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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable JON TESTER, a Senator from the State of Montana.

PRAYER

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

Let us pray.

Almighty God, You give Your spirit to all who truly desire Your presence. Lord, today, strengthen the Members of this legislative body. Lord, strengthen them not only to see Your ideal but to reach it. Strengthen them not only to know the right but to do it. Strengthen them not only to recognize their duty but to perform it. Strengthen them not only to seek Your truth but to find it.

Empower our lawmakers to go beyond guessing to knowing, beyond doubting to certainty, and beyond resolving to doing. Give our Senators the deep inner peace of knowing that You have heard and answered this prayer for power.

We pray in Your mighty Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JON TESTER led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, January 31, 2007.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

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

RESERVATION OF LEADER TIME

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, we will be in a period for the transaction of morning business for 60 minutes. The first half is under the control of the Republicans, the second half under the control of Senator WYDEN. Following morning business, we will resume H.R. 2, the minimum wage bill.

As I indicated in closing yesterday, we expect Senator KYL to be here this morning when we resume the bill. I understand a number of conversations have taken place among Senators BAUCUS, GRASSLEY, KYL, and KENNEDY regarding these amendments. It is anticipated once we are back on the bill there will be debate with respect to one or more of the Kyl amendments and that a vote in relation to an amendment could occur sometime around noon today.

Once we have completed action on all the amendments, then it is my hope that we can yield back all the time postcloture and then dispose of the substitute amendment. If we have to run the full 30 hours on the substitute, I think I am correct in stating that the 30 hours would expire at about 6:40 this evening, cloture having been invoked yesterday at about 12:40 p.m. Of course, once all that time has expired or been yielded back and the substitute has been disposed of, cloture on the bill would occur immediately and automatically.

Mr. President, just a couple of comments. When we complete the debate on minimum wage and the bill is completed, we move to Iraq, and that is, as we know, a very contentious issue. But as the distinguished Republican leader last night stated, we are trying to arrive at a point where we can have a good, strong debate. It will take cooperation, it will take compromise so we can be in a position to have this debate so all Senators can voice their opinion and, hopefully, we can settle on a finite number of pieces of legislation to vote on. That is my goal, and I hope we can do that. Certainly the American people deserve this debate.

(The remarks of Mr. REID pertaining to the introduction of S. 439 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. REID. Mr. President, I apologize to my friend for taking so much time, but sometimes one takes what time is needed.

RECOGNITION OF THE MINORITY LEADER

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

IRAQ DEBATE

Mr. MCCONNELL. Mr. President, with regard to today's schedule, we will be working, as the majority leader indicated, on the timing of the Kyl amendments. These are important amendments which we are going to want to have considered in a timely fashion. Senator KYL will need to be able to debate those amendments. We

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

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probably will be able to get to final passage tomorrow.

And then, as the majority leader indicated, he and I have had extensive discussions about crafting the various proposals, how many we are going to have on each side to address the most important issue in the country right now, which is the Iraq war, and that debate, of course, will occur next week. So we will continue our discussions toward narrowing down and understanding fully exactly which resolutions, alternate resolutions will need a vote in the context of that debate.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. REID. One final point, Mr. President. We should understand, all of us, that we may have to have a vote or some votes on Monday. Everyone should understand that. And if we have to have votes on Monday, they could occur earlier rather than later. So everyone should understand there may be Monday votes. We hope not. As I told the distinguished Republican leader and as we have announced on a number of occasions, we had our retreat, and the Republicans certainly cooperated with us, and we are going to cooperate with them. These retreats are extremely important to this body. They allow us to enhance the political parties within this great Senate and focus on what is good for the country. We have done that, and the Republicans are going to do that the day after tomorrow, and I think that is important. We will certainly have no votes on Friday.

MORNING BUSINESS

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

The Senator from Nevada is recognized.

Mr. ENSIGN. Mr. President, I rise this morning to discuss the Iraqi situation. Not the shootings and explosions we see in the streets of Baghdad and in al Anbar Province, but the struggle were currently engaged in right here in the Senate.

This latter battle is arguably more important to our long-term national security than any other issue we face today.

While everyone remembers the tragedy of 9/11, the pain and anguish experienced by Americans that day appears to have faded over time for an ever increasing number of our citizens.

For me, it remains as vivid and as gut wrenching today as it was that September morning more than 5 years ago.

It seems too easy these days to point fingers of blame at one another for our current situation in Iraq.

I could stand here today and recite quote after quote from Members on both sides of the aisle who were certain that Saddam Hussein possessed weapons of mass destruction.

Hussein and his Baathist regime had ruled Iraq as a personal fiefdom for more than 30 years.

There is no arguing that Hussein was personally responsible for the brutal deaths of hundreds of thousands of his own citizens, invaded two of his neighbors, supported worldwide terrorism, and violated 17 separate United Nations resolutions aimed at curtailing his WMD programs.

Seventy-seven Senators voted to give President Bush the authority to act.

With the clear authority from Congress to undertake military operations against Saddam Hussein, President Bush tried long and hard to seek a peaceful resolution. Saddam Hussein could not be reasoned with.

Following 9/11 and in an age of nuclear bombs and other weapons of mass destruction, we could no longer afford to sit by and wait on those wanting to do us harm to land the first punch.

We could not wait until we were attacked before acting. Calls for the President to act in order to protect America were loud and clear. And the President did act.

In doing so, Saddam Hussein's regime was eliminated and some 28 million Iraqis were freed from a living hell on Earth.

Watching the Iraqis struggle since then to establish their own democracy has not been a pretty sight.

With the luxury of hindsight, it's no secret that serious mistakes were made; too few troops; de-baathification of the Iraqi government and; failure of Federal Departments other than Defense to be fully engaged in this effort, to name a few.

We need to face the fact that we are in Iraq. We need to ask ourselves what do we do now.

Do we pack up and leave, even though every voice of reason tells us that Iraq would implode into a terrorist state used by al-Qaida as a launching pad against the ''infidels''; reminiscent of Afghanistan under the Taliban?

As Senator MCCAIN has reminded us time and again, Iraq is not Vietnam. When we left South Vietnam, the Viet Cong did not pursue us back to our shores. . .

Al-Qaida is not the Viet Cong. Al-Qaida has sworn to destroy us and is committed to bringing their brand of terror to America.

This fact was evidenced recently during testimony by Lieutenant General Maples, head of the Defense Intelligence Agency.

He testified that documents captured by coalition forces during a raid of a safe house believed to house Iraqi members of al-Qaida 6 months ago revealed al-Qaida was planning terrorist operations in the U.S. Anyone willing to go to Iraq to fight Americans is probably willing to travel to America.

Do we pass meaningless resolutions that mandate unconstitutional caps on the number of troops deployed to Iraq?

I am not a military strategist, so I rely on the opinion of experts to educate me.

General Petraeus, the new commander of the Iraqi Multi-National Coalition and author of the Army's new Counter Insurgency Manual, told me that he could not succeed in providing security for the citizens of Baghdad and al Anbar Province without the additional troops called for in the President's plan.

Do we allow the President the ability to adjust those troop numbers in an effort to bring security to Baghdad and al Anbar Province?

From what I see, the President has the only plan on the table that doesn't ensure defeat. It may not be a perfect plan, and it may need to be adjusted in the near term, but it is certainly a change from what we've been doing so far.

One particular area that I believe needs improvement is our reconstruction effort.

According to the Congressional Research Service the United States has spent over $35.6 billion on reconstruction efforts.

We have to stop squandering our resources on reconstruction projects in Iraq that fail to deliver basic security and critical infrastructure.

A recent article in the Journal of Intervention and Statebuilding talked of the need to abandon a scattergun approach to reconstruction which focuses on winning hearts and minds and results in many nonessential projects being started but not completed.

I believe that we need to have what the author called a triage approach to reconstruction. The military calls it SWEAT: sewage, water, electricity and trash.

Let's focus on getting these essential services operating at the level they were before we invaded Iraq. This approach will undoubtedly make our military effort easier.

Our efforts to improve fundamental services up to this point have not received the focus and attention they deserve.

We have fallen short in the area of electricity production. Before we invaded Iraq, electric power was 95,600 megawatt hours; now, it is close to 90,000 megawatt hours. The goal was originally 120,000 megawatt hours.

In Baghdad, Iraqis receive about three fewer hours of electricity than before the war. Outside of Baghdad they do receive more, but we know most of the problems are in Baghdad. CRS notes that of 425 projects planned in the electricity sector, only 300 will be completed.

We have done somewhat better in assistance with water and sanitation.

We have provided clean water to 4.6 million more people and sanitation to 5.1 million more than before the war. But besides water, sanitation, and

electricity we know that Iraq needs a functioning oil sector.

Revenues from oil are necessary to fund government services, including security and maintain infrastructure. According to CRS, oil and gas production has remained stagnant and below pre-war levels for some time.

The pre-war level of oil production was 2.5 million barrels per day; it currently stands at 2.0 million barrels per day.

That is far below the 3.0 million barrels per day we were told Iraq was expected to reach by end of 2004. According to the Special Inspector General for Iraq Reconstruction, besides the destruction caused by the insurgents, poor infrastructure, corruption, and difficulty maintaining and operating U.S.-funded projects are challenges faced by the industry.

We are at a pivotal point in this Nation's history.

We face an enemy unlike anything ever witnessed before. We cannot wash our hands of the responsibility incumbent upon us as the leader of the free world.

It is time to join together, forgetting whether we are Republicans, whether we are Democrats, remembering we are Americans. It is time to come together behind our men and women in uniform, figure out what the best strategies are, and move forward together. It used to be said that partisanship stopped at our shore's edge. We need to go back to that spirit of being Americans. We cannot afford to fail in this effort.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana.

Mr. VITTER. Mr. President, I, too, rise today on the Senate floor to discuss the very serious issue of Iraq and how we move forward there to eventually get our troops home. I have been in the Senate 2 years. Before that, I was in the House for 5 years. That is a relatively short amount of time, but I daresay I believe, as do many of my colleagues who have been here 20 or 30 years, this truly is one of the most important issues we will ever debate and have an impact on. In fact, even for a career that long, it may be the single most important issue we will debate and have an impact on.

I hope all of us take that to heart. Don't say it as a truism but understand what that means and what it demands of us. What it demands of us is that we act responsibly and whatever our feelings and point of view, we put them forward in a responsible way for the good of America.

What do I mean by that? I primarily mean two things. First of all, each of us as Senators has the right to oppose a plan, including the President's plan. I will be the first to say that. I will be the first to defend my colleagues' right to oppose any plan, including the President's plan. But along with that right comes responsibility, and each of us also has a responsibility to be for a plan to move forward in Iraq. It does not need to be the President's plan, but we sure as heck have a responsibility to be for some coherent plan, in some level of detail. How do we move forward in Iraq for the good of the country, for our security, and for stability in the Middle East?

Second, what being responsible means is taking to the Senate floor to impact policy, to take action but not simply to offer words that have no impact in the real world but only serve to undercut the morale and focus of our troops and to embolden the enemy. Some resolutions, which are mere words—they don't constrain any activity of the President or of our troops—I think have that unintended result. They do not limit troops, they do not limit troop numbers, but they sure as heck destroy morale. They certainly embolden the enemy. Don't believe me about that judgment. Turn to very respected military leaders, including GEN David Petraeus, who said that directly, frankly, in his testimony before Senate committees.

I have been guided by that responsibility, to face the issues squarely, to be responsible, to be for some plan—not necessarily the President's but some real, detailed plan; to take action on the Senate floor and not float words which can have negative consequences for our troops and also embolden the enemy.

After a lot of thought and in that context and after a lot of careful study, including many hearings before the Senate Foreign Relations Committee on which I sit, I have decided to support the President's plan as a reasonable attempt to move forward—indeed, as a final attempt to stabilize the situation. But I have also decided to do it in the context of three very strong recommendations which I have made many times directly to the President and to other key advisers, such as Secretary of State Condoleezza Rice, such as the President's National Security Adviser, Steve Hadley, and others. Those three strong, clear recommendations are as follows:

No. 1, I do believe, with the Iraq Study Group and others, we need to put even more emphasis on a diplomatic effort and, in my opinion, that should be to encourage and embrace and participate in a regional diplomatic conference that involves all of Iraq's neighbors, including Iran and Syria. This would be very different from direct bilateral talks with either Iran or Syria. With regard to that push, I disagree with that, including, to some extent, the Iraq Study Group. But I do think a regional conference focussed specifically and exclusively on stabilizing Iraq, promoting democracy in Iraq, would be very positive.

No. 2, I agree with many that we can be even stronger, clearer, firmer about benchmarks for the Iraqi Government and consequences if the Iraqi Government does not meet those benchmarks. President Bush has talked a lot about what are clear benchmarks, but I have encouraged him to go even further, be even more direct and clear, including in public, about those benchmarks. Those would be things such as the Iraqis continuing to take clear, strong action against all who promote violence, whether they are Sunni or Shia or anyone else; things such as an oil revenue law that must be passed in the very near term; things such as major reform of the debaathification process, which has stirred up enormous sectarian conflict and hatred, particularly from the Shia and Sunnis.

Third, I have been very clear in saying over and over and over that we must constantly reexamine these new troop numbers to make sure they can have a meaningful impact on the ground in the short term. I am for trying this as a final attempt, but I am not for throwing too little too late at the effort.

I respect the judgment of military leaders such as GEN David Petraeus. I take them at their word, and I respect their judgment that this additional 21,500, coupled with redeployment and reemphasis of troops already in theater, is enough, but I think we have to constantly examine that to make sure we don't make the mistake we have made in the past, which is underestimating troop need.

There has been a lot of discussion about the Iraq Study Group report, for good reason. A lot of leading citizens contributed very thoughtful analysis to that report. But I think far too much of that discussion has unfairly portrayed the President's plan and different versions of it, like what I am talking about, as in stark contrast to the Iraq Study Group report. In fact, I don't believe that to be the case at all. It is not exactly the Iraq Study Group report. It is different, but it has enormous areas of overlap.

With regard to political solutions that have to happen lead by Iraqis on the ground in Iraq, there is enormous agreement between what I am supporting, what the President is describing, and the Iraq Study Group report. With regard to a diplomatic initiative, there is enormous overlap between what I am pushing in terms of a regional diplomatic conference involving all of Iraq's neighbors and what the Iraq Study Group discusses. Yes, they seem to favor direct bilateral talks with countries such as Iran and Syria. I do not and the President does not. But there is still enormous overlap and agreement on things we can do very proactively and aggressively on the diplomatic front.

Even on the military component there is great overlap and significant agreement. In that regard I would simply point to one very important passage on page 73 which states clearly, discussing military troop levels and numbers:

> We could, however, support a short-term redeployment or surge of American combat forces to stabilize Baghdad or to speed up the training and equipping mission if the U.S.

commander in Iraq determines that such steps would be effective.

Well, of course, the new U.S. commander of Iraq is GEN David Petraeus, and he has suggested and asked for exactly that, which is why it is significant in the President's plan.

So I urge all of my colleagues to give this issue serious thought, to be responsible, to advocate whatever is in their heart and in their mind but to do it responsibly. Support some plan, and do not throw out mere words that have no concrete effect except undermining our troops and emboldening the enemy.

Mr. President, I yield the floor.

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

Mr. CORNYN. Mr. President, could you advise me how much time our side has remaining in morning business?

The ACTING PRESIDENT pro tempore. Ten minutes forty seconds.

Mr. CORNYN. If there is 10 minutes remaining, I would like to take the next 5 minutes and then yield to Senator DEMINT for the remaining 5 minutes, if the Chair would please advise.

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

IRAQ

Mr. CORNYN. Mr. President, I appreciate the comments we have heard this morning from the distinguished Senator from Nevada and the distinguished Senator from Louisiana, and I couldn't agree more with the comments they have made. I would like to add some, perhaps, even more eloquent words—and rest assured they are not mine—to this debate because I think it helps us understand in a way that we might not otherwise understand what is at stake and what the people who are most directly impacted believe is at stake in the war on terror, particularly the conflict in Iraq.

I first want to quote the words of Roy Velez. Roy is from Lubbock, TX, and has lost two sons—one in Iraq and one in Afghanistan. Recently, Roy Velez said:

> It is not about President Bush. It is not about being a Democrat or a Republican. It is about standing behind a country that we love so much. I know it has cost us a lot in lives, including my two sons, and it has taken a toll on America. But we can't walk away from this war until we're finished.

I don't know anyone who has earned the right to speak so directly to what is at stake, the sacrifices that have been made, and the consequences of our leaving Iraq before it is stabilized and able to govern and defend itself.

Then there is also the story of 2LT Mark J. Daily. Lieutenant Daily was 23 years old from Irvine, CA. He was with the 4th Brigade Combat Team, 1st Cavalry Division out of Fort Bliss, TX. Lieutenant Daily was killed on January 15 when an improvised explosive device exploded and ripped through his vehicle, taking his life and those of three fellow soldiers. Mark had been, as so many of our military have done, keeping in touch with his family via e-mail, and he maintained a blog on the popular My Space Web site. In that blog, Mark specifically explained why he joined, and this is what he wrote:

> Why I joined: This question has been asked of me so many times in so many different contexts that I thought it would be best if I wrote my reasons for joining the Army on my page for all to see. First, the more accurate question is why I volunteered to go to Iraq. After all, I joined the Army a week after we declared war on Saddam's government with the intention of going to Iraq. Now, after years of training and preparation, I am finally here. Much has changed in the last three years. The criminal Baath regime has been replaced by an insurgency fueled by Iraq's neighbors who hope to partition Iraq for their own ends. This is coupled with the ever-present transnational militant Islamist movement which has seized upon Iraq as the greatest way to kill Americans, along with anyone else who happens to be standing near. What was once a paralyzed state of fear is now the staging area for one of the largest transformations of power and ideology the Middle East has experienced since the collapse of the Ottoman Empire.

I would say in closing that we can't claim to support the troops and not support their mission. If we don't support the mission, we should not pass nonbinding resolutions. We should do everything within our power to stop it. I do believe that we should support that mission. I do believe we should support our troops. That is why I believe we should send them the message that, yes, we believe you can succeed, and it is important to our national security that you do.

I yield the floor.

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

Mr. DEMINT. I thank the Senator from Texas, and I would like to add my comments to his. We are certainly discussing probably one of the most deadly serious issues that I have been a part of since being in the Congress. I must start by expressing my respect for the Senators who are proposing this resolution. I know their intent is good. They have heartfelt concerns about what we are doing.

But what I would like to do is remind all of us that our role is a role of being leaders, not just being critics. As elected officials, we know what it is like to have critics second-guess all the decisions we make, but our job as Senators is to be leaders; and to be leaders, we have to make good decisions. If we make good decisions, we have to know what our real choices are. I am afraid those who are proposing this resolution are not considering the real choices because we can keep the status quo, we can withdraw and be defeated, or we can continue until we win and accomplish our goals in Iraq.

This resolution is a resolution of defeat and disgrace. There is no other way it could come out. That is the choice they are making. That is the decision they are making because we know if we withdraw and leave this to the Iraqis when they are not ready, we will lose all. Not only will we be disgraced as a nation, but we will have probably the biggest catastrophe—human catastrophe as well as political catastrophe—in the Middle East that is going to occur. We have to discuss the real implications of that choice.

I oppose this resolution because it does not support our mission, it does not support success, and it makes the decision for defeat. Real leaders would come up with a plan of action that they follow through on. And whether we agree with the President or not, he has put a plan on the table and he intends to follow through on it with all the advice he can get from his military people. Our role is not just to criticize that, but if we don't agree, it is to come up with another plan, propose it, and our responsibility is to sell it to the American people—not just to criticize, not to come up with resolutions that don't mean anything, intended to embarrass the President. But what it really does is deteriorate the morale of our troops.

I know we are frustrated with this war, and the fear of failure is all around us. But we cannot digress into being critics in this body. Our job is to lead.

I want to conclude this morning with some comments from the soldiers. I know other Senators have called parents who have soldier sons and daughters who have been killed. I have not had one who told me to get out of Iraq. I have had a lot of them tell me: Win. That is how to honor the sacrifice is to win.

SPC Peter Manna:

> If they don't think we're doing a good job, everything we have done here is all in vain.

We have a number of these, but I don't have time to read them all.

SGT Manuel Sahagun said:

> One thing I don't like is when people back home say they support the troops but they don't support the war. If they're going to support us, support us all the way.

Americans are not against this war; they are against losing. They need to know we can win it.

General Petraeus, the best general that we have, whom we have just approved, confirmed in the Senate, has told us that we can succeed with the President's plan. This is our last best hope to leave Iraq as a free democracy and to help stabilize the Middle East. The other choice is defeat and disgrace.

Mr. President, I call on all of my Senate colleagues not to support this resolution and to act as leaders: to put forward a plan or support the one that the President has put forward.

I yield the floor and reserve the remainder of the time.

Mr. WYDEN. Mr. President, parliamentary inquiry: I believe I have time reserved at this point. I was going to speak for a little over 20 minutes or so. I would like to inquire through the Chair of my colleagues if they wish to finish their remarks before I go to mine.

Mr. CORNYN. Mr. President, in response to the distinguished Senator from Oregon, I believe our morning business time has expired and we would yield back any remaining time so the Senator from Oregon can begin his remarks.

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

Mr. WYDEN. I thank my colleagues for their courtesy.

HEALTH CARE IN AMERICA

Mr. WYDEN. Mr. President, it is not breaking news that the American health care system is broken, even though our country has scores of dedicated and talented health care providers. It isn't breaking news that Congress has ducked fixing health care since 1994.

What should be breaking news is that for the first time in decades there is a genuine opportunity for Democrats and Republicans to work together to fix American health care.

A few days ago in his State of the Union Address, the President put forward a health care reform proposal that focuses on changing the Federal Tax Code. Since then, leading Democratic and Republican economists have joined forces to point out how Federal health care tax rules benefit the most affluent among us, and subsidize inefficiency as well.

For example, right now under the Federal Tax Code, a high-flying CEO can write off the cost on their Federal taxes of going out and getting a designer smile while a hard-working gal in a small hardware store in Montana, Oregon, or anywhere else in the country, gets virtually nothing.

I am of the view that Democrats and Republicans should work together to change this inequity and make sure that all of our citizens have affordable, quality, private health care coverage with private sector choices—the way Members of Congress do.

The Federal Tax Code and its policies have disproportionately rewarded the affluent. They came about because of what happened in the 1940s when there were wage and price controls. These policies might have worked for the 1940s, but they are clearly not right 60 years later. Democrats and Republicans can work together to change the Federal tax rules that grease the system and disproportionally reward the most affluent and subsidize inefficiency.

In return for those on the Democratic side of the aisle supporting a change in Federal health tax rules and coverage through private sector choices, the President and Republicans should join with Democrats and independent health experts of all political philosophies who say to fix health care we have to cover everybody for essential benefits. What is very clear now on health care is if we do not cover everybody—and not for Cadillac coverage, but for the essentials—our country will always have a health care system where those who have no coverage have their costs transferred to people who do have coverage. Every night in Montana, Oregon, and elsewhere in our country we have folks in hospital emergency rooms because they have not been able to get good outpatient health care, and the costs for folks in hospital emergency rooms who cannot pay get transferred to people who can pay. Many health care experts have theorized that perhaps up to 20 percent of the premium paid by people who have coverage is because of the costs for caring for those without coverage.

At this point in the debate, Democrats can say that Federal tax rules are inequitable with respect to health care and we can use private sector choices. My hope is Republicans will say to fix health care we have to have a system that covers everybody. Democrats and Republicans can come together to make that case.

There are other areas where we can find common ground right now between the political parties on health care. For example, Democrats and Republicans in the Senate think we ought to give a broad berth to the States to innovate in the health care area. Surely what works in the State of Montana may not necessarily work in Florida, Iowa, or New York. They say, ''Let's give a broad berth to the States to show innovative approaches.'' Particularly Governor Schwarzenegger and Governor Romney deserve a lot of credit for being willing to lead at the State level. In my State, folks have some innovative ideas, as well. My guess is they do in Montana, elsewhere. We can take steps to promote them. I personally don't think the States can do it all because the States cannot solve problems they did not create. That is why we need to change the Federal health care tax rules. Because of the federal tax rules, the Federal Government is the big spender in health care. The States cannot do a lot about that. But surely, as part of the effort to bring Democrats and Republicans together, we can agree to make changes in the Federal health care tax care rules and we can agree to get everyone covered. We can also agree there is a lot of common ground between Democrats and Republicans, to give States the opportunity to innovate.

Democrats and Republicans, as we look at the possibility of a coalition, can join together so we have health care rather than sick care. We do not do a lot to promote wellness and prevention in this country. Medicare shows that better than anything else. Medicare Part A will pay checks for thousands and thousands of dollars of hospital expenses. Medicare Part B, on the other hand, the part for outpatient services, hardly does anything to reward prevention and wellness. You can not even get a break on your premium—the Part B premium, they call it—if you help to hold down your blood pressure, cholesterol, stop smoking, and that sort of thing. Surely Democrats and Republicans can join hands to do more to promote prevention, and to have incentives for parents, for example, to get their kids involved in wellness.

