition the FCC for a higher fee if it is necessary to cover the costs of managing ''rights of way'' land. I believe this would provide some real cost savings to cable subscribers.

I remain open to working with municipalities on this issue and look forward to working with all interested parties to ensure that American consumers receive greater options for affordable and acceptable television viewing. Mr. President, I hope the introduction of the CHOICE Act furthers the debate on the issue of a la carte channel selection and I look forward to the Senate's consideration of the bill.

By Mr. OBAMA:

S. 3475. A bill to provide housing assistance for very low-income veterans; to the Committee on Banking, Housing, and Urban Affairs.

Mr. OBAMA. Mr. President, I rise today to introduce the Homes for Heroes Act of 2006.

When we talk about veterans in Washington, I often think about my grandfather, who signed up for duty in World War II the day after Pearl Harbor. He marched across Europe in Patton's army, and when he came home to Kansas, he could have very easily faced some tough times.

He could have had trouble paying for college, or finding a job, or even finding a home. But at the time, he lived in a country that recognized the value of his service—a country that kept its promise to defend those who have defended freedom. And so he was able to afford college through the G.I. Bill, and he was able to buy a house through the Federal Housing Administration, and he was able to work hard and raise a family and build his own American dream.

And after I think about my grandfather, and the opportunities he had as

a veteran, I then think about a veteran I met named Bill Allen, who told me that on a recent trip he took to Chicago, he actually saw homeless veterans fighting over access to the dumpsters. Think about that. Fighting over access to the dumpsters.

Each and every night in this country, more than 200,000 of our Nation's veterans are homeless. And more than half a million will experience homelessness over the course of a year. There is no single cause for this. Homeless vets are men and women, single and married. They have served in every conflict since World War II. Many suffer from post-traumatic stress disorder; others were physically and mentally battered in combat. A large number left the military without job skills that could be easily used in the private sector.

All have risked their lives for their country. All deserve—at the very least—the basic dignity of going to sleep at night with a roof over their head. And every day we allow them to go without, it brings shame to every single one of us.

This is wrong. It is because we're quick to offer words of praise for our troops when they were abroad, but quick to forget about their needs when they come home. It's wrong because we have the resources and the programs in place to help solve this problem. And it is wrong on a fundamentally moral level—the idea that we would allow such brave and selfless citizens to suffer in such biting poverty. And so it is now our responsibility—it is now our duty—to make this right.

Last year, I introduced the Sheltering All Veterans Everywhere Act, S. 1180—the SAVE Act—to strengthen services for homeless veterans. The SAVE Act would reauthorize and expand two of the most successful programs in dealing with homeless veterans: the Homeless Providers Grant and Per Diem Program and the Homeless Veterans Reintegration Program. In addition, the SAVE Act would expand the reach of the Homeless Veterans Reintegration Program to also include veterans at risk of homelessness, so that we can work to prevent homelessness before it happens.

And while it is one thing to get veterans off the streets temporarily; it is another to keep them off—to place veterans in real, permanent homes. In fact, the VA has consistently identified permanent housing as one of the top three unmet needs in the fight against veteran homelessness.

That is why I'm introducing a bill today called the Homes for Heroes Act. This is a bill that would help expand access to long-term, affordable housing by creating a fund so that the community and nonprofit organizations could purchase, build, or rehabilitate homes and apartments for veterans.

So that we don't just leave them, to face their personal challenges on their own, the organizations would also provide services like counseling, employment training, and child care to the veterans who live in this housing. And the Homes for Heroes Act would expand the number of permanent housing vouchers for veterans from the current number of less than 2,000 to 20,000. These are vouchers that have been highly successful in giving veterans the chance to afford a place to live.

Every day in America, we walk past men and women on street comers with handwritten signs that say ''Homeless Veteran—Will Work For Food.'' Sometimes we give a dollar; sometimes we just keep walking. These are soldiers who fought in World War II, Vietnam, and Iraq. They made a commitment to their country when they chose to serve—and now we must keep our commitment to them. Because when we make the decision to send our troops to war, we also make the decision to care for them, to speak for them, and to think of them—always—when they come home.

This kind of America—an America of opportunity, of collective responsibility for each other—is the kind that any of our parents and grandparents came home to after the Second World War. Now it is time for us to build this America for those sons and daughters who come home today.

Mr. AKAKA:

S. 3476. to amend the Homeland Security Act of 2002 to establish employee professional development programs at the Department of Homeland Security; to the Committe on Homeland Security and Governmental Affairs.

Mr. AKAKA. Mr. President, I rise today to introduce legislation that will help train and motivate our homeland security workforce. As the ranking member of the Homeland Security and Governmental Affairs Federal Workforce Subcommittee, I understand the challenges facing the Department of Homeland Security, DHS. Our committee and subcommittee have held numerous hearings on a broad spectrum of DHS-related issues, including poor contract management, ineffective financial systems, and major human capital challenges. I have met with DHS employees and management officials to discuss problems ranging from leadership deficiencies and high employee turnover rates to management challenges. Vacancies resulting from the recent departures of key, high level officials further threaten employee morale and the Department's ability to provide for the security of our Nation. DHS cannot meet its mission if it does not have a well-trained and dedicated workforce. Failure to provide adequate training and career development programs for employees will have serious consequences for our national security.