This would not be some kind of national nanny program where we have the Federal Government saying, we are going to watch the chip bowl, but sensible prevention policies on which Democrats and Republicans can agree.

It also seems to me that Democrats and Republicans can join hands with respect to chronic health care and end of life health care. We know in the Medicare Program close to 5 percent of the people take about 50 percent of the health care dollars because those folks need chronic care and because of spending at the end of life. They need compassionate health care. We have not thought through policies that can bring both Democrats and Republicans together to deal with this area of health care where an enormous amount of the money is going.

For example, to get Medicare's hospice benefits, right now seniors have to choose whether they are going to get curative care or hospice care. That makes no sense at all. Why should a senior have to give up the prospects of getting a cure for their particular illness in order to get hospice benefit? Let's not pit the hospice benefit against curative care. Let's have Democrats and Republicans work together in order to make changes that expand the options available for older people.

The door is open right now. The State of the Union gave new visibility to the health care cause. Democrats, such as myself, who serve on the Committee on Finance, who will say these Federal health care tax rules are inequitable, can join hands with Republicans who will say we need to cover everybody and stop the cost shifting. The door is open right now if Democrats and Republicans will work together in a bipartisan basis.

Some people are saying it can't be done. They are saying there is too much polarization on health care and other big issues. Let's talk about it, once again, when there is a Presidential campaign. I send a clear message on that point, as well. Of course, this country can put off fixing health care once more, as it has done again and again for 60 years—going back to Harry Truman in the 81st Congress. It was 1945 when he began to talk about fixing health care. I guess one can argue, let's put it off again and have another Presidential campaign where people go back and forth on this issue. However, I submit that whoever the new President is in 2009—and I am very excited about our Democratic candidates—no matter who is the new President—should address this issue. However if, heaven forbid, there is a terrorist attack early in the new Administration, health care would get put

off once more. Perhaps we would go for several more years without talking about health care reform.

We have had people working to fix health care in this country for years and years, people on both sides of the aisle. On our side of the aisle, we have Senator KENNEDY. No one has championed the cause of fixing health care for as many years as passionately as Senator KENNEDY. Republicans have worked very hard for health care reform, as well.

I hope this question of health care reform is not somehow deferred once again until 2009. There is a broad consensus of what needs to be done. I outlined four or five areas this morning, starting with changing the Federal health care tax rules and making sure there are good private sector choices for Americans, getting everyone covered, and emphasizing prevention and wellness. That alone would be a good basis for Democrats and Republicans to start in. Clearly, a system that was created in the 1940s ought to be modernized in 2007. As I pointed out, the system that came about in the 1940s was a historical accident. There were wage and price controls and there was no way to get health care to working families other than to say, maybe the employers will cover it.

Today our businesses are up against global competitors that have their governments pick up their health care bill. The combination of the disadvantage our businesses face, the huge escalation of costs, the significant increase in chronic illness, and our rapidly aging population means the current system is not sustainable. It is not sustainable and that is why we need to act.

I am so pleased to see the Presiding Officer in the chair, a new Senator from Montana, who has lots of good ideas on health care and has campaigned on them. I know he and many on both sides of the aisle want to fix the system. That is what we got an election certificate to do, to work together on the most important issues, not put it off for another couple of years and have another Presidential campaign. We need to sort it out right now.

The American people know we ought to have a new focus, on prevention rather than sick care. We can work on that now. The American people know a lot of the States have innovative approaches. We can help them build on it. The American people know the tax system in the health care area disproportionately favors the most affluent and does not give a break to the working person and it ought to be changed. These are the reasons why both sides ought to join hands to do that.

The time to fix health care is now. There are a variety of proposals that have been put before the Congress. I have not even mentioned my legislation this morning, the Healthy Americans Act, based on many of the principles I have discussed today. I am not wedded to every provision or every part of it. It is a piece of legislation that can bring folks together. When I introduced it, Andy Stern, the president of the Service Employees International Union, 1.8 million members, was there, but so was Steve Burd, the CEO of Safeway, with over 200,000 employees. So was Bob Beall, the CEO of a company with 400 people. So was a member of the National Federation of Independent Businesses who was from Oregon. He spoke for himself, not for the group. He employs eight people. All of these employers said that the legislation would work for them.

Now it is up to us in the Senate. It is up to us, with the door open, to get Democrats and Republicans to come together. I certainly have not agreed with all the details of the President's proposal, but he has given some new visibility to the cause. All sides ought to say, let's get going, let's not wait for another campaign for President to go forward. Let us do our job now. There is much to work with that can bring both political parties together to fix American health care.

I will be spending a lot of my waking hours on that in the days ahead. I look forward to working with both Democrats and Republicans in the Senate to get it done.

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

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

FAIR MINIMUM WAGE ACT OF 2007

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 2, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2) to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal Minimum Wage.

Pending:

Reid (for Baucus) amendment No. 100, in the nature of a substitute.

McConnell (for Gregg) amendment No. 101 (to amendment No. 100), to provide Congress a second look at wasteful spending by establishing enhanced rescission authority under fast-track procedures.

Kyl amendment No. 115 (to amendment No. 100), to extend through December 31, 2008, the depreciation treatment of leasehold, restaurant, and retail space improvements.

Enzi (for Ensign/Inhofe) amendment No. 152 (to amendment No. 100), to reduce document fraud, prevent identity theft, and preserve the integrity of the Social Security system.

Enzi (for Ensign) amendment No. 153 (to amendment No. 100), to preserve and protect Social Security benefits of American workers, including those making minimum wage, and to help ensure greater Congressional oversight of the Social Security system by requiring that both Houses of Congress approve a totalization agreement before the agreement, giving foreign workers Social Security benefits, can go into effect.

Vitter/Voinovich amendment No. 110 (to amendment No. 100), to amend title 44 of the United States Code, to provide for the suspension of fines under certain circumstances for first-time paperwork violations by small business concerns.

DeMint amendment No. 155 (to amendment No. 100), to amend the Public Health Service Act to provide for cooperative governing of individual health insurance coverage offered in interstate commerce, and to amend the Internal Revenue Code of 1986 regarding the disposition of unused health benefits in cafeteria plans and flexible spending arrangements and the use of health savings accounts for the payment of health insurance premiums for high deductible health plans purchased in the individual market.

DeMint amendment No. 156 (to amendment No. 100), to amend the Internal Revenue Code of 1986 regarding the disposition of unused health benefits in cafeteria plans and flexible spending arrangements.

DeMint amendment No. 157 (to the language proposed to be stricken by amendment No. 100), to increase the Federal minimum wage by an amount that is based on applicable State minimum wages.

DeMint amendment No. 159 (to amendment No. 100), to protect individuals from having their money involuntarily collected and used for lobbying by a labor organization.

DeMint amendment No. 160 (to amendment No. 100), to amend the Internal Revenue Code of 1986 to allow certain small businesses to defer payment of tax.

DeMint amendment No. 161 (to amendment No. 100), to prohibit the use of flexible schedules by Federal employees unless such flexible schedule benefits are made available to private sector employees not later than 1 year after the date of enactment of the Fair Minimum Wage Act of 2007.

DeMint amendment No. 162 (to amendment No. 100), to amend the Fair Labor Standards Act of 1938 regarding the minimum wage.

Kennedy (for Kerry) amendment No. 128 (to amendment No. 100), to direct the Administrator of the Small Business Administration to establish a pilot program to provide regulatory compliance assistance to small business concerns.

Martinez amendment No. 105 (to amendment No. 100), to clarify the house parent exemption to certain wage and hour requirements.

Sanders amendment No. 201 (to amendment No. 100), to express the sense of the Senate concerning poverty.

Gregg amendment No. 203 (to amendment No. 100), to enable employees to use employee option time.

Burr amendment No. 195 (to amendment No. 100), to provide for an exemption to a minimum wage increase for certain employers who contribute to their employees health benefit expenses.

Kennedy (for Feinstein) amendment No. 167 (to amendment No. 118), to improve agricultural job opportunities, benefits, and security for aliens in the United States.

Enzi (for Allard) amendment No. 169 (to amendment No. 100), to prevent identity

theft by allowing the sharing of social security data among government agencies for immigration enforcement purposes.

Enzi (for Cornyn) amendment No. 135 (to amendment No. 100), to amend the Internal Revenue Code of 1986 to repeal the Federal unemployment surtax.

Enzi (for Cornyn) amendment No. 138 (to amendment No. 100), to amend the Internal Revenue Code of 1986 to expand workplace health incentives by equalizing the tax consequences of employee athletic facility use.

Sessions (for Kyl) amendment No. 209 (to amendment No. 100), to extend through December 31, 2012, the increased expensing for small businesses.

Division I of Sessions (for Kyl) amendment No. 210 (to amendment No. 100), to provide for the permanent extension of increasing expensing for small businesses, the depreciation treatment of leasehold, restaurant, and retail space improvements, and the work opportunity tax credit.

Division II of Sessions (for Kyl) amendment No. 210 (to amendment No. 100), to provide for the permanent extension of increasing expensing for small businesses, the depreciation treatment of leasehold, restaurant, and retail space improvements, and the work opportunity tax credit.

Division III of Sessions (for Kyl) amendment No. 210 (to amendment No. 100), to provide for the permanent extension of increasing expensing for small businesses, the depreciation treatment of leasehold, restaurant, and retail space improvements, and the work opportunity tax credit.

Division IV of Sessions (for Kyl) amendment No. 210 (to amendment No. 100), to provide for the permanent extension of increasing expensing for small businesses, the depreciation treatment of leasehold, restaurant, and retail space improvements, and the work opportunity tax credit.

Division V of Sessions (for Kyl) amendment No. 210 (to amendment No. 100), to provide for the permanent extension of increasing expensing for small businesses, the depreciation treatment of leasehold, restaurant, and retail space improvements, and the work opportunity tax credit.

Durbin amendment No. 221 (to amendment No. 157), to change the enactment date.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 209

Mr. KYL. Mr. President, there are at least two—and I believe only two—amendments that will be pending that are germane postcloture to be considered. The first of those is my amendment No. 209. I will speak to that at this point and then will continue the debate after some other business has been conducted.

Amendment No. 209 to the substitute is an amendment to the Baucus Finance Committee amendment which has been agreed to by the Senate. I will describe the background of that amendment and then the justification for it.

Under current law, small businesses can expense $100,000 of qualified business investments in the first year that the property is placed into service. Because the level is indexed for inflation, the 2007 expensing limit is $112,000. But after 2009, the expensing limit drops back down to $25,000 a year, clearly an insufficient amount. Recognizing this, the Baucus Finance Committee amendment would extend the increased expensing levels through 2010. That is only a 1-year extension. Amendment No. 209 extends it through 2012, which is the same period of time that the work opportunity tax credit has been extended under the Finance Committee amendment. Section 179 of the Tax Code, which allows small businesses to elect to deduct all or part of the cost of certain qualifying property the year that it is placed into service, would work through the year 2012 rather than 2010, as under the Finance bill.

We know that this immediate expensing has been critical to supporting economic growth. We, also, know that small businesses account for about 60 percent of the cost that is imposed as a result of the increase in the minimum wage that is in the underlying bill. As a way to try to help small businesses overcome the costs we are imposing on them, we have talked to them. They are pretty unanimous in the view that the one thing we could do that best helps them be able to afford this is to extend the small business expensing under section 179.

The reason we need to extend it a longer period of time is because of the certainty they need. When they are planning on making improvements to their business and they know they can expense that when they put that improvement in place, in force, then they will proceed to do what is in the economic best interest of their business. But if their plans are restrained by the Tax Code, then we are not enabling them to fulfill their fullest potential in making the business decisions that create jobs. The key of this particular program is that it is a job creator. That is why almost all of us would like to see this extended as far as we can. I don't think there is any real dispute about that. As I said, the Kyl amendment to the Baucus substitute would simply extend this increased small business expensing through the year 2012, the same extension as is given the work opportunity tax credit.

For the sake of illustration, you can see that on this chart, the work opportunity tax credit is extended through the year 2012, and as a result of the Finance Committee bill into 2013. The other expensing provisions or depreciation provisions that were in the Finance Committee bill are only extended through the end of the first quarter of next year, except for section 179, which currently goes through the end of 2009, and the Finance Committee bill takes it through 2010.

What this amendment would do is take it through 2012, the same period as the work opportunity tax credit under the Finance Committee bill.

The chairman of the committee argues that the small business tax relief package should be balanced between the expensing and depreciation provisions and the work opportunity tax credit. As I noted, that is extended for 5 years, while section 179 is extended for only 1 year. Small business expensing has always enjoyed strong bipartisan support. I don't think there is any reason now to treat this issue as a political issue or a partisan issue and to try to put it in competition with the work opportunity tax credit. They can move forward together.

That is especially the case because section 179, unlike the work opportunity tax credit, is targeted at small businesses. Not only is expensing limited to $112,000, but current law actually reduces that amount for property that costs over $400,000, which is also indexed. Meaning that section 179 is simply not useful to large businesses that are in the business of purchasing things for far more than $400,000. But we know, in pure dollar terms, the work opportunity tax credit primarily benefits larger businesses. In fact, testimony before the Finance Committee was that 95 percent of the credits go to either C or S corporations. Since the bulk of the cost of imposing the minimum wage is on small businesses, since section 179 expensing is the primary way we can help small businesses, and since the value of the work opportunity tax credit primarily helps the bigger businesses, it seems to us that the proper balance is to extend both of them through 2012, and section 179, under our amendment, would be brought to that point.

One more word about the investments that small business makes because this is instructive. According to the National Federation of Independent Businesses, 63 percent of small business owners will make capital improvements over any 6-month period, and this could include acquiring new equipment, buying new vehicles, new furniture, expanding existing facilities, maybe even buying a new facility. They need to acquire new equipment and facilities to expand their businesses and create jobs. That is the point of section 179. It enables job creation. That is probably the best antidote to the cost imposed by increasing the minimum wage.

As many experts have pointed out, one of the fallouts from increasing the minimum wage is that some smaller businesses simply hire fewer people. Some even reduce the number of hours their entry-level workers work or even lay people off. The benefit of section 179 that everyone has recognized is it enables the small businesses to grow, to create jobs, and, therefore, the potential downside of increasing the minimum wage is offset, in effect, and never occurs because the jobs are created by virtue of section 179 and other benefits.

Everybody recognizes that allowing first-year expensing is what makes it easier for small businesses to make investments. Business income is overstated because we require businesses to depreciate investments over a period of time instead of deducting the entire cost all at once. But the business must buy an entire machine or building all

at once, which ties up funds that otherwise would be available to earn income. So allowing the immediate expensing of the $112,000 worth of business investment frees up funds that small business owners can use to grow their businesses, and those owners are likely to reinvest the money back into their business because they are entrepreneurs. This increased business investment benefits the entire economy. It is the job creator.

Small business represents 99.7 percent of all employers. It employs over half the private sector employees. They pay 44.3 percent of the total U.S. private payroll. This is a very big factor in our economy. Small businesses generate 60 to 80 percent of the net new jobs, according to statistics over the last decade, and create more than 50 percent of nonfarm private gross domestic income. Extending the increased limits through 2012 will provide greater stability for these small business owners. The best answer is to actually make the increases permanent, but that is not what this amendment does. It extends it to the same period of time that the work opportunity tax credit is.

Most people would recognize that this is wise, that it is good policy, and that my amendment, therefore, takes us a substantial step in the right direction.

The question before was whether the budget would require that there be a separate so-called pay-for, a permanent tax increase that would offset the cost of this temporary tax extension. There have been various types of pay-go since the statutory pay-go was enacted in 1990. The point of order was enacted in 1993. Statutory pay-go, which expired in 2002, was enforced by OMB, but Congress always enacted legislation to avert it. But contrary to popular belief, the Senate has a pay-go rule in effect right now. It was first created in 2003. The current pay-go rule provides a 60-vote point of order against any new mandatory spending or new tax cuts that exceed specified levels. This is called the pay-go scorecard. Those levels are set in the budget resolution, and the current scorecard set in the 2006 budget resolution, which was the last budget agreed to by the House and Senate and the one applicable here, currently allows no unoffset tax cuts or mandatory spending from 2006 to 2010. But it does allow up to $268 billion in offset tax cuts or mandatory spending from 2011 to 2015, without triggering a point of order. There is no point of order against this amendment because of the current scorecard and the way this amendment would work.

The problem with any version of pay-go is that the CBO assumes all entitlement programs live forever, regardless of whether a program must be reauthorized. But tax cuts that must be reauthorized are not included in the baseline. Pay-go does not apply to appropriations. So that is why there is no pay-go point of order against this amendment because the Baucus substitute already extends section 179 small business expensing to 2010. It includes the necessary offsets to cover 2010, and our amendment extends that same expensing through 2011 and 2012, years in which the pay-go scorecard has more than sufficient allocation to cover any revenue that Joint Tax projects will not be collected in those years.

I think all of the ends are tied up here. This is something that most of us would like to see done. It would help the small businesses that will bear the brunt of the expected passage of the minimum wage increase. We have a way to extend the most useful of the tax deductions, this expensing for small business, through 2012. That does not require any new permanent increases in taxes to offset the cost. It seems to me that this is very wise public policy. It doesn't have to be partisan. It would be good policy for us to extend this.

I urge my colleagues, when we have an opportunity to vote on this amendment, to support it, or if there is a motion to table it, to vote against the motion to table.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I understand the Senator from Massachusetts seeks recognition. I yield to him whatever time he would like to take.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I thank my friend and colleague, Senator BAUCUS. As we get to the opening of this debate, I wish to provide a little sense about where we are on the increase in the minimum wage. Most of those who watched the debate yesterday saw that we had an overwhelming majority of Members who voted effectively for cloture. Usually, that means the end of debate is in sight. But because of various procedural situations we are facing, now we know we are going to have another vote required on cloture. This debate probably will roll on into the very end of the week. There is no reason we can't dispose of the amendments rapidly. There are important responses that should be made, and then we can get about the business of finding ways where we can bring the House and Senate bills to accommodation and get the increase in the minimum wage to those who are hard working and are entitled to this increase.

This is our eighth day of debate on this issue. We have had 16 days of debate, outside of these last 8, so we're up to 24 days where we have debated the minimum wage on the floor of the Senate without getting an increase, 24 days we have debated, an issue as simple as going from $5.15 to $7.25 an hour should not take all that period of time. We know that here on the Democratic side we are prepared to vote now, today. I am sure we can get the majority leader to request that we vote at noontime or so today and get this process moved ahead. But, no, there are those on the other side who have a series of amendments and they have them now. The good Senator from Montana, Senator BAUCUS, will respond to the issue which is at hand.

I want to reiterate once again that this is not an omnibus tax bill. This legislation is long overdue. It is not an opportunity for Members to present their tax cut wish list. It is Congress' opportunity to finally right the wrong of denying millions of hard-working minimum wage workers a raise for 10 years.

Since the minimum wage was last increased 10 years ago, we passed $276 billion in corporate tax breaks. In addition, Congress has cut taxes for individuals by more than a trillion dollars, with most of the benefits going to the wealthiest taxpayers. Unfortunately, for some of our Republican colleagues, there are never enough tax breaks, and they have filed more than 25 amendments proposing new or expanded tax cuts to the minimum wage bill. Many of them would cost billions of dollars and most are not paid for.

So we know our friends on the other side are attempting to hold the minimum wage increase hostage for more tax cuts. I believe that is a shameless strategy. As has been pointed out, the Kyl amendment is one of the most expensive of all tax cut proposals. The entire amendment would cost more than $45 billion over the next 10 years. Not a single dollar is paid for. It is $45 billion the American people cannot afford, and it should be rejected. I know we will hear from Senator BAUCUS as he addresses this issue.

We have debated over the period of the last few days tax breaks for corporate America. Over the last 10 years, we have seen $276 billion in tax breaks for corporations and $36 billion in tax benefits to small businesses. We have increased the minimum wage nine times. There has only been one time we have ever added tax benefits. The House of Representatives, with the vote of 82 Republicans, passed a clean bill. That is what we should be about doing here. That is not where we are.

A final point I will make is that it came to my attention over the evening that many of the spouses of our service men and women in Iraq are working for low wages. In looking over the numbers of spouses of service men and women in Iraq, there are 50,000 who will benefit from an increase in the minimum wage. Imagine that, 50,000 members of the military force and their families will benefit from an increase in the minimum wage. That is not a point to dismiss lightly.

I think we ought to get about the business of doing something for those families and spouses. It is difficult for me to believe we have that number, but that is the figure—50,000 working between $5.15 and $7.25 an hour, so they would directly benefit from the raise to

$7.25. These are spouses of our military forces, and we are debating another $45 billion in tax cuts. This is supposed to be a debate about an increase in the minimum wage that hasn't been raised for 10 years. All it will do is restore the purchasing power of those on the lower rung of the economic ladder. It seems to me this continued delay is unconscionable.

Some have said it is necessary because our good friends on the other side are not prepared to get started on the debate on Iraq. There have been a lot of excuses and we hear all of them. But what has to be recognized is the increase in the minimum wage to $7.25 is going to benefit more than 6 million children. More than one million more children have fallen into poverty in the last 5 years. Six million children who live in homes where there will be an increase will benefit, with all of the implications that has in terms of nutrition, education, health care, and also in terms of the joy families can have when they get at least some small relief. These are hard-working people who are trying to provide for themselves and their families and trying to make a difference in the community. They are men and women of great dignity.

We ought to be getting to a final vote on increasing the minimum wage, and we ought to get about it now. If there is going to be additional debate on taxes and other things, let's do it at another time. Let's not hold hostage—which is what's being done here—an increase in the minimum wage for additional tax breaks. Let's not do that. Let's say we have sufficient respect and admiration for these men and women of dignity. They are primarily women in our society—and many of these women who have children. For all these who are working hard at the minimum wage, let's say we have sufficient respect for them so we are not going to hold them hostage to get tax breaks after tax breaks after tax breaks after tax breaks. These men and women are entitled to a Senate decision. We on our side are prepared to vote on it now; the sooner the better.

I am grateful to my colleague and friend from Montana for permitting me to say these words. I thank him very much for the courtesy.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I tip my hat to my good friend from Massachusetts. He is such a fighter and he is so correct in the statements he is making on behalf of the people who need this increase in the minimum wage.

It is unconscionable that the Senate is delaying that increase. The House passed an increase. We have the same goal line, but we have a more circuitous route in getting there. The Senate is taking so much time in our way to get to the same goal line and raise the minimum wage. The Senator from Massachusetts is pricking our conscience to get this done quickly—now. I deeply compliment my good friend from Massachusetts.

Mr. President, for the information of Senators, we are wondering what in the world is going on here. Let me share some thoughts on the schedule. We are seeking to arrange votes on two amendments by my colleague from Arizona, Senator KYL. We on our side of the aisle are ready to vote. We want to vote. It appears, though, that there are some objections on the other side of the aisle. I hope we can vote in the early afternoon. The objections, I understand, are conflicts that Senators have in the next couple of hours. I hope we can have at least one vote in the early afternoon. Probably after that, we will have another vote in relation to another Kyl amendment, and we are hoping those rollcall votes will be all that are left.

An agreement is not entered into yet—we are working on it—but it is my hope we will have an early vote this afternoon and that then there is one more vote after that, on another Kyl amendment. That should help us to reach a conclusion on this bill, although I suspect a final vote will not be until tomorrow. That is the state of play right now.

A couple words on the substance of the amendment offered by the Senator from Arizona, Senator KYL. This is only one of seven amendments he has offered. Like six of those seven, this one is not offset. We have already voted on one amendment by the Senator from Arizona. The remaining are not offset, and they would explode the budget deficit. The earlier amendment was soundly defeated on previous rollcall vote. It was offset by cutting education benefits for families who work in education institutions. That was defeated.

The amendment offered by the Senator from Arizona now is similar to the one we have defeated. He would like to extend the section 179 expensing provision in the law. We are doing that in the bill. The bill increases the length of time in which the section 179 expense provision would be in law. We would enable that extension to occur until 2010. My Lord, this is 2007. That is not a permanent extension, but it is still, given the constraints we have, a reasonable extension. Everybody likes certainty. We would like a little more certainty in the Senate than we have. But it is still, I think, certainly already in the law and it is not good policy to adopt the amendment of the Senator from Arizona which would extend it for a couple more years but cost about $2 billion, which would be totally unpaid for. If there is one thing the American people want, it is for us to live within our means and not increase the deficit but to try to reduce the deficit. This amendment increases the deficit. We have voted on a similar amendment and it has been rejected. I hope the same is true here.

At the appropriate time, I will move to table the amendment, and I hope we can get that accomplished in the early afternoon so we can move on to the next Kyl amendment and debate that and vote on that amendment as quickly as possible. I hope there are no more amendments. We are getting close. We all want to get a minimum wage bill passed, which is so important to so many people in our country. I think we ought to take the responsible action and dispose of these tax amendments that are not paid for and reject them and get on to final passage on minimum wage, which I hope will be tomorrow.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, previous to Senator BAUCUS speaking, we heard my friend from Massachusetts harangue about minimum wage not being considered for the last 10 years and that it is about time we get the job done. I am going to be one of those to vote yes to get the job done, to increase the minimum wage. But I think it is legitimate to ask a couple of questions. One, there was a period of time during that 10 years that Senator KENNEDY's party was in the majority and controlled the Senate. I don't recall them bringing up the minimum wage issue at that particular time. If it was so important that it be done before this period of time has elapsed, I would have thought they would be voicing concern about raising the minimum wage as much and have a responsibility to do it when they were in the majority, as it is now; and we are accused because we want to amend some tax provisions to it, which are very directly related to some of the negative impacts of increasing the minimum wage on small business, and it is a very legitimate point to bring up.

The second point I will bring up to the Senator from Massachusetts is, when he talks about adding tax provisions to the minimum wage, has he forgotten that during the signing ceremony of the last increase in the minimum wage bill by President Clinton Senator KENNEDY was praised for bringing a bill to the President that had tax provisions that were very beneficial to small business and also other provisions that were very beneficial to minimum wage workers by increasing the minimum wage?

I read from President Clinton's statement last week during the debate. I know Senator KENNEDY heard me say that. And yet it seems like it went in one ear and out the other because here he is saying it is wrong now, that when we are increasing the minimum wage, we have a small business tax provision included with the minimum wage increase.

It makes me wonder if there is a double standard: It is okay to have tax bills connected with a minimum wage increase when there is a Democratic President, but when there is a Republican President, it is not okay. I don't think we ought to have those sort of double standards. I think if it is okay

in the case of a Democratic President, it ought to be okay in the case of a Republican President.

Plus, I could raise the issue that if it is legitimate to have tax changes to benefit small business at the same time we are having increases in the minimum wage, this tax package is very meager compared to the one that was in the bill that President Clinton signed. At that time, I believe, there was about $20 billion worth of small business tax changes to benefit depreciation and other things that can offset the detrimental impact on a minimum wage increase on small business.

We all know there is no detrimental impact on larger businesses that can pass along the cost. But for smaller businesses that can't, for struggling small businesses, in particular mom and pops, it has to be something we take into consideration not only for the benefit of the smaller business but also for the benefit of the workers who work for that small business that maybe will be more underemployed or unemployed because maybe the small business can't afford to keep the same number of workers as when the minimum wage was lower. So all of these things seem to me to be legitimately tied together.

But in the case of a $20 billion tax package 10 years ago, compared to an $8 billion tax package in this bill, and considering inflation over the last 10 years, there isn't a single person listening to this debate who doesn't know that when there are complaints about connecting together a tax bill with a minimum wage increase, compared to the last time this was done in the Clinton administration, this tax package is peanuts compared to what we did for small business then—peanuts. Yet we are having this harangue about it, that somehow this debate is not legitimate.

Well, if it was legitimate in the Clinton administration, why isn't this debate legitimate now, particularly considering the great lengths to which President Clinton went to compliment Senator KENNEDY for delivering a bill to President Clinton that had provisions benefiting small business, as well as benefiting the minimum wage worker?

We are going to get a bill passed. I don't know who is complaining. What is coming up when we get done? Well, of course, the debate, I suppose, on Iraq is going to come up. And it ought to come up. We know what is coming up. We know there is not going to be any more votes on that issue this week. So if we get this bill done today or tomorrow—and I bet it will be done today—then we know that is probably going to be the last vote of the Senate this week. I think the people on the other side of the aisle who are managing this bill know that. They know when we get a couple of votes on a couple of other tax provisions, that it is limited. We know there is finality coming. There hasn't been any effort by anybody on this side of the aisle to hold up this bill, except to make sure that the impact of the minimum wage increase on small business is going to be considered the same way it was in the previous administration.

I am very happy that yesterday cloture was invoked on the Baucus substitute amendment, and it contains these two very important components about which I have already talked. For summary, in case people are now beginning to pay attention to this debate after 1 week in the Senate, the first component proposed an increase in the minimum wage.

You can make all sorts of arguments why maybe the minimum wage should not be increased. Economists can make that argument about some increase in unemployment. Some people would say you should never have passed the minimum wage in the first place in 1938. But forget those economic arguments. It is a political decision that we have had a minimum wage for the last 70 years, and it has to be a political consideration that it ought to be increased from time to time or you shouldn't have it.

So let's get over that argument, as legitimate as the economic arguments might be. They are going to be put aside because we are not going to eliminate the minimum wage. It is a part of the safety net of American society. It is part of the fabric of our society, just as Medicare, Medicaid, and Social Security. You can all argue about whether seven decades ago some of these decisions should have been made by Congress. But after a period of time, you accept it as a fact of life; they are part of the social fabric of America, and move on. It is a question now of how much.

That decision has even been answered—$2.10. It is about the same decision that is being answered in several State legislatures around the Nation, including my own State of Iowa, which now has made a decision that it ought to be $2.10, albeit triggered a little quicker than is going to be done under this bill. So we move ahead and that is taken care of.

The second component is not seven decades old, as I indicated. The Baucus substitute connects these efforts to assist small business with some changes in the tax law to benefit them. It has only been in the recent two decades that that has been an issue. But at least it recognizes something that maybe wasn't recognized before; that small business is the engine of employment in America and it ought to be recognized that, in some instances—and economists can back this up—there is some underemployment or unemployment, particularly among young people, and most particularly among minority young people.

I think it is legitimate to consider that because we make a great deal in this Congress about having programs for the unemployed, such as retraining. We make a big deal about education, vocational education, and preparing people for the workforce. But do we ever stop to think of something that doesn't cost the taxpayers one penny? And that is that vocational education goes along with a young person getting the first job that they have ever had so that they learn to get up in the morning, go to work, and be part of the workforce.

If you are not in the workforce, you are never going to work your way up the economic ladder. So getting in the workforce, learning the rules of the workforce, treating people right, taking orders, being a productive citizen is very important vocational education. So if we are creating some unemployment, particularly among minority young people, because of a decision we are making, a political decision we are making, we ought to at least take that into consideration. But for two decades now we have considered that there is some negative impact.

There is not going to be a one-for-one correlation between changes we make in depreciation schedules for small business that is going to guarantee Joe Blow or Mary Smith, teenagers working for a mom-and-pop grocery store, that they are going to be able to keep their jobs. But it is some relief across the board that is going to benefit small business, and there may be less unemployment of teenagers, less unemployment of minority teenagers so that they can get in the world of work and work themselves up the economic ladder. So the Baucus substitute is before us and will pass this body.

Despite serious policy concerns about the efforts to raise the minimum wage, we all know that public support for increasing the minimum wage remains strong. And who can argue with that? Ten years? So there is a rationale for raising it. It is pretty hard to convince anybody that as long as Congress is setting a minimum wage, it shouldn't be adjusted from time to time. So it is quite obvious. That is why we are here for that debate. So the political reality is that a majority of Senators support a minimum wage increase, not based upon being trustees of the American people but based on the proposition of being representatives of the American people. And that message is coming very clearly from the grassroots.

As predicted, the cloture vote last week showed there are not 60 votes for this minimum wage bill without the small business tax incentives. And for Senator KENNEDY, who is haranguing about the fact this is not being passed fast enough, the members of his own party voted with us on that, and that seems to show it is bipartisan.

As I said before, tax incentives targeted to small business and other businesses impacted by a minimum wage increase have been linked to minimum wage legislation over the past couple of decades. Democrats have, at times, joined Republicans in supporting that linkage. Once again, Republicans have asked for small business tax relief, if a minimum wage hike is going to happen. Based on an overwhelming cloture

vote yesterday on this Baucus substitute, it looks as if we are going to get there. Democrats, in effect, agree—through that vote—with this linkage.

To different groups of Senators, these topics carry their own benefits or burdens. Many on my side don't like the idea of second-guessing the labor market with a federally mandated minimum wage. In past statements, I pointed out some of the related issues that should give us pause when considering such legislation. Some, mostly Democrats, will call this bill before us nothing but a minimum wage increase bill. Some, mostly on my side of the aisle, will call it a small business tax relief bill. But isn't that how we get things done in the Senate? Doesn't almost everybody have to have a win? And in this aren't we having a win-win situation in a bipartisan way?

I suppose some of our Members are going to have it both ways, it is going to be both a minimum wage increase and a small business tax relief bill. President Bush, similar to President Clinton, whom I have already quoted, will recognize both parts of this package. If my friends on the other side of the aisle would review that statement, as I led them to review it last week, they will note that President Clinton saw merit in the small business tax relief package.

If I were chairman, I might have tilted the package a bit more toward depreciation and less toward, let's say, that portion that we call the worker opportunity tax credit. It is important these incentives coincide with the timing when the minimum wage increase will be taking effect. It has been proven that a minimum wage hike without tax relief for small business will not fly in a body where we have to move ahead in a bipartisan way or nothing gets done. Let's recognize that reality. Let's improve this bill and complete it in a timely manner.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. VITTER. I ask unanimous consent that I be allowed to speak for up to 7 minutes as in morning business, and following that, Senator LANDRIEU be given permission to speak as in morning business for up to 7 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Ms. LANDRIEU. Madam President, I ask unanimous consent that the time be charged postcloture.

The PRESIDING OFFICER. The Senators' time will be charged postcloture.

(The remarks of Mr. VITTER and Ms. LANDRIEU are printed in today's RECORD under ''Morning Business.'')

Ms. LANDRIEU. I yield back the remainder of the time.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. 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.

(The remarks of Mr. DURBIN are printed in today's RECORD under ''Morning Business.'')

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

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

Mr. GRASSLEY. Madam President, I ask unanimous consent to speak as in morning business for what time I might consume, and it will not be too long, on two bills I am going to introduce.

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

(The remarks of Mr. GRASSLEY and Mr. DODD pertaining to the introduction of S. 467 and S. 468 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. GRASSLEY. Madam President, since I do not think anybody else is seeking the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. GRASSLEY. Mr. President, I ask unanimous consent to continue as in morning business for, I would say, roughly 10 or 12 minutes on an issue unrelated to what is on the Senate floor.

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

ALTERNATIVE MINIMUM TAX

Mr. GRASSLEY. Mr. President, next week the President's budget will come to Capitol Hill. In terms of tax issues, no issue is more pressing in the upcoming budget than resolving the alternative minimum tax issue for both the short term as well as the long term.

As many Members know, the so-called patch—the temporary fix we did last year for the alternative minimum tax so no more people would be hit by it than are presently hit by it—ran out at the end of last year. So right now 23 million people in the year 2007 could be hit by the alternative minimum tax, if we do not do something about it. Since we have to offset things such as this, if we patch this up again, it is going to take $50 billion to offset or, if it isn't offset, that means $50 billion that would come into the Federal Treasury under existing law would not come in.

Next week I will give a series of speeches in some detail. I am going to look at how we got where we are on the alternative minimum tax. I will examine the history of the alternative minimum tax and the origins of the current problem. In another speech, I am going to discuss the fiscal effects of maintaining, repealing, and replacing the alternative minimum tax. And in the third speech, I will talk about options to remedy the alternative minimum tax problem in the short term and over the long term.

Today, on a preemptive basis, I want to counter a charge that I think is going to be repeated by Democratic-leaning think tanks, maybe by the leadership of the Congress, and, more importantly, by east coast media who tend to be sympathetic to the views of those political organizations. The charge will be that the alternative minimum tax problem we face is a result of the bipartisan tax relief legislation enacted in 2001 and 2003.

I ask unanimous consent to maintain the floor and yield to the majority to make a unanimous-consent request.

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

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the time between now and 2:30 p.m. be equally divided between Senators BAUCUS and KYL or their designees; that at 2:30 p.m., the Senate vote in relation to Senator KYL's amendment No. 209; that no other amendment be in order prior to that vote; that following that vote, amendment No. 115 be considered in order for purposes of drafting under rule XXII; and that all other amendments to the bill and to the substitute be withdrawn accept for amendment No. 115; and that no other amendments be in order except the substitute and amendment No. 115.

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

Mr. GRASSLEY. Let me ask the majority, would they like me to yield the floor for that debate?

Ms. KLOBUCHAR. No, Mr. President.

Mr. GRASSLEY. Next week, when the President's budget comes out, there is going to be an awful lot of discussion about the alternative minimum tax. I am trying to preempt—in a sense counter—what I think are old arguments that are going to be repeated about that issue. They are going to be coming from leftwing think tanks, and maybe the Democratic leadership in the Congress will pick up on it. For sure, the east coast media, who tend to be sympathetic to the views of these political organizations, is going to be loudly speaking about it. I don't

find anything wrong with it being discussed, but I am going to make sure it is discussed in an intellectually honest manner.

The charge is going to be made that the alternative minimum tax problem we face now is a direct result of the bipartisan—I emphasize bipartisan—tax relief legislation that was enacted in 2001 and 2003, which, by the way, Chairman Greenspan has said, both before he left the Fed as well as a private citizen, that these tax relief packages we passed back then are the basis for the economy going very smoothly in the last 3 or 4 years, creating 7.2 million jobs. If that is the argument they are going to make—and I will bet you, although I am not a betting man, that that is what we are going to hear—it is a distortion, plain and simple. So I think I am going to try to correct the record in advance. Maybe next week, if I have done it adequately, there won't be any record to correct. I have been around here long enough to know what is going to be said.

To the extent the Democratic leadership and allies suggest, like others who have looked at this issue, that the bipartisan tax relief packages are responsible for the alternative minimum tax problem, I respond in this way: Most who have reached that conclusion have done so by misusing data, data that is provided by the truly nonpartisan Joint Committee on Taxation, an agency of Congress that you might say wears green eyeshades, looks at things as they are, without a Republican or Democratic bias. These figures of the Joint Committee on Taxation will be used to distort the record on the issue of the alternative minimum tax.

The Joint Committee on Taxation analysis suggests an alternative explanation for the alternative minimum tax problem, and that is the failure of Congress to index the alternative minimum tax for inflation when it was first established 35 years ago. The critics are going to charge that the bipartisan tax relief packages are responsible for this alternative minimum tax problem. This conclusion is reached in error because it is based upon faulty logic. Those who have done similar analyses have based their conclusions on the mistaken assumption that a reduction in Federal receipts should be interpreted as a percentage causation of the alternative minimum tax problem. The Joint Committee on Taxation was asked to project Federal alternative minimum tax revenue, if the bipartisan tax relief provisions were extended but current law hold-harmless provisions were not extended. And what do we get, a $1.1 trillion issue, and a Federal alternative tax revenue, if neither the Bush tax cuts nor the hold-harmless provisions is extended, a $400 billion issue compared to the $1.1 trillion issue.

From that data, some erroneously concluded and publicly represented that the tax cuts of 2001 and 2003 are responsible for 65 percent of the alternative minimum tax problem. In other words, this $1.1 trillion minus the $4 billion divided by $1.1 trillion. And conversely then, that the tax cuts of 2001 and 2003 tripled the size of the alternative minimum tax problem; again, $1.1 trillion divided by $400 billion. The logic used to reach that conclusion is flawed. That is what I am about to show.

This is because the many variables affecting the alternative minimum tax have overlapping results, and the order in which one analyzes those overlapping variables will directly impact the outcome of the analysis.

In that way, we can use the same Joint Committee on Taxation data in the analysis above to suggest that the failure to index is actually the dominant cause of the alternative minimum tax problem. If one were to first index—and that wasn't done 35 years ago—the current tax system for inflation by permanently extending an indexed version of the current hold-harmless provisions, Federal alternative minimum tax revenue would be reduced from $1.1 trillion to $472 billion over the 10-year period we use to guesstimate taxes coming into the Federal Treasury. Thus, extending and indexing the current hold-harmless provision for future inflation would reduce the alternative minimum tax revenues by 59 percent over the same period referred to in the Joint Committee on Taxation letter dated October 3, 2005, as ''percentage of AMT effect attributable to failure to extend and index hold harmless provision.''

I ask unanimous consent to print a copy of that entire letter in the RECORD.

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

CONGRESS OF THE UNITED STATES,
JOINT COMMITTEE ON TAXATION,
Washington, DC, October 3, 2005.

To: Mark Prater and Christy Mistr.
From: George Yin.
Subject: AMT Effects.

This memorandum responds to your request of September 29, 2005, for an analysis of the portion of the AMT effect (AMT liability plus credits lost due to the AMT) which can be attributed to the failure to adjust the AMT exemption amount to inflation, assuming alternatively that the EGTRRA and JGTRRA tax cuts (''tax cuts'') are either permanently extended or repealed. We also explain how this information compares to information previously provided to you on August 31, 2005 and September 16, 2005.

For the purpose of this analysis, we have first assumed that the tax cuts are repealed. The first set of figures in Table 1 compares the AMT effect under this assumption if, alternatively, (1) the AMT exemption amount hold-harmless provision is not extended beyond 2005; (2) such provision is extended permanently; and (3) such provision is extended permanently and indexed after 2005. The second set of figures presents the same comparison under the assumption that the tax cuts are permanently extended. All of the information provided in this table was previously provided to you in our September 16, 2005 memo, except in a different format.

TABLE 1

Item	AMT effect (billions of dollars)
Tax Cuts Repealed:	
(1) Hold-harmless provision not extended	399.9
(2) Hold-harmless provision extended permanently	212.0
(3) Percentage of AMT effect attributable to failure to extend hold-harmless provision (((1)–(2))/(1))	47%
(4) Hold-harmless provision extended permanently and indexed	169.7
(5) Percentage of AMT effect attributable to failure to extend and index hold-harmless provision (((1)–(4))/(1))	58%
Tax Cuts Extended Permanently:	
(6) Hold-harmless provision not extended	1,139.1
(7) Hold-harmless provision extended permanently	628.5
(8) Percentage of AMT effect attributable to failure to extend hold-harmless provision (((6)–(7))/(6))	45%
(9) Hold-harmless provision extended permanently and indexed	472.0
(10) Percentage of AMT effect attributable to failure to extend and index hold-harmless provision (((6)–(9))/(6))	59%

In the information provided to you on August 31, 2005 and September 16, 2005, we analyzed the portion of the AMT effect attributable to the tax cuts. In the analysis described above, we identify the portion of the AMT effect attributable to failure to adjust the AMT exemption amount to inflation. There is, however, interaction between these two contributing factors to the AMT effect. In order to avoid double counting of interactions, a stacking order is imposed. The apportionment of effects to each contributing factor will vary depending on the stacking order, even though the total effect remains constant.

This phenomenon is illustrated by Tables 2 and 3 below. The first two columns of Table 2 show the portion of the AMT effect attributable to the tax cuts, consistent with the information provided on August 31, 2005 and September 16, 2005. The second two columns of Table 2 show the portion of the AMT effect attributable to the failure to extend and index the hold-harmless provision, consistent with the information provided in Table 1 above. Note that if these two contributing factors were completely independent of one another, the information in Table 2 would suggest that the two factors together contribute to more than 100 percent of the AMT effect. In fact, as shown in Table 3, the two factors together contribute to only 85 percent of the AMT effect. Thus, there is substantial overlap between these two factors.

TABLE 2

Item	AMT effect (billions of dollars)	Item	AMT effect (billions of dollars)
Baseline	1,139.1	Baseline	1,139.1
Repeal tax cuts	399.9	Extend and index AMT hold-harmless provision	472.0
Difference	739.2	Difference	667.1
Percentage of baseline	65%	Percentage of baseline	59%

TABLE 3

Item	AMT effect (billions of dollars)
Baseline	1,139.1
Repeal tax cuts and extend and index AMT hold-harmless provision	169.7
Difference	969.4
Percentage of baseline	85%

Mr. GRASSLEY. Let's go back to the Joint Committee on Taxation analysis. If we then assume that the tax cuts of 2001 and 2003 are repealed, alternative minimum tax revenue falls by an additional $302 billion, from $472 billion to $169 billion. That second drop attributable to the repeal of the Bush tax cuts reduces Federal revenue by only 27 percent. Thus, one should argue that failure to index is a greater cause of the alternative minimum tax problem—in other words, 59 percent versus 27 percent. If we had indexed, we wouldn't have this problem.

Using logic similar to that undertaken above would also cause us to conclude that failure to index is responsible for 59 percent of the alternative minimum tax problem or, alternatively, that failure to index also nearly triples the size of the AMT problem. But simple logic suggests that the bipartisan tax relief cannot be responsible for 65 percent of the alternative minimum tax problem and failure to index responsible for 59 percent of the problem. The anomaly arises because there is overlap between variables being analyzed. Although the analysis fairly demonstrates the amount of alternative minimum tax revenue saved by making a particular change to the Federal tax system, it is inappropriate to represent that such analysis accurately isolates causation of the alternative minimum tax. Because there is overlap in the variables being analyzed in these examples, indexing and the bipartisan tax relief packages, the order of analysis of those variables is crucial to whatever outcome we have.

The Joint Committee on Taxation acknowledges this point to us in a letter dated October 3, from which I will quote:

> There is, however, interaction between these two contributing factors to the AMT effect. In order to avoid double counting of interactions, a stacking order is imposed. The apportionment of effects to each contributing factor will vary depending on the stacking order, even though the total effect remains constant.

To this point in time, I have not seen anything that accurately suggests that the 2001 and 2003 tax cuts have worsened the alternative minimum tax problem to date. It is my intention to ensure we continue to honor that commitment.

Proponents of this charge fail to recognize that we addressed the problem for 2001 through 2005 in legislation that most of these organizations opposed. By the way, those hold-harmless alternative minimum tax provisions were the first significant legislative efforts to stem the rise of the alternative minimum tax tide, meaning affecting millions more people who were never intended to be affected by it.

It was, in fact, the Finance Committee that put its money where its mouth was on the alternative minimum tax. Last year's bipartisan tax relief reconciliation did the same thing for the year 2006—in other words, to make sure that the alternative minute tax problem is not worsened. Once again, it was the bipartisan leadership of the Finance Committee that ensured millions of families would not face the alternative minimum tax problem in the tax-filing season this year.

I might say that Republicans, last year, when we were controlling, were willing to add millions of people to it because they didn't want to hold harmless completely, just to some extent. But we in the Senate stuck to our guns, and we got the hold harmless kept in place, as it had been since 2001.

I reiterate the importance of the last sentence in my remarks, where I said that the Finance Committee ensured that millions of families would not face the alternative minimum tax in this tax-filing season that we are in right now. Everyone who supported the tax relief reconciliation bill walked the walk on the alternative minimum tax. A lot of the critics I am referring to have talked that walk on the alternative minimum tax, but if you look at their voting records, they have not walked the walk on the alternative minimum tax. Thank goodness, then, 15 million families were put above politics, or you might say a bipartisan solution saw that they were not harmed because, otherwise, 15 million families would be dealing right now, as they file last year's income tax, with the AMT in their tax returns—in other words, paying the alternative minimum tax because we did not hold harmless.

If they had to deal with that, you know how complex they think the tax forms are already and the tax system is already. Well, if you have to go through that alternative minimum tax exercise, it almost doubles the complexity. Every Member who voted against the bipartisan tax relief reconciliation bill ought to think about that bottom-line reality. If that group, led by—because it tended to be very partisan—the Democratic leadership had prevailed, 15 million families concentrated in the so-called blue States would have been dealing with the alternative minute tax now. It is a fact—because higher income people tend to live in the so-called blue States, according to the results of the last two Presidential elections—they are paying more of this alternative minimum tax. They happen to be represented by people of the other political party who thought that the hold harmless provisions should not have been there. So 15 million people—most of them in those States—would be hit again.

The clock is ticking on the alternative minimum tax problem for this year. In other words, we have to do something before the end of the year or we are going to have 23 million people hit by it. A year from now then, those 23 million people will be working with the complexities of the AMT and paying the alternative minimum tax. They are people who come from those high-income States, more so than the State I come from, although we have people who are hurt by it—or would be hurt by it—but not to the extent of some of the high-income States. On October 15, a taxpayer's first quarter estimated tax payments will be due, and they will have to take this into consideration. Twenty-three million families will have to start dealing with the AMT yet this year on these quarterly estimates.

Last year, Congress acted a few weeks after April 15. Hopefully, this Congress will act before April 15. Mr. President, next week, Congress will be facing the AMT problem as the budget process moves forward. That is what is going to start this demagoguery about the AMT. To get a grip on that problem, we need to examine its history, assess its fiscal impact, and carefully consider our short-term and long-term options. I look forward to these discussions on these three topics next week. Let's use correct data when we discuss the alternative minimum tax. Let's be intellectually honest. Let's discard the partisan fuzzy math and partisan revisionist history.

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

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

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the time during the quorum call be equally divided.