My bill, the Homeland Security Professional Development Act of 2006, will strengthen the workforce at DHS through the establishment of formal mentoring and rotational programs. The mentoring program will partner junior and entry level workers with more experienced employees to foster an understanding of how employees' roles and responsibilities fit into the Department's mission and to develop career goals. The voluntary rotation program would place midlevel employees in a different component of DHS for a period of time to provide for professional development; increased knowledge of the Department's various missions; and networking opportunities. Participants in the rotation program would be eligible for promotions or other employment preferences. Together the mentoring and rotational programs will improve communication; strengthen recruitment and retention programs; help with succession planning; enhance networking opportunities; and provide a pool of qualified future leaders.

I commend DHS for recognizing the need to strengthen its workforce. Last July, the Department unveiled its Homeland Security Learning and Development Strategic Plan to align education, training, and professional development with the Department's strategic goals. The plan addresses the need to align education and professional development with the Department's vision, mission, core values, and strategic plan. However, this plan alone will not address the daunting challenges facing DHS. Congress must act to ensure that agency-wide employee development programs are in place to eliminate cultural and educational stovepipes.

My bill will increase employee organizational knowledge and technical proficiency in the critical homeland security skill sets required to keep our Nation safe. For example, the Science and Technology Directorate, S&T, would benefit greatly from rotational programs with other DHS directorates and components, including Immigration and Customs Enforcement, ICE, and Customs and Border Protection, CBP. Rotations between these entities would ensure that S&T projects and priorities are correctly aligned with ICE and CBP requirements, in addition to ensuring a cohesive homeland security workforce.

Mentoring programs can hasten the learning curve for new employees, improve employee performance, and alter the culture of the organization by creating a collaborative, team-based, and results-oriented structure. Such programs have a proven track-record of success. According to the April 10, 2006, issue of Federal Human Resources Week, mentoring opportunities are welcomed by federal workers and help in recruitment and retention efforts. This finding is not new. A 1999 workforce study found that 35 percent of private sector employees who did not receive regular mentoring planned to seek other jobs within the next 12 months. This number was reduced to 16 percent when employees received regular mentoring. In addition, according to the International Mentoring Association, employee supervision increases productivity by only 25 percent. However, when training is combined with

coaching and mentoring, productivity is increased by an astounding 88 percent.

One positive example of the benefits of mentoring is the apprentice program at the Pearl Harbor Naval Shipyard in my home State of Hawaii. Established in 1924, the Pearl Harbor apprentice program has graduated thousands of highly qualified and skilled journeymen to ensure that the U.S. Navy remains ''Fit to Fight.''

The Department of Homeland Security continues to face considerable management, leadership, and human capital challenges. The Homeland Security Professional Development Act of 2006 will tackle these challenges by building on the current training efforts of the Department and fostering a well-rounded and well-trained homeland security workforce. I urge my colleagues to support this important legislation and 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. 3476

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 ''Homeland Security Professional Development Act of 2006''.

SEC. 2. ESTABLISHMENT OF PROFESSIONAL DEVELOPMENT PROGRAMS AT THE DEPARTMENT OF HOMELAND SECURITY.

(a) IN GENERAL.—Title VIII of the Homeland Security Act of 2002 (6 U.S.C. 361 et seq.) is amended by inserting after section 843 the following:

''SEC. 844. HOMELAND SECURITY MENTORING PROGRAM.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary shall establish the Homeland Security Mentoring Program (in this section referred to as the 'Mentoring Program') for employees of the Department. The Mentoring Program shall use applicable best practices, including those from the Chief Human Capital Officers Council.

''(2) GOALS.—The Mentoring Program established by the Secretary—

''(A) shall be established in accordance with the Department Human Capital Strategic Plan;

''(B) shall incorporate Department human capital strategic plans and activities, and address critical human capital deficiencies, recruitment and retention efforts, and succession planning within the Federal workforce of the Department;

''(C) shall enable employees within the Department to share expertise, values, skills, resources, perspectives, attitudes and proficiencies to develop and foster a cadre of qualified employees and future leaders;

''(D) shall incorporate clear learning goals, objectives, meeting schedules, and feedback processes that will help employees, managers, and executives enhance skills and knowledge of the Department while reaching professional and personal goals;

''(E) shall enhance professional relationships, contacts, and networking opportunities among the employees of the Department;

''(F) shall complement and incorporate (but not replace) mentoring and training programs within the Department in effect on the date of enactment of this section; and

''(G) may promote cross-disciplinary mentoring and training opportunities that include provisions for intradepartmental rotational opportunities, in accordance with human capital goals and plans that foster a more diversified and effective Federal workforce of the Department.

''(3) TRAINING LEADERS COUNCIL.—

''(A) ESTABLISHMENT.—The Training Leaders Council established by the Chief Human Capital Officer shall administer the Mentoring Program.

''(B) RESPONSIBILITIES.—The Training Leaders Council shall—

''(i) provide oversight of the establishment and implementation of the Mentoring Program;

''(ii) establish a framework that supports the goals of the Mentoring Program and promotes cross-disciplinary mentoring and training;

''(iii) identify potential candidates to be mentors or mentees and select candidates for admission into the Mentoring Program;

''(iv) formalize mentoring assignments within the Department;

''(v) formulate individual development plans that reflect the needs of the Department, the mentor, and the mentee;

''(vi) coordinate with mentoring programs in the Department in effect on the date of enactment of this section; and

''(vii) establish target enrollment numbers for the size and scope of the Mentoring Program, under the human capital goals and plans of the Department.

''(4) SELECTION OF PARTICIPANTS FOR MENTORING PROGRAM.—

''(A) IN GENERAL.—The Mentoring Program shall consist of middle and senior level employees of the Department with significant experience who shall serve as mentors for junior and entry level employees and employees who are critical to Department succession plans and programs.