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

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

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

FISA COURT ORDERS

Mr. LEAHY. Mr. President, I received notice this morning that President Bush has agreed to our bipartisan request for key recent orders from the FISA Court. Let me explain this a little bit. I have been very critical now for some time of the warrantless wiretapping of Americans done, apparently, under the President's order. We have, as the distinguished Presiding Officer knows, the Foreign Intelligence Surveillance Act, which sets up a special court where you can go in secret if you suspect a terrorist is phoning into the United States, and you can get an

order to wiretap that call. But according to the press, the administration has not followed that law, has not gone into the court. They have allowed widespread wiretapping of Americans without a court order. This has been troublesome to a lot of people on both sides of the aisle.

So we learned recently—Senator SPECTER and I—that the Foreign Intelligence Surveillance Court had issued orders authorizing NSA's wiretapping program, which meant the President was going back to the court, as he should have, of course, before. We asked the court to make these orders available to the Judiciary Committee. The chief judge of the court approved providing the orders but left the final decision to the executive branch.

I made it clear, when Attorney General Gonzales appeared before us, that we expected to see the orders. After all, we write the law as to how the Foreign Intelligence Surveillance Act is supposed to work, and we have the responsibility to make sure it is followed. The President has made the right decision in changing his previous course of unilaterally authorizing the warrantless surveillance program. He is now going to follow the law in seeking court approval for wiretaps.

Senator SPECTER and I, on behalf of the Judiciary Committee, will have to look at the contours of the wiretapping program. We have to look at the Court's orders to determine whether the administration reached the proper balance to protect Americans, while following the law and the principles of checks and balances. I hope the administration will eventually allow all members of the Judiciary Committee to look at these orders.

We all want to catch terrorists, but we don't want a country where we have warrantless wiretapping of Americans. If we start down that slope, we all lose the right to privacy and the values this Nation has stood for for more than 200 years. So Senator SPECTER and I will review the court orders to make sure the law is being followed. I believe in this case, the President has taken the right first step, and I commend him for it.

With that, I suggest the absence of a quorum and ask unanimous consent that the time be equally divided.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

TERRORIST SURVEILLANCE PROGRAM

Mr. SPECTER. Mr. President, I have sought recognition to join Senator LEAHY in the acknowledgment that the Attorney General will be turning over to Senator LEAHY and me, in our capacities as chairman and ranking member of the Judiciary Committee, the applications which were filed by the Department of Justice for the change in the terrorist surveillance program and the court orders issued by the Foreign Intelligence Surveillance Court establishing a new line of judicial review for that surveillance program.

Back on December 16, 2005, the New York Times broke a major story disclosing that there had been a secret wiretapping program, electronic surveillance without the customary judicial review. The customary approach is to have a law enforcement official apply for a warrant showing an affidavit of probable cause to justify a search and seizure for a wiretap which is a facet of the search and seizure, and that disclosure back on December 16 was quite a revelation. As a matter of fact, we were in the midst of debating the PATRIOT Act at that time, trying to get that through on reauthorization, and it was a major bone of contention, with some Senators saying they had been disposed to vote for the reauthorization of the PATRIOT Act and wouldn't do so now with the disclosure of that program.

Through a good bit of last year, the Judiciary Committee worked on efforts, through legislation, to have judicial review of that program, and, in fact, at one point an agreement was reached with the White House on a legislative package to move forward. Ultimately, that legislative effort was unsuccessful and the program continued to have these wiretaps without judicial approval. Then, on January 17—earlier this month—the Attorney General announced there had been a change in programming and there would be application made to the Foreign Intelligence Surveillance Board under procedures which the Department of Justice had established with the Foreign Intelligence Surveillance Court.

I received a lengthy briefing on the nature of the program, but it fell short of the necessary disclosure because I did not know what the applications, the affidavits provided, nor did I know what the court had said. And there was an issue as to whether there was a blanket approval for the program or whether there were individualized warrants, and in order to meet the traditional safeguards for establishment of probable cause, there would have to be individual warrants.

Senator LEAHY and I then pressed the Attorney General for access to these documents which would give us a fuller understanding of what was happening. I was pleased to learn earlier today that the Attorney General has consented to make those disclosures to Senator LEAHY and myself, and we will be reviewing those documents. They will not be made public. Until I have had a chance to see them, I wouldn't have any judgment as to whether they ought to be made public. My own view is there ought to be the maximum disclosure to the public consistent with national security procedures. The Attorney General has represented that there is classified information here which ought not to be made public, and I will reserve judgment until I have had an opportunity to see those documents.

I know Senator LEAHY was on the floor a little earlier today, within the past half hour or so, and I wanted to join him in thanking the President for this action. We have seen an expansion of Executive authority which I have spoken about on this Senate floor in a number of situations with the signing statements, where the President signs legislation but expresses reservations. There is a real question in my mind as to the constitutionality of that. The Constitution provides that Congress passes legislation and the President either signs it or vetoes it. I have introduced legislation to give Congress standing to challenge those signing statements or limitations therein in court and other examples of the expansion of Executive authority.

So I think this is a significant step forward, and I commend the President and the Department of Justice for taking this stand. I am going to reserve judgment on the program itself, obviously, until I have had a chance to review it. But I did want to acquaint my colleagues in the Senate with what is happening and acquaint the American people too because there has been considerable concern about the protection of civil rights, and obviously our war on terrorism has to be fought in a vigorous and tenacious manner, because it is a real threat to our national security and the safety of the American people, but at the same time have the balancing of protecting civil liberties. This is a significant step forward, and I am anxious to see the details to be able to report further on it.

I thank the Chair, and in the absence of any other Senators seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

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

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

SIMPLIFYING THE TAX CODE

Mr. THOMAS. Madam President, although it is unrelated to what we are doing, I wish to talk a little bit about general tax reform.

The amendments are very important, and we are dealing with the issue, of course, of the minimum wage and offsetting some of those costs to small businesses. I support that idea. But I wanted to say that I hope we soon give more attention to reforming of the

overall tax forms. We are getting into a position where every time there is an issue, every time there is something we want to accomplish, we have some tax relief for this section of the economy and for that section of the economy. It has become so complex and so shortchanged in terms of the time, the exchanges that we have. I think we have to have some overall tax reform.

I understand it is not easy because all of these issues are different. On the other hand, we can simplify the Tax Code, if we take the time. I mentioned it this morning in the Finance Committee. I realize we are not going to be able to address it in a short time, but I think we ought to set it as a long-term goal and begin to deal with simplifying the Tax Code. As each of us moves into our own taxes this year, it becomes obvious how detailed these taxes are. If you happen to be involved in a business, even a small business, the Tax Code is so difficult. I don't think we ought to be managing the behavior of this country through taxes. Taxes ought to be set in a general and long-term way so that people can understand, over time, what the tax situation is, and we can make it attractive enough that we don't have to change it for every issue that comes up.

Again, I certainly am supportive of what we are doing now. But in the longer view of things, I urge that we give consideration to reforming the Tax Code, to making it simpler, understandable, longer term, and to avoid setting up the situation where each time there is some issue affecting anyone in this country, we don't, as a secondary action, change the Tax Code to encourage a particular outcome. It should not be the purpose of taxes to regulate behavior.

I yield the floor, suggest the absence of a quorum, and ask unanimous consent that the time be divided equally.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 209

Mr. KYL. Madam President, unless the Senator from Wisconsin wishes to speak, I will proceed. I believe we have about 14 minutes remaining on our side. I would like to use at least some of that time to clear up a couple points that were made earlier in the debate. I am speaking on the amendment No. 209, which is my amendment to extend the period of time that so-called section 179 small business expensing would be effective. Instead of cutting off at 2010, it would be the same period of time that we extended the work opportunity tax credit; namely, 2012. The obvious reason being that businesses would have more time within which to plan these additions or improvements to their business and would be able to count on what the Tax Code treatment would be and, therefore, would be more likely to make the investment and, therefore, create more jobs and, therefore, be able to absorb the cost of the minimum wage that will be imposed by the legislation before us.

I ask unanimous consent that Senator ALEXANDER be added as a cosponsor to amendment No. 115 and that Senator SPECTER be added as a cosponsor both to this amendment, No. 209, and to No. 115.

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

Mr. KYL. Madam President, the Senator from Massachusetts made a couple of statements I need to correct. One was that this amendment would cost $45 billion. I do not know how he arrived at that figure. Even if you add up all of the amendments I have proposed at one time or another on this bill, they don't add up to $45 billion.

The amount that this amendment would, in effect, cost to take section 179 through the year 2012 would be about $2.1 billion over 10 years. That is more than absorbed by the authority that we have under the budget from last year, which is $278.6 billion. So there doesn't have to be an additional offset. There doesn't have to be an additional pay-for. The cost for extending section 179—what we are doing with this amendment—is entirely subsumed in the budget we passed last year. That is why it is not subject to a point of order and why a mere majority vote will determine whether it moves forward.

According to the Congressional Budget Office, by the way, the minimum wage increase will impose about $5 billion worth of new costs on businesses each and every year. Most of that will be on small businesses. The extension of this relief will benefit those very small businesses that are going to have to absorb this additional cost.

When the Senator from Massachusetts said earlier, ''We have debated over the period of the last few days tax breaks for corporate America,'' I want to be very clear, that is not the tax break I am talking about. The tax break for corporate America is the tax break the majority of the Democrats on the Finance Committee have provided in the form of the work opportunity tax credit.

Testimony before our committee confirmed that 95 percent, approximately, of the value of the WOTC, work opportunity tax credit, goes to bigger businesses, S and C corporations, because they have the wherewithal to set up the complicated accounting mechanisms for the work opportunity tax credit legislation to actually work. Very few of the small businesses are benefited by that tax relief. But almost all of the small businesses are benefited by the tax relief that I have proposed. So I respectfully correct my colleague from Massachusetts.

What I am proposing doesn't benefit the big corporations. That is what is already extended under the bill through the year 2012. What we are doing is extending through the year 2012 these benefits for the small businesses—specifically, the section 179 expensing. How does that work? As I explained this morning, by definition, section 179 allows businesses to write off an amount that is right now $112,000, when they spend that much money on a new piece of equipment or add on their business. If they spend more than $400,000, they cannot use this particular provision.

The bottom line is that this is for the small business, it is not for big business. So it is simply incorrect to say that the proposal that is before us now, to be voted on shortly, benefits big corporations. They cannot, by definition, take advantage of this particular provision of the Tax Code.

Again, why are we seeking to do this? All of us on the Finance Committee agreed that we needed to provide some tax relief to small businesses because small businesses would bear the brunt of the new expense of the minimum wage. So the committee unanimously extended various provisions of the Tax Code. It extended this section 179 for another year, recognizing its importance. All my amendment does is extend it another 2 years, so that it will conform with the same period of time that the work opportunity tax credit goes to and, thus, provide some balance between the big businesses, which get the work opportunity tax credit relief, and the small businesses, which primarily rely on the section 179 tax relief.

Section 179 is probably the most used of the tax provisions because all small businesses can take advantage of it whenever they add value to their particular business. It is for this reason that several organizations have endorsed this proposal of mine and, in fact, have communicated with us that they intend to key vote this amendment. So when you are voting on my amendment, if you vote to table my amendment, you are going against the recommendations of the following groups: National Federation of Independent Business, NFIB; Food Marketing Institute; Printing Industries of America; International Franchise Association; and Society of American Florists.

You can see that these are the kinds of businesses that can take advantage of this section of the Tax Code. So anybody who votes to table this amendment, as I said, will be going against the recommendation of these particular groups.

I urge my colleagues—this has never been a partisan issue. Section 179 is supported by Democrats and Republicans and Independents. Our committee action was unanimous. There is no reason this has to become a partisan issue. There is no question of pay-for. We already, in the budget from last

year, the scorecard, as they call it, have revenue available to offset the modest increase of $2 billion that a 2-year extension would entail in this particular amendment. So I see no reason for anybody to vote against it and, most especially, to table this amendment.

I urge my colleagues to vote against the motion to table.

Madam President, might I inquire how much time is now available on both sides of this issue?

The PRESIDING OFFICER. The minority has 6 minutes, and the majority has 3 minutes.

Mr. KYL. All right. It is also my understanding that time not used is to be counted off equally against both parties; is that correct?

The PRESIDING OFFICER. For quorum calls, yes.

Mr. KYL. Oh, I see. As the proponent of the amendment, I hope that I will be able to close the debate. But given the fact that there is 6 minutes remaining on my side, if there is nobody from the majority side to speak to this, then I will continue the conversation, at least until someone arrives.

One of the other arguments is that by extending this through 2008, we have provided enough certainty to small businesses that they could go ahead and make the investment, plan the renovation or buy the piece of equipment, or whatever that might be. The bottom line is that any amount that we extend in these tax provisions enables businesses to plan better. If we extend it 1 year, as the committee did, then at least businesses can look out 1 year. But as we all know, in the business environment, a 1-year horizon is very short. That is why, just as we extended the work opportunity tax credit through 2012, it makes sense to extend the small business expensing through the year 2012 as well. Any additional time that businesses can know what the tax consequences of their purchases or expenses are is an advantage to them and will enable them to create the jobs, as I said, that will offset the costs of the minimum wage.

Madam President, I don't know of anybody who opposes the extension of section 179. The committee itself extended it for 1 year. I don't know why there would be partisan debate about extending it for another 2 years. I think we can all agree that would represent good policy. The relatively modest expense of this $2.1 billion, in terms of theoretical lost revenue, is more than compensated for by the $278 billion in offset tax authority from the years 2011 and 2015 under the budget we passed last year. So there is no point of order and there is no reason, on a purely fiscal basis or balanced budget basis, to vote against this.

Everybody knows it is good for small business. Adding 12 years for planning purposes for the business to purchase the equipment or add to the building is simply an improvement over existing law and enhancing of the small business's ability to create more jobs, expand their business and, frankly, to contribute to the great economic growth that we have right now.

So I don't understand any of the reasons a Member of this body would want to oppose this particular amendment. I am not doing this for any purpose other than to try to support these small businesses. That is why the NFIB and the others are so supportive of my amendment. I would think that in this time when we wanted to start out the year in a bipartisan way, this is a provision that has strong bipartisan support; it always has. I just don't understand why anybody would not want to extend it for 2 years, especially when the costs of doing so are already offset in the budget that we passed last year.

Again, I urge my colleagues to oppose the motion to table this amendment.

Madam President, let me first inquire how much time both sides have remaining.

The PRESIDING OFFICER. The minority has 2 minutes, the majority has 3 minutes.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALEXANDER. Madam 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. Madam President, I ask unanimous consent that I may be permitted to speak for 60 seconds.

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

Mr. ALEXANDER. Madam President, I compliment Senator KYL for his work. I expect a vote for the minimum wage with the small business tax adjustments that are with it. As I said on the floor of the Senate the other day, it is not the most efficient way for the Government to intervene help for the poorest people who are working. I think that would be an increase in the earned-income tax credit. It would be less expensive, more efficient, and all of us would pay the bill for that, not just small businesspeople.

If we are going to raise the minimum wage, we ought to not impose the whole burden on just that small segment of society. I agree that extending these small business depreciation and expensing benefits would help small business men and women who are trying to compete in the world to be able to compete. And it gives all of us who pay taxes a chance to pay for this idea that we have called the minimum wage, which tries to help working people have more.

I support the amendment of the Senator from Arizona, Mr. KYL because it will do more to offset the increased costs imposed on small businesses through raising the minimum wage by making it easier for many small business owners to take advantage of the tax relief contained in this bill. In addition, the amendment will help create jobs by encouraging small business owners to grow their businesses and hire new employees.

Under current tax law, small businesses can expense up to $100,000 of certain new property the year it is put in service. That figure is indexed to inflation, so small businesses will be able to expense up to $108,000 in 2006. After 2009, this expensing level will drop back down to $25,000 a year for these small businesses. The tax relief package included in the minimum wage bill would extend the $100,000 expensing limit—indexed for inflation—through the end of 2010. The Kyl amendment would add 2 years to that extension. In other words, the Kyl amendment would allow small businesses to expense the higher amount through the end of 2012.

Last week, I spoke on the Senate floor about the burden imposed on the small business community by raising the minimum wage. Small businesses will bear the brunt of approximately 60 percent of the costs of a minimum wage increase. I applaud the Finance Committee including Chairman BAUCUS and Ranking Member GRASSLEY for approving a tax relief package to help offset these costs. In particular, I am glad that tax relief package includes the expensing provision that we are talking about on the Senate floor today.

The Kyl amendment would make the expensing provision even stronger by allowing for higher expensing limits through the end of 2012. This is important because continuing the higher expensing limits for an additional 2 years would give small businesses more time to plan and fully use this benefit. If small business owners can take greater advantage of the tax relief in this bill, that means more help in offsetting the added costs imposed on small business owners through a minimum wage increase.

Not only does this particular tax provision help offset the costs of an increased minimum wage, but it will help create grow the economy and create jobs. Allowing small business owners to immediately expense critical investments encourages the purchase of new equipment, which helps to spur economic growth. New equipment for small businesses also usually leads to greater efficiency. And putting more money back into the hands of small business owners allows them to hire new workers.

During this minimum wage debate, a lot of my colleagues have talked about the economic challenges facing working families. I can't think of a better way to help low-income Americans than passing legislation that helps grow the economy and create new jobs, and that's what this amendment would do. I applaud my colleague from Arizona for offering this amendment and urge my colleagues to support it.

Mr. BAUCUS. Madam President, before the Senate votes on the second

amendment by Senator KYL, the amendment is not offset, not paid for. It would add about $2 billion to our Federal deficit. The Senate rejected a Kyl amendment last week that was similar. I admire the Senator's persistence. He is a firm subscriber to the proverb that if at first you don't succeed, try, try again. I admire that very much.

But there is also another reference, I think, from Ecclesiastes, that essentially there is a time and place for everything. This is not the time and this is not the place to pass this amendment, which adds $2 billion to the national deficit.

I urge my colleagues to support the motion I am about to make, which is to table the amendment. The underlying amendment not only is not paid for, it is unbalanced. We had it packaged together here, and we voted on similar amendments, and it is time to get on with final passage of the minimum wage bill. That is what Americans are looking for. They want to increase the minimum wage. We should no longer dally here, with no disrespect for my colleague from Arizona. We are working on amendments that we worked on, that we had votes on.

I will make the motion and urge my colleagues to vote to table the underlying amendment.

Mr. KYL. Let me use the last minute of my time, and then I will yield to the leader.

The PRESIDING OFFICER. Actually, the time of the Senator has expired on the minority side.

The Republican leader is recognized.

Mr. MCCONNELL. Madam President, on my leader time, I yield a minute to the Senator from Arizona.

Mr. KYL. Madam President, I simply wanted to respond to the point the chairman of the committee just made, which is that this is not offset. The reason there is no pay-go point of order against this amendment is because the Baucus substitute already extends section 179 small business expensing through 2010 and includes the necessary offsets to cover 2010. This amendment merely extends that through 2012, years in which the pay-go scorecard has more than sufficient allocation to cover any revenue that Joint Tax projects would not be collected in those years. That is why there is no point of order and why we believe this is a fiscally responsible way to assist small business.

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. Madam President, using some of my leader time, Republicans worked hard this week to make sure we pass a minimum wage bill that gives everybody a lift—the American worker who earns the wage and the American worker who pays it. The Kyl amendment reflects this basic concern for the worker and the wage payer, and I encourage all of our colleagues to give it their full support.

This amendment will let American business men and women deduct the cost of tools and equipment the same year they buy it. This is clearly good news for employers and for workers. By giving business men and women the freedom to deduct costs right away, fewer will be forced to choose between new equipment and new hires. Republicans like Senator JON KYL are working hard to make sure we have a bipartisan accomplishment with this bill. I urge all of our colleagues on both sides of the aisle to give this amendment their full support.

Mr. BAUCUS. Madam President, I ask 1 minute on leader time on the majority side.

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

Mr. BAUCUS. It is very simple. This amendment is not paid for. It is scored as a $2 billion additional hit to the deficit. It is not paid for, let's make that clear.

Second, we are talking about extending what is called section 179, which is the small business expensing provisions in the law. The underlying bill already extends 179 through 2010. It already does. This adds 2 more years at the cost of $2 billion. We have time, maybe this year or next, to extend it when we can pay for it at the appropriate time.

But, again, the underlying bill very clearly takes care of small business expensing needs by extending 179 through 2010. Second, it is not paid for. We should not adopt this amendment.

Madam President, I move to table the amendment and ask for the yeas and nays.

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

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

The assistant legislative clerk called the roll.

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

Mr. LOTT. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK) and the Senator from Nebraska (Mr. HAGEL).

The result was announced—yeas 49, nays 48, as follows:

[Rollcall Vote No. 37 Leg.]

YEAS—49

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

NAYS—48

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

NOT VOTING—3

Brownback	Hagel	Johnson

The motion was agreed to.

Mr. DURBIN. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Madam President, what is the pending business before the Senate?

The PRESIDING OFFICER. Under the previous order, the lone remaining amendment is amendment No. 115.

Ms. MIKULSKI. Madam President, I ask unanimous consent to speak for 10 minutes as in morning business.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Ms. MIKULSKI. Madam President, I note the Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order. The Senator from Maryland has the floor.

CLONED FOOD LABELING ACT

Ms. MIKULSKI. Thank you very much, Madam President. I rise today to talk about a bill I introduced last week. It is called the Cloned Food Labeling Act.

My colleagues would be shocked to realize that the FDA has announced that meat and milk products from cloned animals are safe for human consumption. My bill will require the Government to label any food that comes from a cloned animal or its progeny. My colleagues need to know I am strongly opposed to the FDA approving meat and milk products from cloned animals entering into our food supply, and I am not the only one. Most Americans actively oppose it, and scientists say we should monitor it. But the FDA decided food from cloned animals is safe to eat. And since the FDA decided it is safe, the FDA will not require it to be labeled as coming from a cloned animal or its progeny.

Now, the American people don't want it. They find it repugnant. Gallup polls report over 60 percent of Americans think it is immoral to clone animals, and the Pew Initiative on Food and Biotechnology found a similar percentage say that, despite FDA approval, they won't buy cloned milk. But what troubles me is not only what public opinion says but what the National Academy of Sciences says. They reported that—so far—studies show no problems with food from cloned animals. But they also admit it is a brand-new science. What about the unintended consequences? They caution the

Federal Government and recommend this technology be monitored for potential health effects and urge diligent post-market surveillance. Well, you can't do post-market surveillance if the food is not labeled. How do you know where the cloned food is?

So the FDA tells us once they determine it is safe, they will allow the food to enter the market, unidentified, unlabeled, and unbeknownst to us, and I find it unacceptable. Consumers would not be able to tell which food came from a cloned animal. So, here we have a picture of Dolly—the first cloned animal. Hello, Dolly! We say: Hello, Dolly. You have been approved for our food supply. Hello, Dolly. Welcome to the world of the Dolly burger. Hello, Dolly. Welcome home to Dolly in a glass. Hello, Dolly. Welcome to this plate of special cloned lamb chops when you are celebrating the 25th anniversary for your wife. I say: Goodbye, Dolly, the FDA's approval was baa, baa, baa.

I can't stop this from being approved by FDA, but I want an informed public to know what they have before them. Most Americans do not want this. They should not be required to eat it. I don't think they should be required to eat it without knowing what it is. Therefore, my legislation says any cloned food or its progeny would have to be labeled at the wholesale level, at the retail level, and at the restaurant level. This would ensure informed consent. To help the American public make this informed decision, I introduced a bill to require that all food which comes from a cloned animal or its progeny be labeled. This legislation will require the FDA and the Department of Agriculture to label all food that comes from a cloned animal. The label simply would read, ''THIS PRODUCT IS FROM A CLONED ANIMAL OR ITS PROGENY.'' The public would be able to decide which food they want to buy—and I mean all food, not just packages in a supermarket but also the meals they choose from a menu.

Now, the FDA has responsibility to guarantee the safety of our food. Although many aspects of food safety are beyond their control, this is not. Scientists and the American people have the right to know. Consumers need to know which food is cloned and the scientists need to be able to monitor it. We don't know the long-term effect of cloned animals in our food supply.

What factors influenced the decision to deem food from cloned animals safe? Are they allowing an eager industry to force questionable science on an unknowing public? I am not so sure.

The FDA used to be the gold standard, but we have heard ''it is safe'' for too long. What if they are wrong? We were told asbestos was safe. Do you want asbestos in your home? We were told DDT was safe. Do you want to be sprayed with DDT? We were told thalidomide was safe. No pregnant woman today would take it. We were told Vioxx was safe. Does anyone with a heart condition or high cholesterol want to take it? I don't think so. We have been down this road before regarding the safety of products.

When it is so unclear and so uncertain, I am saying let's take our time. If America doesn't keep track of this from the very beginning with clear and dependable labeling, our entire food supply could be contaminated. I worry about what happens to the consumer. I worry about it being eaten by ordinary folks. I worry about it being in our school lunch program. I worry about it because we do not know enough.