''(B) SELECTION OF MENTORS.—Mentors shall be employees who—

''(i) understand the organization and culture of the Department;

''(ii) understand the aims of mentoring in Federal public service;

''(iii) are available and willing to spend time with the mentee, giving appropriate guidance and feedback;

''(iv) enjoy helping others and are open-minded, flexible, empathetic, and encouraging; and

''(v) have very good communications skills, and stimulate the thinking and reflection of mentees.

''(C) SELECTION OF MENTEES.—Mentees shall be motivated employees who possess potential for future leadership and management roles within the Department.

''(5) ROLES AND RESPONSIBILITIES OF PARTICIPANTS IN THE MENTORING PROGRAM.—

''(A) MENTORS.—

''(i) ROLE.—A mentor shall serve as a model, motivator, and counselor to a mentee.

''(ii) LIMITATION.—Any person who is the immediate supervisor of an employee and evaluates the performance of that employee may not be a mentor to that employee under the Mentor Program.

''(iii) RESPONSIBILITIES.—The responsibilities of a mentor may include—

''(I) helping the mentee set short-term learning objectives and long-term career goals ;

''(II) helping the mentee understand the organizational culture of the Department;

''(III) recommending or creating learning opportunities;

''(IV) providing informal education and training in areas such as communication, critical thinking, responsibility, flexibility, and teamwork; and

''(V) pointing out the strengths and areas for development of the mentee.

''(B) MENTEES.—The responsibilities of the mentee may include—

''(i) defining short-term learning objectives and long-term career goals;

''(ii) participating in learning opportunities to broaden knowledge of the Department; and

''(iii) participating in professional opportunities to improve a particular career area, develop an area of technical expertise, grow professionally, and expand leadership abilities.

''(6) REPORTING.—Not later than 180 days after the date of the establishment of the Mentoring Program, the Secretary shall submit a report on the status of the Mentoring Program and enrollment, including the number of mentors and mentees in each component of the Department and how the Mentoring Program is being used in succession planning and leadership development to—

''(A) the Committee on Homeland Security and Governmental Affairs of the Senate;

''(B) the Committee on Homeland Security of the House of Representatives; and

''(C) the Committee on Government Reform of the House of Representatives.

''SEC. 845. HOMELAND SECURITY ROTATION PROGRAM.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary shall establish the Homeland Security Rotation Program (in this section referred to as the 'Rotation Program') for employees of the Department. The Rotation Program shall use applicable best practices, including those from the Chief Human Capital Officers Council.

''(2) GOALS.—The Rotation Program established by the Secretary shall—

''(A) be established in accordance with the Department Human Capital Strategic Plan;

''(B) provide middle level employees in the Department the opportunity to broaden their knowledge through exposure to other components of the Department;

''(C) expand the knowledge base of the Department by providing for rotational assignments of employees to other components;

''(D) build professional relationships and contacts among the employees in the Department;

''(E) invigorate the workforce with exciting and professionally rewarding opportunities;

''(F) incorporate Department human capital strategic plans and activities, and address critical human capital deficiencies, recruitment and retention efforts, and succession planning within the Federal workforce of the Department; and

''(G) complement and incorporate (but not replace) rotational programs within the Department in effect on the date of enactment of this section.

''(3) TRAINING LEADERS COUNCIL.—

''(A) IN GENERAL.—The Training Leaders Council established by the Chief Human Capital Officer shall administer the Rotation Program.

''(B) RESPONSIBILITIES.—The Training Leaders Council shall—

''(i) provide oversight of the establishment and implementation of the Rotation Program;

''(ii) establish a framework that supports the goals of the Rotation Program and promotes cross-disciplinary rotational opportunities;

''(iii) establish eligibility for employees to participate in the Rotation Program and select participants from employees who apply;

''(iv) establish incentives for employees to participate in the Rotation Program, including promotions and employment preferences;

''(v) ensure that the Rotation Program provides professional education and training;

''(vi) ensure that the Rotation Program develops qualified employees and future leaders with broad-based experience throughout the Department;

''(vii) provide for greater interaction among employees in components of the Department; and

''(viii) coordinate with rotational programs within the Department in effect on the date of enactment of this section.

''(4) ALLOWANCES, PRIVILEGES, AND BENEFITS.—All allowances, privileges, rights, seniority, and other benefits of employees participating in the Rotation Program shall be preserved.

''(5) REPORTING.—Not later than 180 days after the date of the establishment of the Rotation Program, the Secretary shall submit a report on the status of the Rotation Program, including a description of the Rotation Program, the number of employees participating, and how the Rotation Program is used in succession planning and leadership development to—

''(A) the Committee on Homeland Security and Governmental Affairs of the Senate;

''(B) the Committee on Homeland Security of the House of Representatives; and

''(C) the Committee on Government Reform of the House of Representatives.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101) is amended by inserting after the item relating to section 843 the following:

''Sec. 844. Homeland Security Mentoring Program.

''Sec. 845. Homeland Security Rotation Program.''.

SEC. 3. REPORTS TO CONGRESS.

(a) IN GENERAL.—Chapter 41 of title 5, United States Code is amended by adding at the end the following:

''SEC. 4122. REPORTS TO CONGRESS.

''The Director of the Office of Personnel Management shall report annually to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives on the training, mentoring, and succession plans and programs of Federal agencies, including the number of participants, the structure of the programs, and how participants are used for leadership development and succession planning programs.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 41 of title 5, United States Code, is amended by inserting after the item relating to section 4121 the following:

''4122. Reports to Congress.''.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as necessary to carry out this Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 503—MOURNING THE LOSS OF LIFE CAUSED BY THE EARTHQUAKE THAT OCCURRED ON MAY 27, 2006, IN INDONESIA, EXPRESSING THE CONDOLENCES OF THE AMERICAN PEOPLE TO THE FAMILIES OF THE VICTIMS, AND URGING ASSISTANCE TO THOSE AFFECTED

Mr. FEINGOLD (for himself, Ms. MURKOWSKI, Mr. BIDEN, and Mr. LUGAR) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 503

Whereas, on May 27, 2006, a powerful earthquake measuring 6.2 on the Richter scale occurred in Indonesia, centered near the City of Yogyakarta;

Whereas the earthquake and continuing aftershocks have caused more than 5,000 deaths, resulted in serious injuries to additional tens of thousands of people, and left hundreds of thousands of people with damaged or destroyed homes;

Whereas thousands of people in the affected region are living in temporary shelter or lack basic services, such as clean water and sanitation, thereby increasing the risk of additional suffering and death; and

Whereas the United States and donors from at least 20 other countries have, to date, pledged several millions of dollars in emergency and long-term reconstruction assistance, and have begun to deliver humanitarian supplies to survivors of the earthquake: Now, therefore, be it

Resolved, That the Senate—

(1) mourns the tragic loss of life and horrendous suffering caused by the earthquake that occurred on May 27, 2006, in Indonesia;

(2) expresses the deepest condolences of the people of the United States to the families, communities, and government of the thousands of individuals who lost their lives in the earthquake;

(3) expresses sympathy and compassion for the hundreds of thousands of people who have been left with destroyed or damaged homes or have been seriously affected by this earthquake;

(4) welcomes and commends the prompt international humanitarian response to the earthquake by the governments of many countries, the United Nations and other international organizations, and nongovernmental organizations;

(5) expresses gratitude and respect for the courageous and committed work of all individuals providing aid, relief, and assistance, including civilian and military personnel of the United States, who are working to save lives and provide relief in the devastated areas;

(6) urges the President and the Government of the United States to provide all appropriate assistance to the Government of Indonesia and people of the affected region; and

(7) recognizes the lead role of the Government of Indonesia in providing assistance and promoting recovery for the affected population.

SENATE RESOLUTION 504 EXPRESSING THE SENSE OF THE SENATE THAT THE PRESIDENT SHOULD NOT ACCEPT THE CREDENTIALS OF ANY REPRESENTATIVE OF THE GOVERNMENT OF LIBYA WITHOUT THE EXPRESSED UNDERSTANDING THAT THE GOVERNMENT OF LIBYA WILL CONTINUE TO WORK IN GOOD FAITH TO RESOLVE OUTSTANDING CASES OF UNITED STATES VICTIMS OF TERRORISM SPONSORED OR SUPPORTED BY LIBYA, INCLUDING THE SETTLEMENT OF CASES ARISING FROM THE PAN AM FLIGHT 103 AND LABELLE DISCOTHEQUE BOMBINGS

Mr. LAUTENBERG (for himself, Mr. GRAHAM Mr. MENENDEZ, Mrs. CLINTON, Mr. REID, Mr. KENNEDY, Mr. BIDEN, Mr. LIEBERMAN, Mr. LEVIN, Mr. KERRY, Ms. Stabenow. Ms. MIKULSKI, Mr. SCHUMER, Mrs. BOXER, Mr. DODD, Mr. BINGAMAN, Mr. ALLEN, Ms. COLLINS, Mr. SANTORUM, Mr. BURR, Mr. SALAZAR, Mr. DEMINT, Mrs. LINCOLN, Mr. DORGAN, Mr. REED, Mr. DEWINE, Mr. KOHL, Mr. HATCH, Mr. COLEMAN, and Mr. ROCKEFELLER) submitted the following resolution; which was considered and agreed to:

Mr. LAUTENBERG. Mr. President, in light of the recent announcement to remove Libya from the State Department's list of state sponsors of terror, I rise today to submit a resolution expressing the sense of the Senate that the Libyan Government should meet the terms of its financial commitment to the families of the victims of the Pan Am flight 103 bombing and other acts of terror supported by Libya before the President accepts credentials of any representative of the Government of Libya. I am pleased that Senators GRAHAM, MENENDEZ, CLINTON, KENNEDY, BIDEN, LIEBERMAN, LEVIN, KERRY, STABENOW, MIKULSKI, SCHUMER, BOXER, DODD, BINGAMAN, ALLEN, COLLINS, BURR, SALAZAR, DEMINT, LINCOLN, DORGAN, REED, DEWINE, KOHL, REID, and SANTORUM have agreed to cosponsor my resolution.

In May 2002, Libya made an unequivocal commitment to compensate the families who lost loved ones in the Pan Am 103 bombing over Lockerbie, Scotland, which killed 270 people, including 189 Americans. To date, Libya has not resolved these claims in full, particularly the last installment of compensation that is to be paid to each family upon Libya's removal from the list of state sponsors of terror. Now that the Secretary of State has announced Libya's removal from the list, the U.S. must ensure that Libya honors its commitment.

Before the U.S. normalizes its relationship with the Government of Libya, it is crucial that we underscore our expectation that Libya will fully honor its commitment to all these American families. The resolution also exhorts the President to press the Government of Libya to make a good faith

effort to resolve other outstanding cases involving U.S. victims of its state-sponsored terrorism, including the 1986 bombing of the La Belle Discotheque in Berlin, Germany, that killed two American soldiers and wounded dozens of others.

I am pleased that the Senate is considering this important resolution and urge its immediate adoption.