In Europe, they call this type of stuff ''Frankenfood.'' I worry, then, that because it will be unlabeled, more of our exports will be banned. My State depends on the export of food—whether it is seafood or chicken or other products. I don't want to hear one more thing coming out of the EU about not wanting to buy our beef or our lamb because they are worried that it is Frankenfood. We need to be able to export our food. If it is labeled, we will be able to do that.

At the end of the day, I want our consumers to have informed consent, scientists to be able to monitor this, and Congress to be able to provide FDA oversight. I reject the notion that FDA or anyone else should allow this to go forward without some type of declaration about what it really is.

Please, when we see this creature, Dolly, in this photograph—I don't know its purpose; I don't know what it accomplishes. We do not have a shortage of food in our country; we don't have a shortage of milk in our country. For those people who want to produce Dolly, we can't stop it, but I do think we should stop the FDA from putting this into our food supply without labeling and without an informed consent.

I say bah, bah, bah to those who want to bring this into our food supply.

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

The PRESIDING OFFICER (Mr. WEBB). 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 rescinded.

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

AMENDMENT NO. 115

Mr. KYL. Mr. President, my understanding is that the pending business is amendment No. 115.

The PRESIDING OFFICER. That is the pending question.

Mr. KYL. Mr. President, I will briefly describe this amendment. It extends for an additional period of time three provisions of the Tax Code that relate to smaller businesses that the Committee on Finance agreed should have this tax relief and provides for a more balanced bill in terms of the extension of the tax provisions. It deals with leaseholds and restaurant renovations, new restaurant construction and owner-occupied retail. It is identical to an amendment the Senate tabled last week except that it drops the revenue offset since Senator BAUCUS had identified that offset as the primary problem he had with the amendment.

Specifically, it would extend three provisions of the Small Business and Work Opportunity Act of 2007 through the end of 2008. The three provisions are the 15-year recovery period for leasehold improvements in restaurant renovations, as current law provides they run through the year 2007; 15-year recovery for new restaurant construction, which is a new provision; and another new provision, 15-year recovery period for retail improvements.

My chart shows what we have done in the Committee on Finance and what I am proposing here. These are the three provisions covered by the amendment before the Senate at this time. We have added the two new provisions in green for new restaurants and retail, and we have extended the leasehold and restaurant provision by 3 months. All three of these would expire at the end of March of next year. What we do in this amendment is extend them through the end of the year. The reason should be obvious: For businesses to plan ahead, they need a little bit of lead time. To provide only a 3-month extension, for example, is not very much tax relief.

We all acknowledge that the point of this relief in the first place, which the committee unanimously agreed to, was to help small business be able to offset the cost of the minimum wage increase. If we are going to do that, it should be meaningful. This amendment simply extends from a 3-month period to the end of the year and extends the two new provisions as well through the end of 2009.

Let me describe each of these three provisions.

The leaseholds and restaurant renovation provision under current law are depreciated over a 15-year period, but this treatment only applies to property placed in service by the end of 2007. The amendment that came out of the Committee on Finance, the Baucus Committee on Finance substitute, would extend this 15-year recovery period by 3 months for property placed in service by March 31, 2008.

Under the two new provisions, new restaurant construction, there is currently no law provision allowing for accelerated depreciation of new restaurant construction, and the Baucus Committee on Finance substitute provides to correct this problem with a 15-year recovery period for such new restaurants. It is an important and necessary change, but it only, under the Committee on Finance bill, provides the treatment from the date of enactment through March 31, 2008.

And the same thing for owner-occupied retail. There is currently no provision allowing for accelerated depreciation of improvements made to owner-occupied retail space. The Baucus Committee on Finance provides a 15-year

recovery period for improvements made to such spaces, thus putting these establishments on the same footing as leasehold. The bill provides this treatment from the date of enactment through March 31, 2008.

The committee had recognized the importance of these depreciation periods for owner-occupied retail, new restaurant construction, and leaseholds and restaurant renovations. There is no dispute about that, no debate about that. The only question is how far the relief should be extended.

While obviously everyone appreciates in this case the 3-month extension, it is hardly enough to be able to say to these small businesses: We solved your problem; we put a big burden of paying for the minimum wage increase on you, but we have enabled you to offset that by depreciating your property more quickly and being able to plan for your future construction needs. Clearly, that provision does not do the trick. Even these two new provisions, as welcome as they are, only extend the relief through March of next year. Again, what my amendment does is extend it through the end of the year. That is all it does.

Let me illustrate the importance of the tax provisions that the Finance Committee passed and which we are seeking to extend by this amendment.

If you stop and think about it, the policy justification for a 39-year depreciation recovery period for new construction of a restaurant, for example, makes no sense at all. How many of you know of any restaurant that has not done a thing to the restaurant for 39 years? If you are in the restaurant business, you have to constantly upgrade your facilities. Certainly, your kitchen facilities have to be upgraded. And new construction and renovation should obviously be treated the same way.

Under this bill, they are given a 15-year depreciation schedule. Now, that is the same depreciation schedule as for convenience stores, of course—a direct competitor of quick-service restaurants. They can use the 15-year depreciation schedule for all construction, new or renovation. Under their provision of the Tax Code, it is permanent law, so we do not have to extend it each year.

So what the Finance Committee has done is to try to bring some sense of balance and fairness into the code to treat like properties in a like way. If you are a fast-food restaurant, it does not matter whether you are a convenience store or regular restaurant, whether you build the place new or you simply spend the money to renovate, the expense of what you have done should be depreciated over the same period of time.

Fifteen years is probably too long, but that is the period that has been selected. It should be the same for all. By allowing restaurateurs to deduct the cost of renovations and new construction on this shorter schedule, many more restaurant owners will be in a position to grow their business and to continue to create more jobs. That is the key to offsetting the expenses of the minimum wage.

By definition, encouraging more new restaurants to be built means more new restaurant jobs. That is a tautology. This is important because the restaurant industry is uniquely impacted by a minimum wage increase. Of the nearly 2 million workers earning the minimum wage, 60 percent work in the food service industry. Furthermore, the last time Congress increased the minimum wage, 146,000 jobs were cut from restaurant industry payrolls, according to information from the industry. That is why this provision I am offering today is so important. The very people who are going to bear the impact—namely, the workers in restaurants, who could see their jobs evaporate as a result of passage of the minimum wage increase—will find that their job is going to be OK when their restaurant can expand or build a new restaurant, thus creating more new jobs.

Instead of having to lay people off in order to pay the increased minimum wage, the businesses will be able to create more jobs and, therefore, everyone would be able to be employed by them. This is the theory. The Finance Committee agrees with the theory by adopting these two new provisions and extending the existing provision for 3 months. But as I said before, it did not do the job well enough.

This is very modest relief and hardly gives a restaurant, for example, the confidence it can continue to make improvements and receive the favorable tax treatment, the 15-year writeoff provision we are providing in the law. That is why it is important to continue to extend it. It would be nice if it were permanent, as it is for convenience stores. That is what it should be. It would be nice, as under the work opportunity tax credit, if it went out through the year 2012 or 2013. That would be nice. We are simply taking it to the end of the year 2009. That is not too much to ask to help these small businesses.

Let me just note a couple of the objections that came from the chairman. The first had to do with so-called balancing of the work opportunity tax credit and the tax relief for small businesses. Now, the work opportunity tax credit, as you can see with this red line on the chart, the committee bill went to the end of 2012. And these others only go through March of 2009. That is hardly balanced. Moreover, all of these provisions have always attracted bipartisan support.

It is not like the work opportunity tax credit is a Democratic provision and the retail improvements are a Republican provision. We have all supported both provisions. Both make sense. We understand that. So it is not like somehow there has to be a partisan reason to support this but not support this, or this or this, as shown on the chart. We do not need partisan politics injected into this debate. So there is no reason now to politicize these issues, characterizing them as Republican or Democrat.

It is obvious the bill is not balanced. Even if you assume there should be some balance, the work opportunity tax credit, as I noted, is extended for 5 years, while the accelerated depreciation for leasehold and restaurant improvements is extended for a 3-month period.

As I noted before, the primary objection of the chairman before was over the offset. I understand that. It was a somewhat controversial offset. Of course, in the committee, when I offered this amendment, the chairman said unless I had an offset, it would be declared out of order. So we looked for and thought we had an offset that would be approved. But it turned out the chairman did not like that offset. That was his primary objection to this provision. So we will simply remove that offset and provide that we will extend the provisions for another 9 months through the end of 2009, without an offset of any tax increase.

But let me just make this point. We are talking about a very temporary extension of an important tax provision. This leasehold and restaurant provision has been in existence now for some time. We are extending it all of 3 months. Yet under the theory of those who say it has to be offset by a new tax increase, we would have to permanently find a source of revenue that would pay for this 3-month extension. That is a perversion of the pay-go concept. It is inappropriate, especially for provisions that generate jobs.

We should not have to pass a permanent tax increase in order to be able to fund a temporary provision of the Tax Code that helps to create new jobs. As I said before, when you build a new restaurant, you are creating new jobs. That is obvious. And when you create new jobs, you can better afford to hire the people who would be at the minimum wage, 60 percent of whom are in the restaurant business, and there is a job there for them.

So it makes sense to extend these provisions. The work opportunity tax credit, as beneficial as it might be, does not create new jobs. So if anything, you would want to balance with more emphasis on these three provisions than you would under the work opportunity tax credit.

So I guess the bottom line of this is that the reason for objecting to this provision, based on the lack of an offset, does not make sense in terms of practical economics, given the fact that the provisions that we would extend in 2008 are job creators and would create the very jobs that people earning the minimum wage could then move into.

Without the creation of these new jobs, some businesses are going to have to lay people off, and there will not be

jobs for them. This would provide for those jobs.

Mr. President, I guess the bottom line is this: We have seen, unfortunately, the debate over these amendments break down along primarily party lines. I think that is very unfortunate because a small business owner can be a Republican, a Democrat, or anybody else. They create the bulk of jobs in our society. They pay a huge amount of the taxes. They will be the ones most hard hit by the increase in the minimum wage.

If we pass a minimum wage increase with bipartisan support, it seems to me we should follow the leadership of the Finance Committee in extending these tax provisions in a bipartisan way. And when we only extend a provision for 3 months, to me, it is not a good-faith recognition of the problem we have placed on that small business by the imposition of the minimum wage mandate. We need to keep faith with those businesses by providing a longer extension of the tax provisions that benefit them in a way that enables them to pay for this minimum wage increase. That is how we would be keeping faith with these small businesses.

So I hope we can eschew the partisanship that has characterized the previous votes, we can appreciate the importance of extending these provisions which, after all, were created in a totally bipartisan way in the Finance Committee, and we can recognize it is possible to both raise the minimum wage for low-income workers and help create new jobs for them with these tax provisions.

I hope when it comes time to consider a motion to table this particular provision that my colleagues will vote against a motion to table or support the provisions if we have the opportunity for an up-or-down vote.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, on behalf of the majority leader, I ask unanimous consent that the time until 4 p.m. be equally divided and controlled between Senators BAUCUS and KYL, or their designees, for debate with respect to the Kyl amendment No. 115, as modified; that at 4 p.m. the Senate proceed to vote in relation to the amendment; that upon disposition of the Kyl amendment, without further intervening action or debate, all time be considered yielded back and the Senate proceed to vote on the Baucus-Reid substitute amendment No. 100, as amended; that upon disposition of the substitute amendment, there be 4 minutes of debate equally divided and controlled between the majority and minority leaders or their designees, and the Senate then proceed to vote on the motion to invoke cloture on H.R. 2, as amended.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KYL. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. KYL. Mr. President, I ask unanimous consent that all time under the previous quorum call and this quorum call and any future quorum call be equally divided between the two sides.

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

The Senator from Montana.

TRADE PROMOTION AUTHORITY

Mr. BAUCUS. Mr. President, earlier today President Bush called for renewal of fast-track trade negotiating authority, otherwise known as trade promotion authority, otherwise known as TPA. Fast-track authority expires 6 months from today. Many view this date with fear and trepidation. I do not. I view it as an opportunity to take a hard look at the direction of America's trade policy. It is an opportunity to air differences and an opportunity to find common ground.

Trade policy is a bargain, a bargain struck between the American Government and the American people. Americans trust their Government to use trade policy to expand export opportunities, create jobs, to fuel our economy. In exchange for that trust, Americans expect their Government to make sure that trade works for them, and they expect their Government to take action when it does not. That is the fundamental debate in which we, as a nation, must engage. Does trade work for the American farmer, rancher? Does trade work for American factory workers? Does trade work for the American economy?

I believe it does. I believe trade creates opportunities. I believe trade generates American jobs. I believe trade bolsters our global competitiveness. I believe trade allows us to project America's values to the world. And I believe the alternative, erecting barriers to trade, is self-defeating and will not make anyone better off. That is why, during my years in Congress, I have long supported granting the President fast-track authority. The success of America's ranches and farms, the success of businesses big and small, requires that the President have this authority.

Twelve million American jobs depend on exports. Exports account for a tenth of our country's gross domestic product. Montana exports 60 percent of the wheat grown there.

But there are other voices. Many have deep and legitimate concerns about the effect of trade and globalization. Many equate trade with ballooning deficits, stagnating wages, and job layoffs. Many view the growth of China and India as threats rather than as opportunities. Many point to abhorrent labor and environmental conditions in some of our trading partners. And many no longer trust the Government to do its part to take care of the Americans whom trade leaves behind.

These concerns are real. They are deeply felt. And we cannot ignore them. True leadership requires that we address these concerns head on. The expiration of trade promotion authority allows us to have this debate. It reminds us we cannot consider renewal of this authority in a vacuum. It underscores the paramount importance of restoring America's faith and confidence in our trade policy, a huge opportunity. In the process, we will examine a series of critical issues. These are issues we must address as we consider whether to reauthorize trade promotion authority.

First, we must make trade adjustment assistance, otherwise known as TAA, more reflective of today's innovative economy. TAA is America's commitment to provide wage and health benefits while trade-displaced workers retool, retrain, and find better jobs. A renewed TAA must do what today's program does not. It must be made available to the 8 out of 10 American workers who make their money in service professions. It must apply to all workers displaced by trade, not just those affected by free-trade agreements. The time has come to consider other ways to help workers displaced not just by trade but by other aspects of globalization, including the advance of technology.

Second, we have to address concerns that our trade agreements encourage companies to move jobs to countries where substandard labor and environmental policies occur. We need to find common cause with those who abhor child and sweatshop labor anywhere. We need to acknowledge the justifiable ends of those who want to employ trade to help stop despoliation of the planet. We project our values as Americans when we use our trade agreements to create a race to the top. As our trade agreements require our partners to step up their protection of investments and intellectual property, so our agreements should lead to improvements in our partners' labor and environmental protections.

Third, we cannot conclude more trade agreements without giving Americans the confidence that we vigorously enforce those agreements already on the books. Too many of our partners cheat and maintain bogus barriers against American exports. For example, look at Korea's unscientific ban on beef; look at the illegal subsidies China grants to its manufacturers. But the trade-enforcement tools that Congress created in the 1970s and 1980s, such as section 301, are outdated. They no longer function as intended. It is time to take a hard look at these tools. We should redraft them so they better address the trade barriers that American exporters face in today's global economy.

Fourth, we cannot expect Americans to support trade when they see ever-ballooning trade deficits. Our trade deficit with China this year will approach $300 billion. That is unsustainable. We need to get our balance sheet back in line. That requires us to boost U.S. exports through better enforcement and better export promotion. That requires us to call out countries such as China, possibly even Japan, that use the value of their currency to gain a trade advantage. And it means action at home to improve public and private savings.

Fifth, a successful trade policy means that America must be the most competitive nation in the world. American workers need to know they can compete and they can win on a global playing field. And we need to take a good, hard look at how health care costs, our education system, and tax policies affect America's global competitiveness. As I did in the last Congress, I will push competitiveness at every opportunity. I will work for passage of legislation that will guarantee America's economic preeminence for years to come.

With trade promotion authority about to expire, the locus of trade policy shifts back to Congress. We have both the opportunity and responsibility to create the next trade policy that will guide us and guide this country forward. We need to work together, clearly, obviously, on trade to find answers to the hard questions. We need to work together on trade to shore up our international leadership, sorely needed. And most of all, we need to work together on trade to restore our bargain with the American people.

I suggest the absence of a quorum and ask unanimous consent that the time be charged equally against both sides.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. 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. BAUCUS. Before the Senate today is the exact same amendment offered by my colleague from Arizona, Senator KYL, that the Senate rejected last Thursday. The only difference is that Senator KYL has modified the amendment to make it even more pernicious; that is, by removing the offset. Thus, the pending amendment would add nearly another $3 billion to the deficit in the next 10 years.

The Senate rejected the Kyl amendment last week, but we are here yet again today considering these same issues. This time around, my colleague does not attempt to offset those cuts. Rather, his amendments would put another $3 billion hole in our budget. The amendment would pile onto a deficit that we are desperately trying to erase.

Many of us support the policy behind these provisions. We would not have included them in our bill if we did not. As I told the Senator from Arizona at our committee markup, if we could have made these provisions permanent, I certainly would have done so. But the underlying substitute amendment is the product of a Finance Committee hearing, deliberation, and markup. It is balanced. It is revenue neutral. And all Members supported it—it passed unanimously—including the Senator from Arizona.

Senators made compromises to get this bill to the floor, and we have done so. I must say, though, I admire the persistence of my good friend from Arizona. He is the original ''energy bunny'' of tax cut amendments. I commend him for that. But he was not successful in committee, and he was not successful on the floor last week. I hope and trust that that was because the Senate would like to provide a balanced package of tax incentives. I hope and trust that the Senate wants a package that does not worsen our deficit. Therefore, I oppose adding another $3 billion in tax provisions to this already $8 billion bill. The $8 billion is paid for. The amendment by the Senator would add another $3 billion and that would not be paid for.

At the appropriate time, I intend to raise a budget point of order against the amendment. I strongly urge my colleagues to vote against the motion to waive that point of order, which I assume will occur in not too many minutes from now.

I suggest the absence of a quorum and ask unanimous consent that the time be equally divided.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. 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. BAUCUS. Mr. President, I raise a point of order that the pending amendment violates section 505(a) of H. Con. Res. 95, the concurrent resolution on the budget for fiscal year 2004. On behalf of Senator KYL, I move to waive the applicable provisions for the consideration of the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

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

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

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

The yeas and nays resulted—yeas 46, nays 50, as follows:

[Rollcall Vote No. 38 Leg.]

YEAS—46

Alexander	Dole	McConnell
Allard	Domenici	Murkowski
Bayh	Ensign	Nelson (NE)
Bennett	Enzi	Roberts
Bond	Graham	Sessions
Bunning	Grassley	Shelby
Burr	Gregg	Smith
Chambliss	Hatch	Specter
Coburn	Hutchison	Stevens
Cochran	Inhofe	Sununu
Coleman	Isakson	Thomas
Collins	Kyl	Thune
Cornyn	Lott	Vitter
Craig	Lugar	Warner
Crapo	Martinez	
DeMint	McCain	

NAYS—50

Akaka	Feinstein	Nelson (FL)
Baucus	Harkin	Obama
Bingaman	Inouye	Pryor
Boxer	Kennedy	Reed
Brown	Kerry	Reid
Byrd	Klobuchar	Rockefeller
Cantwell	Kohl	Salazar
Cardin	Landrieu	Sanders
Carper	Lautenberg	Schumer
Casey	Leahy	Snowe
Clinton	Levin	Stabenow
Conrad	Lieberman	Tester
Corker	Lincoln	Voinovich
Dodd	McCaskill	Webb
Dorgan	Menendez	Whitehouse
Durbin	Mikulski	Wyden
Feingold	Murray	

NOT VOTING—4

Biden	Hagel
Brownback	Johnson

The PRESIDING OFFICER. On this vote, the yeas are 46, the nays are 50. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. DURBIN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The point of order is sustained and the amendment fails.

Mr. KENNEDY. Mr. President, as I understand it, there is 4 minutes equally divided?

AMENDMENT NO. 100, AS AMENDED

The PRESIDING OFFICER. The Senator will withhold.

Under the previous order, the question now is on agreeing to the substitute amendment, as amended.

The amendment (No. 100), as amended, was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

CLOTURE MOTION

The PRESIDING OFFICER. There will now be 4 minutes of debate equally divided before the cloture vote on the bill.

The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I rise today to speak in support of cloture on the

underlying bill. I appreciate the wise direction that this body has decided upon with regard to the minimum wage. We have correctly concluded that raising the minimum wage without providing relief for the small businesses that must pay for that increase is simply not an option. I hope this is an approach that our colleagues in the House will not derail. This approach recognizes that small businesses have been the steady engine of our growing economy and they have been the source of new job creation. It, also, recognizes that small businesses in every sense of the phrase are middle class families too.

I am proud the body has chosen a path which attempts to preserve this segment of the economy which employs so many working men and women and trains them. The Senate has recognized the simple fact that a raise in the minimum wage is of no benefit to a worker without a job or a job seeker without a prospect.

As this Congress moves forward, we will need to confront a range of issues facing working families. Lessons in this debate should not be forgotten as we approach complex issues. Yesterday, we were referencing the so-called war on the middle class. That is partisan rhetoric which was never accurate and is now simply divisive. Who is more middle class than America's small business men and women? Tax relief to the middle-class small business owners who must pay the cost of this wage increase mandate is no attack on the middle class. An attack would be passing the bill without such tax relief.

I urge my colleagues to support cloture, and I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, it has been 8 days—8 days since we started this debate on the minimum wage. Every Member of this body has made $4,500, and yet we haven't been able to get an increase in the minimum wage from $5.15 to $7.25. Forty-five hundred dollars, everyone has made in this body, but minimum wage workers have still been denied. Eight days.

How long does it take? How long does it take for this body to be able to say: Yes, we are going to increase the minimum wage. How many more amendments are over there on the Republican side? We have none. We are prepared to vote on final passage right now. But oh, no, we can't do that. There should be no doubt in the minds of working families, of the middle class, who is standing for those who are earning the minimum wage.

Since we started this debate, there have been thousands of meals that have been served in nursing homes. There have been thousands of beds that have been made in hotels around this country. There are 6 million children who will benefit from this increase in the minimum wage, who can't afford books to read, who can't afford to buy a present to go to a birthday party, and who can't spend enough time with their parents, because their parents are working 2 or 3 jobs. Today there are 50,000 wives or husbands of soldiers serving in our armed forces who are earning the minimum wage. We can do a favor for those individuals and treat them with respect and dignity by voting for the increase in the minimum wage. We ought to do that right now.

Mr. President, I ask unanimous consent that we vote on final passage right now.

The PRESIDING OFFICER. Is there objection?

Mr. ENZI. Mr. President, we have a process that is set up and a vote that is called for, and I think we ought to follow that process. I think we have made a lot of progress, and as long as we continue to have progress in a bipartisan way, this will make it through the process. It has been something everybody pledged themselves to early, and I hope we haven't broken that pledge. I object.

The PRESIDING OFFICER. Objection is heard.

The majority leader is recognized.

Mr. REID. Mr. President, before the vote is called, I wish to alert everyone here that the distinguished Republican leader and I are negotiating, trying to work something out on Iraq, which is the next issue we will go to when we finish this bill, which will be tomorrow sometime. It is very possible we are going to have a vote Monday at noon on the Iraq issue—everyone should understand that—Monday at noon. We hope that be can avoided, but we may not be able to avoid it. The Republican leader and I are doing our best to work something out. We have had a number of meetings, and we will continue to do that throughout the day.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order and pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The 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 the debate on Calendar No. 5, H.R. 2, as amended, providing for an increase in the Federal minimum wage.

Ted Kennedy, Barbara A. Mikulski, Daniel K. Inouye, Byron L. Dorgan, Jeff Bingaman, Frank R. Lautenberg, Jack Reed, Barbara Boxer, Daniel K. Akaka, Max Baucus, Patty Murray, Maria Cantwell, Tom Harkin, Robert Menendez, Tom Carper, Harry Reid, Charles E. Schumer, Richard Durbin.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on H.R. 2, as amended, an act to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage, 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. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN) and the Senator from South Dakota (Mr. JOHNSON) are necessarily absent.

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

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

The yeas and nays resulted—yeas 88, nays 8, as follows:

[Rollcall Vote No. 39 Leg.]

YEAS—88

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

NAYS—8

Coburn	DeMint	Martinez
Craig	Ensign	Vitter
Crapo	Kyl	

NOT VOTING—4

Biden	Hagel
Brownback	Johnson

The PRESIDING OFFICER. On this question, the yeas are 88, the nays are 8. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. SCHUMER. 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.

MORNING BUSINESS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business with each Senator allowed to speak for no more than 10 minutes and that the time shall run against postcloture time.