S. RES. 504

Whereas there has not been a resolution of the claims of members of the United States Armed Forces and other United States citizens who were injured in the April 6, 1986, bombing of the LaBelle Discothéque in Berlin, Germany, and the claims of family members of the service men and women killed in that bombing or the resolution of other outstanding cases of United States victims of terror sponsored or supported by Libya;

Whereas, on December 21, 1988, terrorists from Libya bombed Pan Am Flight 103 over Lockerbie, Scotland, killing 270 people, including 189 Americans;

Whereas, on May 29, 2002, the Government of Libya offered to pay up to $2,700,000,000 to settle claims by the families of the 270 people killed aboard Pan Am Flight 103, representing $10,000,000 for each victim of the Pan Am Flight 103 bombing;

Whereas, on August 15, 2003, Libya's Ambassador to the United Nations, Ahmed Own, submitted a letter to the United Nations Security Council formally accepting ''responsibility for the action of its officials'' in relation to the Lockerbie bombing;

Whereas, on September 12, 2003, the United Nations lifted sanctions against Libya, thereby enabling the first trigger of the agreement between the Government of Libya and the families of the victims of the attack on Pan Am Flight 103 for a payment of $4,000,000 per victim that has been paid to the victims' families;

Whereas, on September 24, 2004, the United States lifted most economic sanctions against Libya, thereby enabling the second trigger of the agreement between the Government of Libya and the families of the victims of the attack on Pan Am Flight 103 for an additional payment of $4,000,000 per victim that has been paid to the victims' families;

Whereas, on May 15, 2006, Secretary of State Condoleezza Rice announced the determination of President George W. Bush to rescind the designation of Libya on the list of state sponsors of terrorism, thereby enabling the third trigger of the agreement between the Government of Libya and the families of the victims of the attack on Pan Am Flight 103 for a final payment of $2,000,000 per victim;

Whereas, on May 15, 2006, Secretary of State Rice announced the reestablishment of full diplomatic relations with the Government of Libya, ending 26 years of isolation; and

Whereas the agreement between the Government of Libya and the families of the victims of the attack on Pan Am Flight 103 incorporated a timeline for payment of the full $2,700,000,000 that has not been met even though all of the other conditions for such payment have been satisfied.

Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) it remains an important priority for further improvement in the relations between the United States and Libya that the Government of Libya make a good faith effort to resolve all outstanding claims of United States victims of terrorism sponsored or supported by Libya;

(2) it is in the best interests of the long-term relationship between the United States and Libya that final payment be made to the families of the victims of the attack on Pan Am Flight 103; and

(3) the President should not accept the credentials of any representative of the Government of Libya without the expressed understanding that the Government of Libya will continue to work in good faith to resolve outstanding cases of United States victims of terrorism sponsored or supported by Libya, including the settlement of cases arising from the Pan Am Flight 103 and LaBelle Discothéque bombings.

SENATE CONCURRENT RESOLUTION 97—EXPRESSING THE SENSE OF CONGRESS THAT IT IS THE GOAL OF THE UNITED STATES THAT, NOT LATER THAN JANUARY 1, 2025, THE AGRICULTURAL, FORESTRY, AND WORKING LAND OF THE UNITED STATES SHOULD PROVIDE FROM RENEWABLE RESOURCES NOT LESS THAN 25 PERCENT OF THE TOTAL ENERGY CONSUMED IN THE UNITED STATES AND CONTINUE TO PRODUCE SAFE, ABUNDANT, AND AFFORDABLE FOOD, FEED, AND FIBER

Mr. GRASSLEY (for himself, Mr. SALAZAR, Mr. LUGAR, Mr. HARKIN, Mr. DEWINE, Mr. OBAMA, Mr. HAGEL, Mr. DORGAN, Mr. COLEMAN, Mr. KERRY, Mr. TALENT, Mr. NELSON of Nebraska, Mr. THUNE, Ms. CANTWELL, Mr. KOHL, and Mr. JOHNSON) submitted the following concurrent resolution; which was referred to the Committee on Agriculture, Nutrition, and Forestry:

Mr. GRASSLEY. Mr. President, I rise today to introduce a concurrent resolution which expresses the goal of the United States to provide 25 percent of the Nation's energy needs from renewable resources by 2025. I am pleased to be joined in this effort by Senators SALAZAR, LUGAR, HARKIN, DEWINE and OBAMA.

The goal of this 25 by 25 resolution is quite simple: to replace 25 percent of our total energy needs with renewable resources like wind, hydropower, solar, geothermal, biomass and biofuels by 2025. This is a bold goal, but given our current energy situation in the U.S., it is a necessary goal.

In the past few years, we have seen the price of crude oil skyrocket from $25 a barrel to nearly $75 a barrel. This has caused prices at the pump to escalate beyond $3 a gallon. Natural gas, used for electricity generation and industrial uses, has hovered above $6 per million BTU's, while hitting over $15 following the devastating hurricanes along the gulf coast.

The impact of these increased prices is being felt around the country by working families, farmers, businesses and industries. The increased cost for energy at the pump, in home heating and for industrial uses has the potential to jeopardize our economic security and vitality.

And, because we are dependent upon foreign countries for over 60 percent of our crude oil, our dependence is a threat to our national security. President Bush heightened the awareness of the problem by stating in his 2006 State of the Union Address that we are addicted to foreign oil. He highlighted as his goal to reduce our dependence on oil from the Middle East by 75 percent by 2025.

Our effort with this concurrent resolution is to signal to America's farmers, ranchers and forestry industry, that we believe they have the ability and resources to generate 25 percent of our energy needs. An that it is in our economic and national security interest to do so.

There are many inherent virtues in producing our own domestic energy from renewable resources. It is good for our environment. It is good for our national and economic security. It will provide an economic boost for our rural economies. And perhaps most importantly, it will ensure a stable, secure, domestic supply of affordable energy.

Already, our farmers and ranchers are working hard to use their resources to produce electricity from wind, biomass and other agricultural wastes. In addition, corn, soybeans and other crops are being used to produce transportation fuels like ethanol and biodiesel. It is evident that rural America has the drive to achieve this goal.

While this concurrent resolution states our renewable energy goal, it does not prescribe a way to achieve the goal. Rather, it recognizes the benefit of implementing supportive policies and incentives to stimulate the development and use of renewable energy. It also identifies the benefits of technological improvements to the cost and market appeal of renewable energy. The supporters of this goal commit to support sensible policies and proper incentives to work toward the goal.

I am hopeful that my colleagues will recognize the importance and timeliness of this effort, and will consider supporting us in this goal to produce 25 percent of our energy needs from renewable resources by 2025.

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

S. CON. RES. 97

Whereas the United States has a quantity of renewable energy resources that is sufficient to supply a significant portion of the energy needs of the United States;

Whereas the agricultural, forestry, and working land of the United States can help ensure a sustainable domestic energy system;

Whereas accelerated development and use of renewable energy technologies provide numerous benefits to the United States, including improved national security, improved balance of payments, healthier rural economies, improved environmental quality, and abundant, reliable, and affordable energy for all citizens of the United States;

Whereas the production of transportation fuels from renewable energy would help the United States meet rapidly growing domestic and global energy demands, reduce the dependence of the United States on energy imported from volatile regions of the world

that are politically unstable, stabilize the cost and availability of energy, and safeguard the economy and security of the United States;

Whereas increased energy production from domestic renewable resources would attract substantial new investments in energy infrastructure, create economic growth, develop new jobs for the citizens of the United States, and increase the income for farm, ranch, and forestry jobs in the rural regions of the United States;

Whereas increased use of renewable energy is practical and can be cost effective with the implementation of supportive policies and proper incentives to stimulate markets and infrastructure; and

Whereas public policies aimed at enhancing renewable energy production and accelerating technological improvements will further reduce energy costs over time and increase market demand: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that it is the goal of the United States that, not later than January 1, 2025, the agricultural, forestry, and working land of the United States should provide from renewable resources not less than 25 percent of the total energy consumed in the United States and continue to produce safe, abundant, and affordable food, feed, and fiber.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4192. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 2766, to authorize appropriations for fiscal year 2007 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

SA 4193. Mr. SESSIONS (for Ms. COLLINS) proposed an amendment to the bill H.R. 4311, to amend section 105(b)(3) of the Ethics in Government Act of 1978 (5 U.S.C. App).

TEXT OF AMENDMENTS

SA 4192. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 2766, to authorize appropriations for fiscal year 2007 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle I of title X, add the following:

SEC. 1084. REDEPLOYMENT OF UNITED STATES FORCES FROM IRAQ.

(a) REDEPLOYMENT.—The United States shall redeploy United States forces from Iraq by not later than December 31, 2006, while maintaining in Iraq only the minimal force necessary for direct participation in targeted counterterrorism activities, training Iraqi security forces, and protecting United States infrastructure and personnel.

(b) REPORT ON REDEPLOYMENT.—

(1) REPORT REQUIRED.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall, in consultation with the Secretary of State, submit to Congress a report that sets forth the strategy for the redeployment of United States forces from Iraq by December 31, 2006.

(2) STRATEGY ELEMENTS.—The strategy required in the report under paragraph (1) shall include the following:

(A) A flexible schedule for redeploying United States forces from Iraq by December 31, 2006.

(B) The number, size, and character of United States military units needed in Iraq after December 31, 2006, for purposes of counterterrorism activities, training Iraqi security forces, and protecting United States infrastructure and personnel.

(C) A strategy for addressing the regional implications for diplomacy, politics, and development of redeploying United States forces from Iraq by December 31, 2006.

(D) A strategy for ensuring the safety and security of United States forces in Iraq during and after the December 31, 2006, redeployment, and a contingency plan for addressing dramatic changes in security conditions that may require a limited number of United States forces to remain in Iraq after that date.

(E) A strategy for redeploying United States forces to effectively engage and defeat global terrorist networks that threaten the United States.

SA 4193. Mr. SESSIONS (for Ms. COLLINS) proposed an amendment to the bill H.R. 4311, to amend section 105(b)(3) of the Ethics in Government Act of 1978 (5 U.S.C. App.); as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. PROTECTION OF FAMILY MEMBERS.

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

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

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

SEC. 2. EXTENSION OF PUBLIC FILING REQUIREMENT.

(a) IN GENERAL.—Section 105(b)(3)(E) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by striking ''2005'' each place it appears and inserting ''2007''.

(b) EFFECTIVE DATE AND APPLICATION.—The amendments made by subsection (a) shall take effect as though enacted on December 31, 2005.

NOTICE OF HEARING

SUBCOMMITTEE ON NATIONAL PARKS

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on National Parks of the Committee on Energy and Natural Resources.