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

TRIBUTE TO FATHER ROBERT DRINAN

Mr. DURBIN. Mr. President, last October, my alma mater, Georgetown Law Center, established an endowed chair in human rights in honor of Father Robert Drinan. At the ceremony, Yale Law School Dean Harold Koh called Robert Drinan ''a father in more senses than one.'' Dean Koh said:

> He is the father of a remarkable revolution—a human rights revolution—a person of simple, radical faith.

Sunday night, at the age of 86, Robert Drinan died. The world has loss a courageous champion for justice, human rights, and human dignity.

I just missed Father Drinan. I graduated from Georgetown Law before he joined the faculty, and he left Congress before I arrived. So I never had the chance to study and work with him directly. But like a lot of others, I was inspired and challenged by him.

Georgetown University estimates that Father Drinan taught 6,000 students in a teaching career that stretched over more than five decades. But those are just the students who enrolled in his classes at Boston College and, later, at Georgetown. In fact, he taught a lot of people. He taught all of us about the responsibility each of us has to speak out for the voiceless and the oppressed, not just to speak, but to work for justice.

In the 1960s, as dean of Boston College Law School, Father Drinan showed courage by calling for the desegregation of Boston's public schools. He challenged his students at the law school to become active in the civil rights movement.

In 1970, the people of Boston's western suburbs elected Father Drinan to represent them in Congress, making him the first Catholic priest ever to serve as a voting Member of Congress. He ran as a strong opponent of the Vietnam war. He was the first Member of Congress to call for the impeachment of Richard Nixon, but not over Watergate, rather over the undeclared war against Cambodia. He fought to make human rights the cornerstone of American foreign policy and to establish a bureau for human rights within the U.S. State Department. He fought against government abuses of power and led a successful battle to finally abolish the House Internal Security Committee, formerly the Un-American Activities Committee, which we recall was responsible for so many unjust findings by this Congress, ruining the private lives of so many American citizens.

In 1975, he became the first American to receive his own CIA and FBI files under the Freedom of Information Act. With Congressman Frank Church and others, he worked to safeguard our right to privacy.

Father Drinan was elected to five terms in Congress, each time by larger margins. Finally, in his last race in 1978, he didn't have an opponent. He would have been reelected again in 1980, but he was forced to step down when Pope John Paul II barred Catholic priests from holding elective office. Father Drinan left office, but he never left the struggle. He continued to work and speak out for justice until the day he died.

In 1981, he took a post at Georgetown Law Center where he taught human rights, civil liberties, and government ethics. He taught his students that the central commandment of the Bible is that ''the people of God must be devoted to justice in every way.'' He taught that it is a sin that 31,000 children die of starvation every day in this world. He urged his students, all of us: ''Sharpen your anger at injustice.'' Use the talents God gave you to make this world better.

Two months ago Father Drinan told a reporter that he hadn't given any thought to retiring; there was just too much left to do. And, he said, ''Jesuits don't ordinarily retire. We just do what you do.''

Earlier this month Father Drinan was called on for a particularly symbolic ceremony. He celebrated Mass for Speaker NANCY PELOSI at her alma mater in Washington, Trinity College. It was a special mass in honor of ''the children of Darfur and Katrina.''

Father Drinan spoke to our conscience. He spoke for the overlooked and underpaid, for those who were too poor or too weak to speak for themselves. He spoke out in passionate defense of the great moral and political values of our Nation.

In his lifetime he received many awards. Last May he received Congress's Distinguished Service Award for his service in the House. The American Bar Association honored him with the ABA medal for his work on behalf of human rights. He was a founder of the Lawyers Alliance for Nuclear Arms Control; president of Americans for Democratic Action; a member of the national board of Common Cause, People for the American Way, the Lawyers' Committee for Human Rights, the National Interreligious Task force on Soviet Jewry, the American Civil Liberties Union, and the NAACP Legal Defense Fund.

He received 22 honorary degrees from colleges and universities. One of those degrees, given to him by Villanova University in 1977, hung on the wall of his office in the House of Representatives. It read:

> Your life's work has provided proof that service to God and country are not inimical.

How true.

In his sermon on the mount, Jesus told us:

> Blessed are they who hunger and thirst after justice: for they shall have their fill.

Robert Drinan is, indeed, blessed, and we were blessed to have him serving America for so many years. Those of us who admired him and loved him were saddened by his death. But we take comfort in knowing that just as his influence in Congress has lasted beyond those 10 years of service, Robert Drinan's influence on this world will continue to be felt long after we are all gone.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

SEC INVESTIGATION FINDINGS

Mr. GRASSLEY. Mr. President, I am very happy to be on the floor with my colleague Senator SPECTER on something we have worked on together over a long period of time, and it falls very much into the category of congressional oversight. I am not going to go into the details now because I have a statement I want to use as a basis for our cooperation, and then you will hear from Senator SPECTER. I want to say how great it was to work with Senator SPECTER.

We are here to update the Senate on the interim Finance Committee findings of the joint investigation into the Securities and Exchange Commission that was conducted by the Finance Committee on the one hand, and the Judiciary Committee on the other, during the 109th Congress.

Before I go into details, there is another person I would thank for his cooperation. I want to take this opportunity to thank Securities and Exchange Commission Chairman Christopher Cox for his cooperation in providing access to thousands of pages of documents, as well as interviews with the staff at the Securities and Exchange Commission. Chairman Cox's cooperation was very essential to our ability to conduct our constitutionally mandated oversight of Federal agencies.

That said, I hope Chairman Cox takes today's findings to heart and will work to implement recommendations Senator SPECTER and I plan to put forth into the forthcoming final report.

Today, we want to update the Senate on some of the details of our investigation, which began early last year when allegations were presented to our staffs by former Securities and Exchange Commission attorney Gary Aguirre. Mr. Aguirre described the roadblocks he faced in pursuing an insider trading investigation while he was employed as a senior enforcement attorney at the Securities and Exchange Commission. Specifically, he alleged his supervisor prevented him from taking the testimony of a prominent Wall Street figure because of his ''political clout,'' which obviously should not be ignored if an agency is doing the job they should be doing.

Well, after Mr. Aguirre complained about that sort of preferential treatment given to somebody with ''political clout,'' his supervisors terminated him from the SEC while he was on vacation.

The interim findings we released today outlined the three primary concerns shared by Senator SPECTER and me. First, the SEC's investigation into Pequot Capital Management was plagued with problems from its beginning to its abrupt conclusion. Second, the termination of Mr. Aguirre by the SEC was highly suspect given the timing and the circumstances. Thirdly, the original investigation conducted by the SEC Office of Inspector General was both seriously and fatally flawed. The inspector general's failure required our committees to take a more thorough look at Mr. Aguirre's allegations and examine this matter closely. Taken together, these findings paint a picture of a troubled agency that faces serious questions about public confidence, the integrity of its investigations, and its ability to protect all investors, large and small, with an even hand.

The SEC should have taken Mr. Aguirre's allegations more seriously and very seriously. Instead, it does like too many agencies do when under fire: it circled the wagons and it shot a whistleblower—an all too familiar practice in Washington, DC. As we know, whistleblowers are about as welcome as a skunk at a picnic.

There is more information to follow and more details that need to come to light. Senator SPECTER and I together plan on releasing a comprehensive report in the near future. For now, I hope these interim findings will spur the SEC to consider meaningful reforms. I urge all my colleagues to read these important interim findings and to read the final report when it is made available.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I would like to begin by thanking my distinguished colleague, Senator GRASSLEY, for his outstanding work on the issues which he has just addressed. Senator GRASSLEY and I have a long record of working together. We were elected together in November 1980 with the election of Ronald Reagan. There were 16 members of the incoming class of Republican Senators at that time. Two Democrats were elected.

In the intervening years, Senator GRASSLEY and I have become the sole survivors, and we have done a great deal of work together.

We sit together on the Judiciary Committee, and Senator GRASSLEY has had a very distinguished record as chairman of the Senate Finance Committee during the 109th Congress, and I chaired the Judiciary Committee during the 109th Congress. We are making a presentation today of interim findings on the investigation into potential abuse of authority at the Securities and Exchange Commission.

I join Senator GRASSLEY in commending the Chairman of the SEC, Christopher Cox, for his cooperation, and I also join Senator GRASSLEY in urging Chairman Cox and the SEC to do more. The oversight which our two committees undertook constituted a review of over 9,000 pages of documents and the interviewing of 19 witnesses over the course of 24 interviews.

The Judiciary Committee, on which we both serve, held a series of three public hearings regarding this matter, most recently on December 5, 2006, when the committee heard detailed sworn testimony from current and former SEC employees involved in the so-called Pequot investigation.

Based upon our review of the evidence, we have serious concerns, which are documented in a lengthy report, which we will make a part of the record, plus supplemental documents. Our investigation has raised concerns about, first, the SEC's mishandling of the Pequot investigation before, during, and after the firing of Mr. Gary Aguirre; secondly, the circumstances under which Mr. Aguirre was terminated; and third, the manner in which the SEC's Inspector General's Office handled Mr. Aguirre's allegations after he was fired.

Viewing these concerns as a whole, we believe a very troubling picture evolves. At best, the picture shows extraordinarily lax enforcement by the SEC, and it may even indicate a cover-up by the SEC. We are concerned, first of all, as detailed in this report, that the SEC failed to act on the GE/Heller trades for years. We are concerned about the suggestions of political power which was present in the investigation, which has all of the earmarks of a possible obstruction of justice.

There is sworn testimony by Mr. Gary Aguirre that he was told in a face-to-face meeting with his immediate supervisor, Branch Chief Robert Hanson, that he could not take the testimony of Mr. John Mack, who was thought to have leaked confidential information. Mr. Aguirre testified that Mr. Hanson refused to allow the taking of testimony, as Mr. Aguirre pointed out, because of Mr. Mack's ''powerful political contacts.''

Now, Mr. Hanson denied to the SEC inspector general and to the committee that he ever said that, but we have contemporaneous e-mails, for example, where Mr. Hanson admitted to a very similar statement when he wrote to Mr. Aguirre on August 24, 2005, ''Most importantly, the political clout I mentioned to you was a reason to keep Paul,'' referring to a man named Paul Berger, ''and possibly Linda,'' referring to a woman named Linda Thomsen, ''in the loop on the testimony.'' Now, that is conclusive proof of the political clout or at least what Mr. Hanson thought was political clout when the SEC made a decision not to permit the taking of key testimony, the testimony of Mr. MACK.

Mr. Hanson submitted a written statement to the committee concluding that it was ''highly suspect and illogical'' to link Mr. MACK as the tipper, but in his prior writings he said, in written form, ''Mack is another bad guy.''

The rationale used by the SEC officials who denied Mr. Aguirre's request to take the testimony of Mr. MACK was that they wanted to get ''their ducks in a row.'' But the overwhelming evidence in the matter showed that the testimony should have been taken at a much earlier stage. There is no problem with taking testimony again if necessary at a later stage.

A key SEC investigator, Mr. Hilton Foster, with knowledge of the Pequot matter, said, ''As the SEC expert on insider trading, if people had asked me, 'When do you take his testimony,' I would have said take it yesterday.''

Mr. Joseph Cella, Chief of the SEC's Market Surveillance Commission, told committee investigators, ''it seemed to me that it was a reasonable thing to do to bring Mack in and have him testify,'' and ''in my mind there was no down side.''

Mr. MACK's testimony was taken 5 days after the statute of limitations expired. But let me point out at this juncture that even though the statute of limitations has expired, there is injunctive relief and other action that can yet be taken by the SEC.

The problems with the Pequot investigation are amplified by the suspect termination of Mr. Aguirre. On June 1, 2005, in a performance plan and evaluation, Mr. Aguirre was given an acceptable rating, and Mr. Hanson, on June 29, 2005, noted Mr. Aguirre's ''unmatched dedication'' to the Pequot investigation and ''contributions of high quality.'' These evaluations were submitted to the SEC's Compensation Committee, which later approved Mr. Hanson's recommendation on July 18. Despite these favorable reviews, Aguirre's supervisors wrote a so-called supplemental evaluation on August 1, and this reevaluation on August 1 occurred 5 days after Mr. Aguirre sent supervisor Berger an e-mail saying that he believed the Pequot investigation was being halted because of Mr. MACK's political power.

There was an investigation by the inspector general of the SEC, and in my years in the Senate and hearing many inspectors general testify, I can't recall hearing an inspector general who said less, did less, and was more thoroughly inadequate in the investigation. For example, the inspector general's staff said, ''we don't second guess management's decisions. We don't second guess why employees are terminated.'' Well, that is precisely the purpose of having an inspector general. The purpose of having an inspector general is to review those kinds of decisions.

The inspector general testified that he was given advice by the Department of Justice, which made absolutely no sense. This appears in some detail in the record.

Then the inspector general initiated an attempt to take what was really punitive action against Mr. Aguirre by seeking enforcement of a subpoena for documents which were involving Mr. Aguirre's communications with Congress. Now, how can an individual communicate, talk to an oversight committee, such as the Judiciary Committee or the Finance Committee, if those communications are going to be subject to a subpoena by the SEC, by the inspector general? It is just preposterous. We have constitutional oversight responsibilities, and we obviously cannot conduct those responsibilities if the information we glean is going to be subject to somebody else's review.

The subpoena wasn't pursued, but the lack of judgment—and it is hard to find a strong enough word which is not insensitive to describe the inspector general's conduct in trying to subpoena the records of the Senate Judiciary Committee and the Senate Finance Committee. It just made absolutely no sense.

We hope that the SEC will reopen its investigation even though the statute of limitations has run on criminal penalties. It has run because of the inaction of the SEC waiting so long to start the investigation, then not taking Mr. MACK's testimony until 5 days after the statute of limitations had expired. Notwithstanding that, there are other remedies, such as disgorgement, which still may be pursued.

The oversight function of Congress, as we all know, is very important. Pursuing an investigation of this sort is highly technical, but we have done so, so far, in a preliminary manner. We believe this matter is of sufficient importance so that Senator GRASSLEY and I have come to the floor jointly today to make a statement.

On behalf of Senator GRASSLEY and myself, I ask unanimous consent that the full text of the interim findings on the investigation of potential abuse of authority of the Securities and Exchange Commission be printed in the RECORD, together with extensive documentation which supports the findings.

Again, we acknowledge the cooperation of Chairman Cox and the SEC, and we ask that further investigation be undertaken there. It is a matter of continuing oversight concern to Senator GRASSLEY and myself and the respective committees where we now serve as ranking members.

Mr. President, I ask Senator GRASSLEY, what did I leave out?

Mr. GRASSLEY. You didn't leave anything out, but we did ask unanimous consent that this be put in.

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

THE SPECTER-GRASSLEY INTERIM FINDINGS ON THE INVESTIGATION INTO POTENTIAL ABUSE OF AUTHORITY AT THE SECURITIES AND EXCHANGE COMMISSION

OVERVIEW

These findings follow the Judiciary Committee's December 5, 2006, hearing that examined allegations that the Securities and Exchange Commission (SEC) abused its authority in handling its now-closed investigation of suspicious trading by the hedge fund Pequot Capital Management (''Pequot'' or ''PCM''). We submit these preliminary findings based upon the evidence received by both Committees to date because we believe it is important to share with the full Senate.

Between July 2006 and the end of the 109th Congress, the Senate Judiciary and Finance Committees conducted a joint investigation into allegations raised by former SEC employee Gary Aguirre. Mr. Aguirre contends that his efforts to investigate potentially massive insider trading violations by Pequot were thwarted by his superiors when his investigation increasingly focused on current Morgan Stanley Chief Executive Officer John Mack. Mr. Aguirre also alleges that his insistence on taking Mr. Mack's testimony met resistance within the SEC and ultimately led to his firing. In addressing these allegations, we have focused on the internal processes of the SEC. We have not attempted to decide the merits of the underlying Pequot insider trading investigation and, at this juncture, take no position on whether Pequot or Mack violated any securities laws.

To date, Committee investigators have received and reviewed over 9,000 pages of documents and interviewed nineteen (19) key witnesses over the course of twenty-four (24) interviews. The Judiciary Committee also held a series of three (3) public hearings regarding this matter—most recently on December 5—when the Committee heard detailed sworn testimony from current and former SEC employees involved in the Pequot investigation.

Based on our review of this evidence we have serious concerns. As discussed further below, our primary concerns involve: (1) the SEC's mishandling of the Pequot investigation before, during, and after Aguirre's firing; (2) the circumstances under which Aguirre was terminated; and (3) the manner in which the SEC's Inspector General's office handled Aguirre's allegations after he was fired. Viewing these concerns as a whole, we believe a troubling picture emerges. At best the picture shows extraordinarily lax enforcement by the SEC. At worse, the picture is colored with overtones of a possible cover-up. Either way, we believe the SEC must take corrective and preventative action to ensure that future investigations, internal and external, do not follow the same path as the Pequot matter.

FINDINGS

THE SEC'S INVESTIGATION OF PEQUOT WAS PLAGUED WITH PROBLEMS

The SEC Failed To Act on the GE/Heller Trades for Years

The alleged insider trading occurred in July 2001 when Pequot CEO Arthur Samberg began purchasing large quantities of Heller Financial stock while also shorting General Electric (''GE'') stock a few weeks before the public announcement that GE would purchase Heller. On January 30, 2002, the NYSE ''highlighted'' some of these trades for the SEC as a matter that warranted further scrutiny and surveillance. But it appears that the SEC did next to nothing to investigate these trades until after Aguirre joined the Commission over 2 years later on September 7, 2004. In fact, it is clear to us that Aguirre was the driving force behind the investigation of the GE-Heller trades that had otherwise remained dormant at SEC since 2002.

The Circumstances Surrounding the Investigation of John Mack as the Potential Tipper Are Highly Suspect

The evidence shows that Aguirre's immediate supervisors, Branch Chief Robert Hanson and Assistant Director Mark Kreitman, initially were enthusiastic about investigating Pequot and Mr. Mack as the possible supplier of inside information to Pequot. Indeed, after Aguirre developed a plausible theory connecting Mack to the trades, Hanson wrote on June 3, 2005, in an email that ''Mack is another bad guy (in my view)'' (Attachment 1). And on June 14, 2005 Aguirre's supervisors Hanson and Kreitman authorized him to speak with federal prosecutors concerning the trades. Six days later on June 20, 2005, in response to a more comprehensive analysis of his theory regarding Mack, Hanson wrote: ''Okay Gary you've given me the bug. I'm starting to think about the case during my non work hours'' (Attachment 2).

What is troubling is how this enthusiasm waned after public reports on June 23, 2005, that Morgan Stanley was considering hiring Mack as its new CEO. Specifically, we are concerned about the circumstances leading to the decision by Aguirre's supervisors to delay taking Mack's testimony. The Judiciary Committee received sworn testimony from Aguirre that he was told in a face-to-face meeting with his immediate supervisor, Hanson, that he could not take Mack's testimony because of his ''powerful political contacts.'' While Hanson denied to the SEC/IG and to the Committees that he ever said that, we question his denial because of conflicting contemporaneous emails. For example, Hanson admitted to a very similar statement when he wrote to Aguirre on August 24, 2005, ''Most importantly the political clout I mentioned to you was a reason to keep Paul [Berger] and possibly Linda [Thomsen] in the loop on the testimony'' (Attachment 3, emphasis added). He also used the term ''juice'' when referring to Mack's attorneys (Attachment 4). Another witness testified before the Judiciary Committee that Hanson referred to Mack's ''prominence'' as a reason for not taking his testimony (Attachment 5).

To be sure, Hanson's supervisor, Mark Kreitman, also referred to John Mack's ''prominence.'' Speaking about former U.S. Attorney Mary Jo White's contact with SEC Enforcement Director Linda Thomsen regarding the Pequot investigation, Kreitman told the Inspector General's Office, ''White is very prestigious and it isn't uncommon for someone prominent to have someone intervene on their behalf'' (Attachment 6). Kreitman's supervisor, Associate Director Paul Berger, also brought up the issue of prominence, when asked whether he could remember examples of witnesses other than John Mack for whom he required a staff attorney to prepare a memorandum to justify the taking of investigative testimony (Attachment 7).

We also have reason to question Hanson's credibility given certain inconsistent statements that he gave to the Judiciary Committee during its December hearing. Specifically, we find it difficult to reconcile Hanson's submitted written statement to the Committee concluding that it was ''highly suspect and illogical'' to link Mack as the tipper with his prior writings that ''Mack is another bad guy (in my view)'' (Attachment 8). Moreover, it bears noting that despite Hanson's statement that Aguirre's theory was ''highly suspect and illogical'' the SEC ultimately took Mack's testimony on August 1, 2006. Furthermore, we are troubled by Hanson's failure to recall a key investment that Mack entered into with the help of Pequot prior to his alleged passing of inside information to Pequot CEO Samberg regarding the GE-Heller transaction. Hanson's failure to recall this transaction at the hearing raises doubt as to whether Aguirre's theory regarding Mack was ever taken seriously by his supervisors at the SEC.

Moreover, we question the rationale advanced by Aguirre's supervisors in not taking Mack's testimony: to get ''their ducks in a row.'' While reasonable minds may disagree on an appropriate investigative strategy, the SEC's rationale for delaying the taking of Mack's testimony runs contrary to what insider trading experts have told us and contrary to what others within the SEC believed at the time. According to Mr. Hilton Foster, an experienced former SEC investigator with knowledge of the Pequot matter: ''as the SEC expert on insider trading, if people had asked me, 'when do you take his testimony,' I would have said take it yesterday.'' In addition, Joseph Cella, Chief of the SEC's Market Surveillance Division, told Committee investigators, ''it seemed to me that it was a reasonable thing to do to bring Mack in and have him testify,'' and ''in my mind there was no down side[.]''

The explanation offered by Aguirre's supervisors that without direct evidence that Mack had knowledge of the GE transaction—what Aguirre's supervisors referred to as proving Mack went ''over the wall'' (Attachment 3)—the deposition would consist simply of a denial by Mack is not at all convincing. Indeed, although the SEC apparently never found such direct evidence, the SEC did manage to question Mack for over 4 hours when it finally took his testimony on August 1, 2006, after the statute of limitations had expired. And although Aguirre's supervisors advance the rationale that taking Mack's testimony in the summer of 2005 would have been merely premature, this notion is contradicted by the staff attorney who took the lead in the investigation after Aguirre was fired. In particular, shortly before taking Mack's deposition in August 2006, that attorney wrote explicitly in a July 19, 2006, email that the rationale for taking Mack's testimony was not a matter of being ''premature'' but rather an issue of establishing the necessary ''prerequisite'' of when Mack had obtained inside information (Attachment 8).

The purpose of taking investigative testimony is not to confront a witness with accusations of wrongdoing, as Aguirre's supervisors seem to believe. Rather it is to gather information that helps to either confirm or rule-out working theories, which by their nature must be speculative at the beginning of the investigation. One SEC witness who wishes to remain anonymous told the Committees' investigators that SEC training personnel teach new attorneys that:

it was important to immediately ''nail down'' the stories of any individuals who possibly had been involved in the suspicious trades so that the person could not adjust their story to account for any information we later uncovered. This also served to assist the direction of the investigation because it allowed us to immediately identify whether or not any subsequent evidence supported the individual's initial statement thereby giving us a strong indication of whether the initial statement appeared to be true and what, if any, additional investigation needed to be conducted (such as the need for more in-depth testimony if we found contradictions).

Although the SEC finally took Mack's testimony in August 2006, we are concerned about the circumstances under which it was done. Mack's testimony was taken five days after the statute of limitations expired, and only a few months after we initiated our inquiry into this matter. We question why the SEC failed to take this obvious step earlier. The evidence suggests that his testimony was taken primarily to deflect public criticism for not having taken it much earlier. It took the SEC over a year to ask John Mack about his communications with Arthur Samberg and Pequot's trading in Heller and GE. By contrast, it took Mary Jo White only two days to do so. On the Sunday after Morgan Stanley's Board of Directors hired her and her firm, Debevoise & Plimpton, to look into Mack's potential exposure in the Pequot investigation, she quickly obtained documents and questioned Mack about specific emails with Arthur Samberg. The SEC should have been at least as curious about Mack's answers as Mary Jo White was.

The Problems With the Pequot Case Are Amplified by the Testimony of Other SEC Employees

Our concerns are further heightened by the testimony of one key SEC employee who raised issues with the manner in which the Pequot investigation was handled. Specifically, the Judiciary Committee received compelling sworn testimony from SEC Market Surveillance Branch Chief Eric Ribelin who sought recusal from the Pequot investigation shortly after Aguirre's termination because, as he alleged at the time, ''something smells rotten.'' Ribelin also explained to the Judiciary Committee that he believed Aguirre's supervisors, especially Associate Director Paul Berger, failed to ''support the aggressiveness and tenacity of [Aguirre]'' (Attachment 5). This is significant testimony from a witness who felt it was his duty to come forward and testify. As such, we trust that Commissioners at the SEC will take every step to ensure that no retaliation against Ribelin will occur.