The hearing will be held on Thursday June 15, 2006, at 2:30 pm in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the National Park Service's Revised Draft Management Policies, including potential impact of the policies on park operations, park resources, wilderness areas, recreation, and interaction with gateway communities.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD–364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Tom Lillie at (202) 224–5161, David Szymanski at (202) 224–6293, or Sara Zecher at (202) 224–8276.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. KYL. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition and Forestry be authorized to conduct a hearing during the session of the Senate on Wednesday June 7, 2006 at 9 a.m. in 329A, Senate Russell Office Building. The purpose of this committee hearing will be to discuss Agricultural Conservation Programs.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. KYL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 7, 2006, at 9 a.m. to hold a hearing on Oil Dependence and Economic Risk.

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

COMMITTEE ON THE JUDICIARY

Mr. KYL. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be authorized to meet to conduct a hearing on ''S.3274: The Fairness in Asbestos Injury Resolution Act of 2006'' on Wednesday, June 7, 2006 at 9:30 a.m. in Dirksen Senate Office Building Room 226.

Witness list:

Panel I: Governor John Engler, President, National Association of Manufacturers, Washington, DC; Peter Ganz, Executive Vice President and General Counsel, Foster-Wheeler, Clinton, NJ; Eric Green, Founder, Principal Resolutions, LLC, Professor, Boston University, Boston MA; Flora Greene, National Spokesperson, Seniors Coalition; Jim Grogan, General President, International Association of Heat and Frost Insulators and Asbestos Workers, Latham, MD; Douglas Holtz-Eakin, Director, Council on Foreign Relations, Washington, DC; Edmund F. Kelley, Chairman, Liberty Mutual Insurance Company; Bob Wallace, Executive Director, Veterans of Foreign Wars, Washington, DC.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. KYL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on June 7, 2006 at 2:30 p.m. to hold a closed business meeting.

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

SUBCOMMITTEE ON SCIENCE AND SPACE

Mr. KYL. Mr. President. I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation Subcommittee on Science and Space be authorized to meet on Wednesday, June 7, 2006, at 2:30 p.m. on NASA Budget and Programs: Outside Perspectives.

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

PRIVILEGES OF THE FLOOR

Mr. BAUCUS. Madam President, I ask unanimous consent that the following fellows, law clerks, and interns of the staff of the Finance Committee be allowed on the Senate floor for the duration of the debate on the estate tax: Tiffany Smith, Laura Kellams, Tom Louthan, Christal Edwards, Joseph Adams, and Justin Kraske.

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

Mr. ISAKSON. Mr. President, I ask unanimous consent that privileges of the floor be granted to two members of my staff, and they are Bradford Swann and Captain Gade.

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

Mr. CRAIG. Mr. President, I ask unanimous consent that Pele Peacock, a law clerk in my office, be granted the privilege of the floor for the duration of the debate regarding the Native Hawaiians legislation.

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

Mr. CORNYN. I ask unanimous consent a law clerk on my staff, Sam Burk, be granted floor privileges for the duration of the debate on S. 147.

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

Mr. SESSIONS. Mr. President, I ask unanimous consent that my budget fellow, Dr. Andrew Barrett, be granted the privilege of the floor for the duration of the death tax debate.

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

CONDITIONAL ACCEPTANCE OF LIBYAN CREDENTIALS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 504 submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 504) expressing the sense of the Senate that the President should not accept the credentials of any representative of the Government of Libya without the expressed understanding that the Government of Libya will continue to work in good faith to resolve outstanding cases of United States victims of terrorism sponsored or supported by Libya, including the settlement of cases arising from the Pan Am Flight 103 and LaBelle Discoteque bombings.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD.

The resolution (S. Res. 504) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 504

Whereas there has not been a resolution of the claims of members of the United States Armed Forces and other United States citizens who were injured in the April 6, 1986, bombing of the LaBelle Discothéque in Berlin, Germany, and the claims of family members of the service men and women killed in that bombing or the resolution of other outstanding cases of United States victims of terror sponsored or supported by Libya;

Whereas, on December 21, 1988, terrorists from Libya bombed Pan Am Flight 103 over Lockerbie, Scotland, killing 270 people, including 189 Americans;

Whereas, on May 29, 2002, the Government of Libya offered to pay up to $2,700,000,000 to settle claims by the families of the 270 people killed aboard Pan Am Flight 103, representing $10,000,000 for each victim of the Pan Am Flight 103 bombing;

Whereas, on August 15, 2003, Libya's Ambassador to the United Nations, Ahmed Own, submitted a letter to the United Nations Security Council formally accepting ''responsibility for the action of its officials'' in relation to the Lockerbie bombing;

Whereas, on September 12, 2003, the United Nations lifted sanctions against Libya, thereby enabling the first trigger of the agreement between the Government of Libya and the families of the victims of the attack on Pan Am Flight 103 for a payment of $4,000,000 per victim that has been paid to the victims' families;

Whereas, on September 24, 2004, the United States lifted most economic sanctions against Libya, thereby enabling the second trigger of the agreement between the Government of Libya and the families of the victims of the attack on Pan Am Flight 103 for an additional payment of $4,000,000 per victim that has been paid to the victims' families;

Whereas, on May 15, 2006, Secretary of State Condoleezza Rice announced the determination of President George W. Bush to rescind the designation of Libya on the list of state sponsors of terrorism, thereby enabling the third trigger of the agreement between the Government of Libya and the families of the victims of the attack on Pan Am Flight 103 for a final payment of $2,000,000 per victim;

Whereas, on May 15, 2006, Secretary of State Rice announced the reestablishment of full diplomatic relations with the Government of Libya, ending 26 years of isolation; and

Whereas the agreement between the Government of Libya and the families of the victims of the attack on Pan Am Flight 103 incorporated a timeline for payment of the full $2,700,000,000 that has not been met even though all of the other conditions for such payment have been satisfied.

Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) it remains an important priority for further improvement in the relations between the United States and Libya that the Government of Libya make a good faith effort to resolve all outstanding claims of United States victims of terrorism sponsored or supported by Libya;

(2) it is in the best interests of the long-term relationship between the United States and Libya that final payment be made to the families of the victims of the attack on Pan Am Flight 103; and

(3) the President should not accept the credentials of any representative of the Government of Libya without the expressed understanding that the Government of Libya will continue to work in good faith to resolve outstanding cases of United States victims of terrorism sponsored or supported by Libya, including the settlement of cases arising from the Pan Am Flight 103 and LaBelle Discothéque bombings.

TO AMEND SECTION 105(b)(3) OF THE ETHICS IN GOVERNMENT ACT OF 1978

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be discharged from further consideration of H.R. 4311, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4311) to amend section 105(b)(3) of the Ethics in Government Act of 1978 (5 U.S.C. App).

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, today by amending and passing H.R. 4311, we make another attempt to extend critical protections needed to keep the Nation's Federal judges and their families safe. Last November, the Senate passed S. 1558, which extended for 4 years the ''sunset'' of a provision granting the Judicial Conference of the United States the authority to redact information from a judge's mandatory financial disclosure in circumstances in which it is determined that the release of the information could endanger the filer or the filer's family. This provision was first enacted in the ''Identity Theft and Assumption Deterrence Act of 1998'' and extended for 4 years in 2001. Chairman SPECTER and I worked with Senators COLLINS and LIEBERMAN to amend S. 1558 to again include a 4-year ''sunset'' and also to extend its protections to the family members of filers.

Like the more comprehensive court security measure Chairman SPECTER and I have introduced, S. 1968, the ''Court Security Improvement Act of 2005, CSIA, from which it is drawn, S. 1558 provides judges and their families with needed security by extending the judges' redaction authority without interruption and expanding it to their families. It also strikes the right balance with the need for continuing congressional oversight to prevent the

misuse of this redaction authority, which has been a matter of some concern to me. I appreciate that the Judicial Conference is seeking to improve its practices and the Senate passed S. 1558 because none of us wants to see judges or their families endangered.

However, the House failed to take up and pass S. 1558 before the end of the session. As I said last December, I was disappointed at this failure, which allowed redaction authority to lapse at the end of last year. Instead, the House passed a separate bill, H.R. 4311, which would make redaction authority permanent and which fails to extend it to cover family members of filers. As passed by the House, H.R. 4311 would remove Congress' critical role providing oversight over the use of this extraordinary authority to redact financial disclosure forms. As amended and passed today, H.R. 4311 restores the proper balance while extending the redaction authority, retroactive to its expiration last December, until December 31, 2007. It also makes protection of judges' family members explicit.

I hope that the House will join us without delay both in extending the redaction authority and in expanding the scope of its protections to include family members, so that we can continue to protect the dedicated women and men throughout the Judiciary in this country who do a tremendous job under challenging circumstances.

Mr. SESSIONS. I ask unanimous consent that the amendment at the desk be agreed to, the bill as amended be read a third time and passed, the motion to reconsider be laid upon the table, and any statement relating to the measure be printed in the RECORD.

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

The amendment (No. 4193) was agreed to, as follows:

(Purpose: To amend the Ethics in Government Act of 1978 to protect family members of filers from disclosing sensitive information in a public filing and to extend the authority to redact financial disclosure statements of judicial employees and judicial officers)

Strike all after the enacting clause and insert the following:

SECTION 1. PROTECTION OF FAMILY MEMBERS.

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

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

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

SEC. 2. EXTENSION OF PUBLIC FILING REQUIREMENT.

(a) IN GENERAL.—Section 105(b)(3)(E) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by striking ''2005'' each place it appears and inserting ''2007''.

(b) EFFECTIVE DATE AND APPLICATION.—The amendments made by subsection (a) shall take effect as though enacted on December 31, 2005.

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

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill (H.R. 4311), as amended, was read the third time, and passed.

ORDERS FOR THURSDAY, JUNE 8, 2006

Mr. SESSIONS. On behalf of the leader, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Thursday, June 8. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate resume consideration of the motion to proceed to H.R. 8, the death tax relief bill, as under the previous order.

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

PROGRAM

Mr. SESSIONS. Mr. President, we have had a full day debating the motions to proceed to the death tax relief bill and the Native Hawaiian bill. Tomorrow morning, at approximately 10:45, we will have a cloture vote on the motion to proceed to the death tax relief bill, and at 12:45 we will have a cloture vote on the motion to proceed to the Native Hawaiian bill. We have several nominations to address before the end of the week. These include several judicial nominations, as well as Susan Schwab to be United States Trade Representative, and Richard Stickler to be the Assistant Secretary of Labor for Mine Safety and Health. We hope to vote tomorrow afternoon on the Schwab nomination and four district judges.

Following these votes, the schedule for the remainder of the afternoon will be dependent on the outcome of the cloture votes on the motions to proceed to the death tax relief bill and the Native Hawaiian bill. Moments ago, cloture was filed on the Stickler nomination. Therefore, Senators can expect to have a cloture vote on Friday unless we work out an agreement to vote at an earlier time.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. SESSIONS. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:06 p.m., adjourned until Thursday, June 8, 2006, at 9:30 a.m.

NOMINATIONS

Executive nomination received by the Senate June 7, 2006:

THE JUDICIARY

GREGORY KENT FRIZZEL, OF OKLAHOMA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF OKLAHOMA, VICE SVEN E. HOLMES, RESIGNED.