THE SEC'S TERMINATION OF AGUIRRE IS HIGHLY SUSPECT

The documents and testimony adduced by the Committees show that Aguirre, a probationary employee while at the SEC, was a smart, hardworking, aggressive attorney who was passionately dedicated to the Pequot investigation. These positive attributes were noted in a June 1, 2005 ''Performance Plan and Evaluation'' prepared by Kreitman which give Aguirre an ''acceptable'' rating for numerous work criteria, and then followed by a more detailed ''Merit Pay'' evaluation written by Hanson on June 29, 2005, which noted Aguirre's ''unmatched dedication'' to the Pequot investigation and ''contributions of high quality.'' These evaluations were submitted to the SEC's Compensation Committee which later approved Hanson's recommendation (among others) on July 18, 2005.

Despite these favorable reviews, Aguirre's supervisors (Kreitman, Hanson and Berger) wrote a so-called ''supplemental evaluation'' on August 1 that spoke negatively of Aguirre. Aguirre's supervisors never shared this evaluation with Aguirre and indeed admitted that they are ''fairly rare''. In fact, during the December 5, 2006 hearing, current SEC supervisors could not recall other instances where a supplemental evaluation was prepared for an employee. We are skeptical of the supervisors' explanations regarding the creation of this document. According to Hanson and Kreitman, their initial positive evaluations covered only the period ending April 30, 2005, thus suggesting that the evaluation was accurate with respect to performance up to that date. But these same supervisors also testified that the initial evaluations were perhaps too generous, thus suggesting that there were performance issues that should have been addressed in the initial evaluation and Merit Pay recommendation.

Rather than taking them at face value, we have attempted to assess the credibility of the negative statements Aguirre's supervisors made about him in his re-evaluation, in his notice of termination, in interviews with the SEC/IG, in interviews with Committee staff, and in their hearing testimony. In doing so, we have noted the considerable lack of contemporaneous documents corroborating the concerns they raised.

For example, the IG's closing memo cites his supervisors' concerns about subpoenas that Aguirre issued allegedly in violation of law. While his supervisors now claim that this was a significant error, which seriously undermined their confidence in Aguirre, they have produced no documents to the Committees suggesting that they viewed it that way at the time. Another example is Hanson's allegation that Aguirre behaved ''unprofessionally'' while taking the testimony of Arthur Samberg. This allegation is based on second-hand knowledge, as Hanson did not actually attend the testimony. Moreover, the SEC has not produced records to the Committees suggesting that Hanson or any of his other supervisors were concerned at the time about the way Aguirre took the Samberg testimony. In fact, Hilton Foster told the Committees that he planned to use a portion of the transcript as a model for how to take testimony in his training of new SEC attorneys. A third former SEC employee told staff that the testimony of current SEC supervisors at the December 5, 2006 hearing concerning the reasons for terminating Aguirre were not consistent with that employee's experience with Aguirre.

Aside from these inconsistencies, the greater concern is with the timing of Aguirre's re-evaluation. Aguirre's supervisors prepared the re-evaluation on August 1 after the Compensation Committee (on which Berger sat) had already approved the merit pay increase for Aguirre and most significantly, 5 days after Aguirre sent Berger an email saying that he believed the Pequot investigation of Mack was being halted because of Mack's political power.

Finally, there are questions about Paul Berger's outside employment with the law firm of Debevoise & Plimpton—the private firm that represented John Mack's prospective employer during the time that Berger allegedly vetoed efforts to take Mack's testimony. Although Berger testified recently before the Judiciary Committee that he ''first approached Debevoise in January of 2006'' (at which time he recused himself from the Pequot investigation and all other matters in which Debevoise had entered an appearance), Committee investigators identified a September 8, 2005, email suggesting that a contact was made on behalf of Berger through an intermediary who was also seeking employment with the same firm at the time. While we have found no proof of actual quid pro quo for Berger's employment in exchange for the favorable treatment of Mack, the SEC should take steps to avoid the appearance of impropriety of the sort that this email seems to suggest. This is especially true given that this contact on Berger's behalf occurred just days after Aguirre was fired and months before Berger recused himself from the Pequot matter.

THE FOLLOW-UP SEC INSPECTOR GENERAL'S INVESTIGATION WAS SERIOUSLY FLAWED

We are deeply troubled by what appears to us to be a cursory investigation of Aguirre's allegations by the SEC's Office of Inspector General, headed by Walter Stachnik. Subsequent to SEC Chairman Cox's September 7, 2005, referral of Aguirre's allegations to the IG, Stachnik failed to interview Aguirre or any of the other SEC employees mentioned in Aguirre's letter to Chairman Cox. The testimony of one such witness, Eric Ribelin, saw the light of day only through our investigation. Moreover, our concerns were further enhanced when the IG's investigators repeatedly told our staff that in investigating Aguirre's allegations of improper

motivation for his termination, ''we don't second guess management decisions . . . we don't second guess why employees are terminated.'' (Attachment 9). Such statements are fundamentally incompatible with the mission and purpose of the Office of Inspector General. This may explain why the IG spoke only to Aguirre's supervisors, accepted everything they said at face value, and reviewed only documents identified by those supervisors. However, it is certainly not a recipe for an independent and thorough investigation.

Furthermore, the IG initially attempted to take punitive action against Aguirre by seeking enforcement of a subpoena for documents in his possession—including confidential communications with Congress. We are pleased that the scope of the subpoena was subsequently narrowed to exclude communications with Congress. Nevertheless, Stachnik's continued insistence that his first investigation was ''professional,'' and his refusal to answer the Committee's questions about the subpoena at the instruction of the Justice Department are similarly troubling. The SEC's IG is supposed to provide employees an alternate, objective, open-minded avenue for reporting abuse of authority or other misconduct. At no time, before or after his termination, was Aguirre able to obtain at the SEC an objective and thorough consideration of his concerns. It is unfortunate that he had to reach out to our Committees to obtain such a review.

CONCLUSION

The handling of the Pequot investigation, the basis for and the timing of Aguirre's termination, and the woefully inadequate IG investigation of serious allegations of abuse of authority, present a very troubling picture. Based upon the evidence we have reviewed to date, the SEC's handling of the Pequot investigation shows either inexplicably lax enforcement or possibly a willful cover-up. Either way, the SEC must review this matter and take appropriate corrective measures. Anything less will undermine public confidence in our capital markets. We owe it to the public to ensure that securities enforcement is rigorous and unbiased.

As such, we hope the SEC will consider reopening its investigation into the Pequot matter given our findings. While the statute of limitations has run on criminal penalties and civil penalties related to the underlying trades, we understand that other remedies, such as disgorgement, may still be pursued. There also may be reasonable cause for the SEC or the Department of Justice to investigate whether any testimony given in the underlying Pequot investigation was false. We urge the SEC to take Aguirre's allegations seriously and seek to improve the management and operations of the Commission based on lessons learned from this controversy. We anticipate transmitting more detailed findings, conclusions and recommendations to the Senate during the 110th Congress after we conclude our assessment of the evidence adduced to date.

ATTACHMENT 1

From: Hanson, Robert.
Sent: Friday, June 03, 2005 10:00 a.m.
To: Aguirre, Gary J.
Subject: Re: Possible tipper new Pequot Chairman?

Mack is another bad guy (in my view).

Sent from my BlackBerry Wireless Handheld

From: Aguirre, Gary J.
To: Ribelin, Eric; Foster, Hilton; Eichner, Jim; Conroy, Thomas; Glascoe, Stephen; Miller, Nancy B.
CC: Hanson, Robert; Kreitman, Mark J.
Sent: Fri Jun 03 08:36:07 2005
Subject: Possible tipper new Pequot Chairman?

John Mack, who came up on radar screen as possible GE-Heller tipper, has just become chairman of Pequot Capital, according to WSJ article below. Mack moved from Morgan Stanley, adviser in Heller acquisition, to CSFB, also adviser in Heller, in late July 2001, the month of acquisition. The are hundreds of Pequot e-mails referring to Mack, including a dozen in July 2001. See e-mail below between Samberg and his son referring to Mack (''It's nice to have friends in high places . . .:)'' Is there something to this perverse logic: Mack is the only person in the world who would have as much to loose as Samberg if we could prove that he provided material-nonpublic info to Samberg. Who safer for Samberg to head Pequot and keep its secrets? Please note the happy face which has already come up twice in relating to possible flow of insider info. Ironically, Mack's article quoted below is C–1 of WSJ, just as was when Samberg's exchanged e-mails below.

[From the Wall Street Journal, June 3, 2005]

JOHN MACK TO JOIN PEQUOT HEDGE FUND IN CHAIRMAN'S ROLE

(By Gregory Zuckerman and Ann Davis)

In the latest example of a prominent financial figure entering the hedge-fund world, former Wall Street heavy-hitter John Mack is joining Pequot Capital Management Inc. as chairman.

Mr. Mack, 60 years old, was co-chief executive of Credit Suisse Group and CEO of that bank's Credit Suisse First Boston until last year, and previously was president of Wall Street firm Morgan Stanley. He will work with Pequot's founder, Art Samberg, to help lead the firm into new markets, recruit money managers and help guide the Westport, Conn., firm. Hedge funds are lightly regulated investing pools, traditionally for the wealthy and institutions.

[John Mack] Mr. Samberg, 64, an investor with a well-regarded record, will remain chief executive of Pequot, which manages about $6.5 billion, effectively running the firm day-to-day. (Meanwhile, a British financial regulator, Gay Huey Evans is joining a hedge fund run by Citigroup.)

Speculation about where Mr. Mack would land after he was replaced last year at CSFB has been something of a parlor game on Wall Street. Various companies put out feelers, including Goldman Sachs Group Inc., and he was approached as a possible candidate to run mortgage giant Fannie Mae, among other positions, according to people close to the matter. Some expected Mr. Mack, who is active in politics, to seek an office or ambassadorship.

But like many Wall Street traders and analysts lately, Mr. Mack is heading for the hedge-fund world, where assets are growing and the rewards can be lucrative. Hedge funds generally charge a management fee and a percentage of the firm's investment gains, meaning that stellar results bring big paydays. In addition to a salary, Mr. Mack will receive equity in Pequot, according to the firm.

Mr. Mack wouldn't address details of other possible job offers but said in an interview that he was attracted to Pequot because he and Mr. Samberg have been friends for more than a decade, starting when Mr. Mack gave some money to Mr. Samberg to invest. Mr. Mack also said he was eager to help the firm push into new investment areas.

[Arthur Samberg] ''Many people who have called me for a job want me to fix something, but I'd like to focus my job on building,'' Mr. Mack said.

For Pequot, the hiring of Mr. Mack is part of a change in recent years from traditional hedge-fund strategies, such as buying and selling U.S. and European shares. Returns for some hedge-funds have fallen, amid concern by some that too many savvy ''hedge funds were seeking the same opportunities in the market.

Hedge funds lost less than 1 percent this year through April—results that topped the returns of the market though they pale in comparison to the double-digit gains hedge funds scored in recent years. Pequot's various hedge funds are up about 3 percent in 2005, according to investors. But Mr. Samberg predicts that the growth of the hedge-fund business will lead to a shakeout that forces as many as 30 percent of existing hedge funds to throw in the towel, even as institutions continue to up their investments in so-called alternative investments. At the same time, the market is neither cheap nor especially expensive, presenting few obvious opportunities. That is why Pequot has been looking elsewhere lately, starting hedge funds focused on emerging markets, parts of the debt world and other strategies.

As reported in The Wall Street Journal, Pequot recently formed a joint venture with Singapore-based Pangaea Capital Management to invest in distressed assets in Asia, including real estate.

Mr. Mack's move effectively blunts speculation that he might join a new investment-banking boutique with some recently departed top Morgan Stanley executives. A group of former Morgan alumni waged a loud campaign for the ouster of Morgan CEO Philip Purcell this spring, after a management shakeup and several executive departures. Mr. Mack, who clashed with Mr. Purcell before he left the firm in 2001, has kept a studied distance from the dissidents.

Mr. Mack's move effectively blunts speculation that he might join a new investment-banking boutique with some recently departed top Morgan Stanley executives. A group of former Morgan alumni waged a loud campaign for the ouster of Morgan CEO Philip Purcell this spring, after a management shakeup and several executive departures. Mr. Mack, who clashed with Mr. Purcell before he left the firm in 2001, has kept a studied distance from the dissidents.

Mr. Mack will be asked to tap into his wide-ranging contacts to find new investment ideas around the globe, as well as coach Pequot's investment team. Mr. Mack is expected to help smooth the way for Pequot fund managers by introducing them to company executives.

''I see an opportunity to build something really great here and John will be a big part of that,'' Mr. Samberg said.

Mr. Samberg's previous alliance with a high-powered partner ended when Pequot cofounder Dan Benton quit the firm in 2001, taking about $7 billion of investor money with him to his new firm, Andor Capital Management LLC. Mr. Samberg says he is confident his new partnership with Mr. Mack will work, in part because of his close relationship with Mr. Mack. In recent months, Mr. Mack has been using spare space in Pequot's New York office, weighing his options.

The move to bring in an established Wall Street executive like Mr. Mack could signal that Pequot, like some other hedge-fund firms lately, might be interested at some point in selling itself, or part of the firm, to a mainstream Wall Street firm or even going public through. a stock offering, although Mr. Samberg says he has no plans to do so.

J.P. Morgan Chase & Co. recently purchased a majority stake in big hedge-fund firm New York-based Highbridge Capital Management., and Lehman Brothers Holdings Inc. has purchased 20 percent of Ospraie Management LP, a New York hedge fund.

Merrill Lynch & Co. agreed to provide $300 million in capital for a venture with Pequot to place money with 15 to 30 new fund managers. Pequot is expected to offer the managers research and administrative support—part of a trend of hedge funds providing services also offered by investment banks., blurring the lines between the two.

To: 'Joe@' [Joe@
From: Samberg, Art
Re: John Mack.
Date: 07/12/2001.

Spoke to him last night and commented on how up he sounded. He said he was close to something, but I didn't know it would be today. Sounds like the perfect opportunity for him.

From: Joe Samberg. <joe@
To: 'jmault <jmault
CC: 'art@ <art@
Sent: Thu Jul 12 13:00:59 2001
Subject: John Mack

If you read the front page of the C Section of the WSJ, you will see that our friend and latest investor, John Mack, is to become the new CEO of CFSB, the no. 2 underwriter in the U.S.! It's nice to have friends in high places . . .

JOSEPH D. SAMBERG
PRESIDENT, JDS CAPITAL MANAGEMENT, INC.

ATTACHMENT 2

From: Hanson, Robert
Sent: Monday, June 20, 2005 8:25 PM
To: Aguirre, Gary J.
Subject: Re: Pequot: Connecting the dots with the CSFB-Mack-Samberg-theory.

Okay Gary you've given me the bug. I'm starting to think about the case during my non work hours.

ATTACHMENT 3

From: Hanson, Robert
Sent: Wednesday, August 24, 2005
To: Kreitman, Mark J.
Subject: FW: Mack testimony
More of the same.

From: Hanson, Robert
Sent: Wednesday, August 24, 2005
To: Aguirre, Gary J.
Subject: RE: Mack Testimony
Gary,

I read your ''over the wall'' e-mail when you sent it by cc to me. I assumed that Mark used that phrase to mean whether Mack had the information, not in the technical sense of the phrase (I doubt the technical sense would have any relevance in this case). I still recommend that we try and figure out whether Mack had the information before approaching him.

Most importantly the political clout I mentioned to you was a reason to keep Paul and possibly Linda in the loop on the testimony. As far as I know politics are never involved in determining whether to take someone's testimony. I've not seen it done at this agency. It does make sense though to have all your ducks in a row before approaching a significant witness like Mack. Hence, the reason to try and figure out a number of things about him before scheduling him up, not least of which is whether he knew about the deal.

Less importantly, perhaps I was wrong but I thought the word assessment came from your e-mail. If not, my bad. As for urgency, I just wanted to understand when Paul asked for the information, since I heard it from him but never from you (not the normal way to keep informed). Also, can I get a copy of the lengthly e-mails or memos you sent Paul in mid-July? It's important for me to be kept in the loop on things that have a bearing on the case.

Thanks.

From: Aguirre, Gary J.
Sent: Wednesday, August 24, 2005
To: Hanson, Robert
Subject: RE: Mack testimony
Bob:

I have three comments regarding ''the over the wall'' requirement. First, before and after the Mack decision, you have told several times that the problem in taking Mack's exam is his political clout, e.g., all the people that Mary Jo White can contact with a phone call. Second, proof that a witness was ''over-the-wall'' had not been a prerequisite for any other examination in this matter. Third, see my memo to Mark on the same subject below.

You sate, ''My suggestion a while ago was to write a memo so that we could vet the issue with Paul.'' I sent Paul a comprehensive memo in mid-July. When you told me in early August that he was still waiting for a memo, I drafted another memo and sent it to you on August 4.

Finally, you state ''on that note, do you remember when Paul asked for the assessment from you? I got the sense from him that it had been a while ago. Is the assessment the third e-mail below?'' I have clear recollections of my discussions with Paul, but I do not recall his request for an ''assessment,'' other than a statement of my views why we should proceed with the Mack testimony. As stated above, I have sent two lengthy memorandums on that issue to him.

In my office, in mid-July, I told Paul that I would be sending him a second memo discussing the factors which, in addition to the Mack decision, led to the tender of my resignation. I intend to complete and send that memo to Paul as soon as I return, since I do not have access now to the documents I need. If there is some urgency that Paul receive it, which I did not understand before, I will endeavor to do it from my recollection of the events and dates, but that will be tough because it will cover approximately seven months.

From: Kreitman, Mark J.
Sent: Wednesday, August 17, 2005
To: Aguirre, Gary J.
Cc: Hanson, Robert
Subject: RE: Pequot pending matters.

Please confer with Susan Yashar, Elizabeth Jacobs, or Scott Birdwell at OIA re Swiss privacy law issues.

From: Aguirre, Gary J.
Sent: Wednesday, August 17, 2005
To: Kreitman, Mark J.
Cc: Hanson, Robert
Subject: RE: Pequot pending matters.

As I understand the term ''over the wall,'' I do not think it applies here in its usual sense: someone within a securities firm going over the ''wall'' restricting access to non-public, material information. The tip to Samberg, assuming it took place, must have occurred before Mack started with CSFB. There will be no evidence in the classic sense that he went over the wall, as there was no wall at that time.

The question is whether GE-Heller acquisition was disclosed to Mack during the wooing period with CSFB. This will not be easy for two reasons. First, 90 percent was handled by Credit Suisse in Geneva which, as a Credit Suisse, is beyond the reach of our subpoena I have been working through CSFB to try to get them to produce CS's documents, and they sound cooperative. Second, all subpoena documents are passing through Lynch who is going back to Morgan Stanley to join Mack. I am hearing a lot about privacy rights under Swiss law.

Patalino (CSFB contact) says Mack had two limited contacts with CSFB shortly before he started work. He met with CSFB's CFO and an attorney two weeks before he started (around June 29) and again just before he started. Both dates are very significant in terms of Samberg's trading: June 29 is when Mack spoke by phone with Samberg, which is just before Samberg began trading in Heller. July 8–9 is the time frame when Samberg increased his buy on Heller from 15,000 to 400,000 shares, suggesting that his information was refreshed. This also correlates with the date that GE increased its offer for Heller.

Bottom line: evidence suggests that Samberg had his info refreshed on exact days that Mack met with CFO of CSFB. Item 8 is an effort to obtain information relevant to the possibility that info went to Mack during meetings with CSFB and CS. I am not optimistic, given the Lynch filter.

From: Kreitman, Mark J.
Sent: Wednesday, August 17, 2005
To: Aguirre, Gary J.; Jama, Liban A.; Eichner, Jim
Cc: Hanson, Robert
Subject: RE: Pequot pending matters.

Where are we on determining the date Mack was brought over the wall re GE-Heller deal—the necessary prerequisite to subpeona to Mack?

From: Hanson, Robert
Sent: Wednesday, August 24, 2005
To: Aguirre, Gary J.
Subject: RE: Mack testimony

Mark's idea makes complete sense to me. Normally we start questioning those who had the insider information.

It's been my experience that Mark views issues very objectively and closely and Paul does also. I attempt to as well. I believe Mark has thought long and hard about the best way to proceed on GE/Heller and continues to think about it. You may disagree with his determinations (and mine as well) and that, of course, is your right. My suggestion a while ago was to write a memo so that we could vet the issue with Paul. From your e-mail directly below it seems that Paul had the same idea.

On that note, do you remember when Paul asked for the assessment from you? I got the sense from him that it had been a while ago. Is the assessment the third e-mail below?

From: Aguirre, Gary J.
Sent: Wednesday, August 24, 2005
To: Hanson, Robert
Subject: RE: Mack testimony
Bob:

While you were on vacation, Mark informed me that I would have to establish that Mack ''went over the wall'' before I could take Mack's testimony and ask him whether he went over the wall. This makes no sense to me.

Further, Paul had asked me to send him my assessment why it was necessary to take Mack's testimony and I delayed it in hopes that the assessment would be reviewed objectively. Since Mark has already made up his mind, I see no point in further delaying the analysis that Paul requested.

GARY

From: Hanson, Robert
Sent: Tuesday, August 23, 2005
To: Jama, Liban A.; Aguirre, Gary J.
Subject: FW: Mack testimony

Please take a look at this—if possible before we meet with Mark.

From: Aguirre, Gary J.
Sent: Thursday, August 04, 2005
To: Hanson, Robert
Subject: Mack testimony

Bob: You have asked that I do a memo why I believe the Mack testimony should be taken as the next logical step in the Pequot investigation. I believe there are three reasons. First, a profile of the tipper was developed in this case that has multiple elements. The possibility that Mack acted as the tipper satisfies almost very element and is inconsistent with none. Second, whether or not Mack is the tipper, his testimony will advance the investigation. If he is the tipper, his testimony will likely suggest some avenues to be pursued and other to be dropped. It will pin him down to a story which we can begin to disprove. If he is not the tipper, his testimony is the likely first step to eliminating him from consideration. This would allow our limited resources to be focused on starting a new screening process to find another possible tipper.

MACK MEETS EACH ELEMENT OF THE PROFILE.

The timing of the trading with Mack's access to possible information

The first element is whether Mack had possible access to information that GE would make a tender offer for HF. He had access from two sources: he had been the CEO of Morgan Stanley, who advised GE, until late March. He also took over as CSFB's CEO on July 12, 2001. Samberg's trading pattern, which I can discuss in more detail if you want, suggests that he obtained information just before Monday, July 2, around July 9, and around July 25. Mack coincidentally met with CSFB's CFO on June 28 or June 29, again a few days before he began work on July 12, and was CEO at the third key time. Hence, Mack had relevant contacts with CSFB at each time. Also, CSFB was ''wooing'' Mack away from Merrill Lynch and other investment banking firms during the period from April through July 2001. It would be consistent with this effort for someone at CSFB or CS to mention, as part of this wooing process, what inventory Mack would be taking over. Incidentally, we know how Samberg saw Mack's new role as CEO of CSFB. He and his son discussed the fact that CSFB was the second largest investment banker at that time and ''it was good to have friends in high places.'' Of course, there is also the possibility that Mack, through his contacts at Morgan Stanley, knew about the pending GE tender offer.

Questioning Mack about this transaction could take us in several directions, each of which suggests a different focus for the investigation. First, Mack could deny that he ever knew that GE would make the offer until the public announcement. The investigation would then focus on whether this was true. Second, Mack might say he learned on June 28 or June 29. The focus would then be placed on his contacts with Samberg at that time and whether he learned that GE had bumped its offer around July 9. Finally, he might give convincing testimony that he learned after July 12 for the first time and cause us to reevaluate whether his should even be considered.

Also, Samberg's trading suggests that he did not get the tip until shortly before he started trading. He would not be the largest purchaser of HF during July if he had the tip before. It also makes sense that his tipper, likely someone he trusted, got the tip just before Samberg started trading. Had the tipper had it earlier, why would he have not communicated it earlier? Further, GE made its first offer in early June. It would make sense for Samberg to start buying then if he knew about the trade. The Mack-CSFB meeting on June 28 or June 29 and the Samberg huge trading the next week fits.

Further, we are operating in the dark regarding who Mack spoke with and when he spoke with them about stepping in as CSFB's CEO. CSFB's counsel tells me he spoke with CSFB's CFO and the Credit Suisse chairman of the board. Were these the only people? Mack's testimony could point us towards the key people at CSFB. Conversely, he might tell use that he was seeing some of the people on the acquisition team as Morgan Stanley at this time. That would take the investigation in a completely different direction.

Mack had the motive to tip Samberg

Mack had multiple reasons for tipping Samberg about the GE tender offer for Heller.

(a) Mack got into Closed Pequot funds and special deals that Mack thought would have big returns to him during and after 2001.—Mack was getting into private deals that Pequot was putting together for its own principals, including projects with the following code names: $5 million into ''Freshstart'' (Lucent spin-off bought cheap), $2 million info Baby C, and an unknown amount into Distressed Guys, which later became Pequot Special Opportunities Fund. The most interesting situation involved Fresh Start. Mack was pressing to get into this for sometime. On June 20, a Samberg e-mail said that he was with Mack and that Mack was ''busting his chops'' Samberg's chops because he had not got the documents on this investment. Neither the Pequot principals nor Samberg's son seemed happy about Mack getting into this Fresh Start. During the call on June 29, when the suspected tip occurred, Samberg arranged for Mack to get into Fresh Start. Mack also was getting into Pequot funds when they appear to be closed. At that time, Samberg's funds were doubling in value in less than 3 years and the Pequot Scout fund was doing even better. In general, the funds had a $5 million lower limit. E-mails show Mack putting at least $13 million into these funds. One of the spread sheets I provided to Mark on June 28 shows Mack invested in 15 different Pequot funds (but it does not show when). As a rough estimate, based on performance over 1999 and 2000, Mack could reasonable expect that his new investments in Pequot during 2001 alone would have returned something in the range of $5 million per year to Mack.

(b) Board seats—As shown on one of the spreadsheets, Samberg was promoting Mack for board seats on both Baby C and Freshstart.

(c) Office Space—Mack was using Pequot office space intermittently during the period from March 2001 through July, 2001, when he began work for CSFB.

(d) Stop tips—Samberg was giving Mack stock tips on public companies that Mack directly invested in. ''That's where were putting our money.''

(e) Friendship—Mack and Samberg were close friends. Two months ago, Mack took over as CEO as Pequot. That Samberg would choose Mack in the middle of an investigation that could land Mack in jail tells much about the level of trust Samberg had in Mack. I discussed how the friendship played as a motive in my June 27 memo.

(f) Mack's crossing the line for Pequot. While Mack was at CSFB, he was acting as Pequot's agent to introduce one of the companies Pequot co-owned with Lucent, to an investment banker in China. Mack's letter, written on behalf of Pequot reads, ''I have not given this first to CSFB (where he was then CEO) or to Morgan Stanley because I think your contacts in China are the best.''

Samberg had a relationship of trust deep friendship with Mack

We do not have a complete picture of Mack's financial assets, but his holdings in his Pequot funds in 2001 exceeded $400 million. He holds an engineering degree from MIT, a Masters of Science from Stanford and an MBA from Columbia. He started with $3.5 million and built the largest hedge fund in the world as of 2001, when the GE–HF trading took place. He has generally been very careful about his comments in his e-mails. He used AOL instant messaging, which leaves no trace in any computer, to communicate with key people. In short, he's a smart guy who took few changes. It does not fit the pattern for him to be taking big chances where he got his tip. It makes sense that he got it from someone he trusted and who also trusted him. That was Mack. Mack's e-mails to and from Samberg have a different ring about them. In one e-mail, Samberg's secretary tells Samberg Mack had called and that, ''he loves you.'' In sum, there was a deep trust and friendship between them. It is exactly the kind of relationship that Samberg would feel comfortable calling on for a tip as big as HF and GE.

Samberg's need for a big favor from an old friend

In July 2001, Samberg's company was splitting a part. Benton was a younger and a rising star. Benton's performance was dwarfing Samberg's, Samberg was recovering from heart surgery. Benton was leaving with at least half the company. Samberg was looking at even bigger staff losses to Benton. He testified that he was concerned at this time more of his executive committee ''might walk.'' A big hit on GE–HF would illustrate that his fast ball had not slowed. Regarding GE–HF, Mack was just the guy to do his old friend a big favor, one that would also benefit him.

Regarding Samberg's situation during this time frame, he testified at the first session:

The company was about to split, it was about to split. In September '00, I had an aortic medical situation and was near death. I was on heavy medication, and I was trying to reestablish the franchise value of Pequot and the core funds. I was actively looking for help, and I did things in a manner that was expedient at the time given my expertise in this area.

In a similar vein, he testified at the second session:

My firm was going to split in three months. These people were my other managing director partners. *Times were fragile.* I needed their approval to do whatever I wanted to do *or they might walk* (emphasis added).

THERE DO NOT APPEAR TO BE OTHER LEADS IN THE SAMBERG E-MAILS

The evidence does not merely point to Mack. It points to no one else. I have been through the Samberg e-mails, his calendar, his credit card receipts and his phone slips: Hilton, Eric, Nancy, have been through the e-mails. No one has shown up as a possible candidate. Further, Fried Frank has stated that Samberg made the decisions alone. No one was listed with him on the Fried Frank lists of those participating in investment decisions. If we don't take a look at Mack, we start all over again looking for someone that fits the profile. Then the question would remain: If we find him or her, will there be a similar reason for not proceeding with the examination? Very possibly yes, given Samberg's circles.

GARY.

ATTACHMENT 4

From: Hanson, Robert
From: Hanson, Robert
Sent: Thursday, August 04, 2005 10:16 AM
To: Aguirre, Gary J.
Subject: RE: Ferdinand Pecora

GARY: We seem to be miscommunciating and I'm not sure why. We both have the same

objectives. I learned through the grapevine, rather than directly, that you were not leaving but staying and wanted to know what your plans are. I still am not sure because we covered different issues last night and never got to the heart of the question. I inquired because I need to figure out how to staff the case and the like. Your status is obviously very important to figuring out what to do and how to staff the case.

I think we should prepare a memo discussing why it is appropriate to take Mack's testimony at this point. I said I would do it at one point and I thought you said you would do it shortly thereafter. We've discussed this several times thereafter and Paul mentioned recently that he was still looking for a memo. We may have different recollections, but at bottom I still believe one should be prepared. I'm happy to do the memo, though it will have to wait now until after my vacation. .

I believe that Mark feels it is premature to take Mack's testimony. I don't disagree. I thought and think it makes sense to write a memo to make sure everyone has a chance to understand the facts we have and whether it makes sense to take the testimony at this juncture. Paul had wanted to talk about taking the testimony at one point. I think the memo should precede such discussion. As a general matter I try to alert folks above me about signficant developments in investigations that may trigger calls and the like so that they are not caught flat footed. I also think that Paul and possibly Linda would want to know if and when we are planning to take Mack's testimony so that they can anticipate the response, which may include press calls, that will likely follow. Mack's counsel will have ''juice'' as I described last night—meaning that they may reach out to Paul and Linda (and possibly others). Hope this clarifies things somewhat.

Thanks,

BOB.

PS: I do not believe in micromangement or feel it is necessary.

From: Aguirre, Gary J.
Sent: Thursday, August 04, 2005 9:48 AM
To: Hanson, Robert
Subject: RE: Ferdinand Pecora

BOB: I do not believe you have accurately characterized our discussion last night nor do I have any recollection of you request for an e-mail a month ago.

I came to your office last night to discuss Pequot because, as I told you, I realized we would not be seeing each other for the next month. Before we got into that discussion, you told me that you had heard I was staying with the Commission and asked that I tell you about my plans.

I then told you that the ''micromanagement'' of my work had nothing to do with the reason I was leaving the Commission. I did not ''grumble'' about micromanagement. To the contrary, I told you that I was aware when I accepted the staff attorney position that micromanagement came with the job and that I had fully accepted this as part of the way things are done here, and I understand why you and others believe that is necessary.

I then told you there were two reasons that have collectively triggered my decision to leave. I told you that Mark was not listening to the rationales for the steps I had proposed in the Pequot investigation, that this represented a major shift that occurred overnight in our relationship, that we had an excellent relationship before, that I believe other people at the Commission were involved in Mark's sudden shift, and that the shift was ultimately traceable to the fact that I had filed an EEO claim that had not been dismissed after I accepted employment. I also told you some of the reasons I believed this, i.e., what I had been told by reliable sources how my complaint was viewed by higher levels within the Division, e.g., including a statement that ''I would get mountains . . . hills out of my way if I dismissed the case.'' I told you I had decided to handle this problem in a different way than resigning and have in fact done so.

Second, I told you that the decision not to take Mack's testimony because of his powerful political connections was the event that triggered my decision, when added to the first problem above. We then discussed at some length what standard had to be met to take Mack's testimony. You told me that Mack was ''an industry captain,'' that he had powerful contacts, that Mary Jo White, Gary Lynch, and others would be representing him, that Mary Jo White could contact a number of powerful individuals, any of whom could call Linda about the examination. I told you I did not believe we should set a higher standard for a political captain than anyone else.

Turning to the statement that you had requested a memo a month ago, I do not recall any such request. I will be specific about what I do recall. Late in the week of June 20, you told me you were going to prepare memo to Paul Berger regarding Pequot. That followed a series of e-mails between us that same week. You also mentioned, as you did last night, that Mack's testimony would be difficult because Mack had powerful political connections. For that reason, the political hurdle, I spent a big chunk of my weekend preparing two lengthy memos that described in detail the facts relating to Samberg's trading in HF and GE, which suggested elements of the tipper's profile, and a second memo describing all possible avenues for establishing the identity of the tipper, proposing that Mack was the most likely candidate, and suggesting that we focus on him to eliminate him or establish it was in fact him. Those e-mails were prepared for you and Mark and assumed some knowledge of the investigation. I also thought they might assist you in preparing your memo to Paul. I had no expectation they would be sent to Paul. I also had copies sent to Mark and, at his request, two spreadsheets summarizing e-mails relating to Mack's motivations and list of the funds he had invested in. I do not recall a request by you or anyone else for any other memo. I had hoped that these two memos, with citations and quotes to the evidence, would at least prompt a discussion. You and Mark discussed the memos and then Mark called me with a question that demonstrated that my memos had either been rejected or bypassed. In mid-July, I spoke with Paul about my continuing concern about Pequot. Mark asked that I provide him with a. memo of the factors that might have motivated Mack to tip Samberg on HF. Since this subject was addressed in the two memos and two spreadsheets that I delivered to Mark on June 27 and June 28, he obviously wanted something more. I had just begun to take ''Official Time'' and thought this request was not urgent. About a week later, on July 25, I received an e-mail from Mark that responded to my e-mail of June 28, four weeks earlier. It raised new questions about Mack. I responded in detail to Mark's e-mails issue by issue last Friday.

I don't know of any request from you or Mark for any memos relating to Pequot over the past six weeks.

GARY.

From: Hanson, Robert
Sent: Thursday, August 04, 2005 7:38 AM .
To: Aguirre, Gary J.
Subject: RE: Ferdinand Pecora

GARY: The constant back and forth on these issues consumes a lot of time. I suggested that you write a concise memo on the issue of taking Mack's testimony more than a month ago. That way people can see your proposal, meet on it and comment on it It's a natural thing that Paul and perhaps Linda would want to know about. At this point, I'm still waiting for the memo (as is Paul I believe), though I understand from talking with you last night that you have given Mark and Paul some materials that I haven't seen. People here are smart, hard working and want to do the right thing. I'm making suggestions to you that you either ignore or don't like and grumble about (the mircomanagement comment last night)—but my experiences here shows that they work. I hope you give that some consideration.

GARY J. AGUIRRE,
Senior Counsel, Division of Enforcement
Securities and Exchange Commission

From: Hanson, Robert
Sent: Thursday, August 04, 2005 7:38 AM
To: Aguirre, Gary J.
Subject: RE: Ferdinand Pecora

GARY: The constant back and forth on these issues consumes a lot of time. I suggested that you write a concise memo on the issue of taking Mack's testimony more than a month ago. That way people can see your proposal, meet on it and comment on it. It's a natural thing that Paul and perhaps Linda would want to know about. At this point, I'm still waiting for the memo (as is Paul I believe, though I understand from talking with you last night that you have given Mark and Paul some materials that I haven't seen. People here are smart, hard working and want to do the right thing. I'm making suggestions to you that you either ignore or don't like and grumble about (the mircomanagement comment last night)—but my experiences here shows that they work. I hope you give that some consideration.

From: Aguirre, Gary J.
Sent: Thursday, August 04, 2005 7:25 AM
To: Hanson, Robert
Subject: Ferdinand Pecora

BOB: I mentioned last night that Ferdinand Pecora was chief counsel for the Senate Committee that drafted the 1933 and 1934 Acts, including the key operative language of Section 10(b). Those hearings eventually were named after him, the Pecora Hearings. Pecora warned in his opening words in Wall Street under Oath:

''Under the surface of the governmental regulation of the securities market, the same forces that produced the riotous speculative excesses of the 'wild bull market' of 1929 still give evidences of their existence and influence. Though repressed for the present, it cannot be doubted that, given a suitable opportunity, they would spring back into pernicious activity. Frequently we are told that this regulation has been throttling the country's prosperity. Bitterly hostile was Wall Street to the enactment of the regulatory legislation. It now looks forward to the day when it shall, as it hopes, reassume the reigns of its former power . . .''

When the SEC declines to question ''industry captains,'' when an investigation suggests it is the next logical step, we are granting them a pass to play the trading game by their own rules. We do the same when we set artificially high barriers to question them that do not exist for others, e.g., don't question them about going over the wall until we proved they have already made the trip.

I don't think Pecora was suggesting that regulatory scrutiny be delayed until we have

another market collapse. I do not think he would have delayed a heartbeat before taking John Mack's testimony on the record in this matter. Mack had multiple motives, Samberg's trust, contact with Samberg at the key moment, and two possible sources for the tip. He should be asked the obvious questions.

GARY.

ATTACHMENT 5

of 2005 that Paul Berger, who had a reputation for being an aggressive and smart attorney, did not seem as though he was aggressive in supporting the attempts of Mr. Aguirre to get subpoenaed documents on time and to get e-mail production so that we can conduct an investigation. That is one example of what I was referring to when I said ''something smells rotten.''

That went through a very long period of time of the investigation where it was my sense that there was not the support for the aggressiveness and the tenacity of the investigator.

There are other examples I can give you.

Chairman Specter. Would you please do that?

Mr. Ribelin. I can do that. As I said, for a very long period of time, we had a hard time getting e-mail production, and I can tell you that if you subpoena a document or subpoena e-mails and you don't get them, you are not going to be able to do the investigation. And so we continued to push.

There was a period of time when a very significant, large portion of e-mails were put out of our ability to get a hold of and to examine. Part of the reason given was because these e-mails may be privileged e-mails, communications between attorney and client.

We thought certainly there was a possibility that some of those e-mails fell into that category, but there was a very large number of e-mails that we suspected fell outside of that category. And there was one point that an attorney was hired who had custody of some of those e-mails—I can't remember how many thousands they were. Mr. Aguirre was not allowed by Mr. Kreitman to speak to that attorney about trying to get production of e-mails. To this day I don't know why that is.

And I can tell you that Mr. Mack had been the CEO of Morgan Stanley. He was being courted to become the CEO of CS First Boston. We did not have information that he had material nonpublic information as it related to the GE/Heller merger. That is for sure.

It was Gary's theory—I agreed; I think other people supported the idea—that it wasn't unlikely, it was certainly possible that he could have gotten access to the information based on the fact he had been the former CEO of Morgan Stanley and he was being courted at the time by CS First Boston of the trades engaged in by Pequot.

After the word came down that the testimony of John Mack was not going to be taken, I had a conversation within a week or so of that with Bob Hanson, and Bob Hanson said to me that because Mr. Mack was a prominent person or because he had connections—I don't remember exactly how he put it—that we would have to be careful about taking his testimony, we would have to, my impression is, move maybe more carefully than we would if it was somebody other than somebody of prominence. And I said, ''Well, Bob, if that is the case or not, just call him up on the phone instead of bringing him in for testimony and ask a couple of basic questions.''

And this is something, by the way, that Gary proposed, Gary Aguirre proposed a couple of times. Mr. Hanson didn't respond to me.

And then finally, of course, Gary Aguirre was fired when he was on vacation. I was stunned. I was outraged. And the e-mail that you just referred to was soon after these events.

Chairman Specter. Mr. Hanson, do you recall the comment that Mr. Ribelin has testified to, that you called Mr. Mack a ''prominent person'' and then suggested that there would have to be treatment of him a little different?

Mr. Hanson. I certainly felt he was a prominent person and I wanted to, as I have said to Mr. Aguirre and Mr. Ribelin, make sure we had our ducks in a row before taking Mr. Mack's testimony. And what I meant by that was, let us figure out what we can about whether he had the information before taking his testimony.

ATTACHMENT 6

Mark Kreitman:

I spoke to Mark Kreitman by telephone on October 24, 2005, regarding Gary Aguirre. Kreitman told me that the evaluation process had 2 pieces to it. First, there was an initial evaluation of Aguirre by Bob Hanson that went to Berger around the end of June, and then second Kreitman did a supplemental evaluation because he felt that Hanson had not addressed problems. Kreitman said that he wrote the supplemental evaluation on August 1, 2005, before going to the Compensation Committee. Kreitman said that he later learned, upon inquiry, that only Hanson's evaluation went to the Compensation Committee in error. Kreitman said that he knows the date that he prepared the supplemental because it is a Word document that shows August 1, 2005. I asked Kreitman to send me something that showed it was created on August 1, 2005. Kreitman said that he may have discussed the supplemental evaluation with Berger, but does not recall. Kreitman was sure he discussed it with Bob. Kreitman said that it was not unusual for him to rate subordinates, and that he is directly responsible for rating Branch Chiefs, para-professionals and a couple of staff attorneys (not including Aguirre). Kreitman does not know if Aguirre received a copy of the supplemental rating, but he said that Aguirre was already terminated when he would normally meet with staff attorneys and their branch chief to give them their written evaluation and tell them their step increase.

Kreitman told me that he knew Aguirre as a student at Georgetown's LLM program where he taught and Aguirre was a student and had edited his law review article that was published. Kreitman also said that they were friends and him and his wife would visit Aguirre and his wife's houses. Kreitman said that Berger made the decision to transfer Aguirre from another Asst. Director Grimes to Kreitman.

When I asked Kreitman what the inquiry was regarding the supplemental evaluation he said that Berger checked to see if it went in Aguirre's personnel file, and it turned out that it did not. Kreitman said that he got advice from Linda Borostovik in HR and Lindy Hardy in GC. Kreitman said that there was some confusion and that he got conflicting advice.

Kreitman said that he concurred with Aguirre getting two steps as a merit promotion, even though he had problems with Aguirre's conduct. Kreitman said that there are few carrots in government work, and that he gives more leeway with conduct than with performance. Kreitman said that Aguirre worked out well in the beginning of coming to his group; Aguirre brought with him the Pequot case he developed which Kreitman described as a complicated, difficult insider trading case. Kreitman remembers telling Aguirre that he could have 5 weeks to see if the case was manageable given SEC resources. Kreitman said that after five weeks it was unclear if it was manageable but he let Aguirre continue. Kreitman said that it was clear that there were problems with how it was being investigated by Aguirre, because he was resistant to supervisors, especially his branch chief Hanson, he sent out subpoenas without going through his branch chief which violated protocol and criminal statutes resulting in the subpoenas being recalled.

Kreitman said that Aguirre did not conduct the investigation in the normal course; he gathered ''millions of e-mails'' hoping to find the smoking gun. As to calling in John Mack for testimony, Kreitman said that there was insufficient evidence to call him in and that Enforcement does not drag in ordinary citizens on unfounded suspicion. According to Kreitman, Enforcement still does not have enough evidence after more investigation. Kreitman said that there is no doubt that Mack may be a tipper and that there is illegal insider trading in the case, but that none of the five potential tippers have been called in. Calling in persons to give testimony is a serious matter, according to Kreitman, and is not done lightly. He also said that it is pointless to call in a witness if there is no evidence because they will just deny tipping and there is no where to go from there. Kreitman said that his reputation at the agency is that he is the most aggressive trial attorney (when he was in that position for many years) and Assistant Director, and that he has taken the testimony of many high profile persons. He said he is hardly afraid of taking anyone's testimony. Kreitman told me that him, Berger and Bob had many discussions about taking Mack's testimony.

Kreitman also said that it is a little out of the ordinary for Mary Jo White to contact Linda Thomsen directly, but that White is very prestigious and it isn't uncommon for someone prominent to have someone intervene on their behalf. Kreitman recalls that Thomsen called him to say that she received correspondence from White, and Kreitman went to get it.

I asked Kreitman whether he had given Aguirre a Perry Mason award for his good work. He laughed and said that it is a joke he does in the office, where he gives someone an 8½ x 11 xerox of Raymond Burr's face. He said that he did give one to Aguirre after he went to meet with the SDNY USAO to see if they were interested in the Pequot case. Kreitman said that he was worried about Aguirre presenting the case to them because he said that Aguirre tends to talk ''in a nonlinear fashion''. Aguirre reported back that the SDNY was very interested, so Kreitman was pleased and gave him the Perry Mason award.

Kreitman said that he fired Aguirre by telephone because Aguirre was in California on vacation and would not be back before his probationary period was over. He said that he had never had to fire anyone. Kreitman said that Aguirre and him were friends as of the summer when Kreitman believed that Aguirre was unhappy at work but still came to Kreitman's house for a party he has every year for staff. Aguirre felt that his investigation into Pequot was being thwarted, according to Kreitman. Aguirre told Kreitman that he wanted to report directly to him, but Kreitman told him that could not happen. Kreitman said that the Pequot case was staffed more heavily than any other case in his group. Kreitman told me that there was a consensus that Aguirre should be terminated by Thomsen, Berger, Hanson and himself and that he drafted the termination letter to Aguirre. When I asked Kreitman why

Aguirre was fired, he told me that Aguirre refused to work in a structure, which presented possible dangers for the Commission, he was a loose canon (he had threatened to resign and Aguirre made it clear he did not need to work financially), Aguirre said that he would leave once the investigation was over but would not do the write up of the case, and he was uncooperative with the other 2 staff attorneys assigned to his case by being disrespectful and refusing to bring them in to the heart of the case, he would not take supervision from Hanson, and Berger received many complaints from opposing counsel about

ATTACHMENT 7

Mr. BERGER: Well, in order to establish a case that you're building against an individual, that's what you'd want to do. You'd want to set out here are the elements for the violation, here are the facts that we have relating to that element.

Mr. FOSTER: Well, that's what you would need to set out in order to justify taking an enforcement action against that person. But is that what you would need to establish in order to take investigative testimony?

Mr. BERGER: Well, I think you would have to have some reasonable basis to take that testimony, and then the reasonable basis is the analysis under the elements of the violation and the facts that you have supporting those elements.

Mr. KEMERER: How often did you require staff attorneys to write memos in order to justify taking evidentiary testimony?

Mr. BERGER: It was not infrequent.

Mr. KEMERER: Well, for instance, on the multiple occasions when Mr. Samberg's testimony was taken, did Mr. Aguirre have to do a memo such as this?

Mr. BERGER: I don't remember.

Mr. KEMERER: In the Mainstay case, did Mr. Swanson have to do a memo in order to take testimony?

Mr. BERGER: I don't remember. I think he did actually do a memo at one point. I just don't remember what point that was.

Mr. KEMERER: So you don't recall whether it was in order to get permission to issue a testimonial subpoena?

Mr. BERGER: Well, we were talking about taking some testimony from individuals fairly prominent, a Senator or a former Senator, and some other individuals, and we wanted to see what we had. So I think that—I remember reading something in advance of the testimony that would support—that supported taking their testimony.

Mr. FOSTER: You mentioned prominence just now.

Mr. BERGER: Uh-huh.

Mr. FOSTER: Is it the case that you're more likely to require a memo such as this in a case where the proposed testimony is of someone prominent?

Mr. BERGER: No, I don't think so. We've done this, we've done memos in advance of people that no one would know.

Mr. FOSTER: Can you give us an example?

Mr. BERGER: Not off the top of my head.

Mr. FOSTER: Can you get back to us on that?

Mr. BERGER: I can think about it. I mean, I was there for 14 years. I was probably involved in maybe a thousand investigations, brought 400 or so investigations. I mean, that's a lot of people.

Mr. FOSTER: Why did you mention prominence just now, though?

Mr. BERGER: I don't know why I mentioned prominence.

Mr. KEMERER: Directing your attention to page 2 of Exhibit II, the third full paragraph begins with, ''Further . . .'' Do you see that line?

Mr. BERGER: Yes.

Mr. KEMERER: Mr. Aguirre appears to contend that the SEC's operating in the dark with respect to whom Mack spoke to while CSFB was wooing him to come on as the CEO. Is that true?

Mr. BERGER: I really don't know what was in Gary Aguirre's head when he wrote this, so I can't tell you what he was thinking. One of the reasons this is not a particularly good memo is I have no idea what he's talking about, operating in the dark. We were sending out subpoenas. We were getting information. We were making inquiries to Credit Suisse to get information concerning contacts or possible contacts between Mr. Mack and others. So I don't know what he's referring to here. He obviously didn't make it clear enough for me to understand.

Mr. KEMERER: Okay. Were you aware from reading any of these memos ever that Mr. Mack was meeting with people in Zurich or, you know, outside of the country?

ATTACHMENT 8

From: Eichner, Jim
Sent: Wednesday, July 19, 2006 4:59 PM
To: Hanson, Robert
Subject: FW: Pequot pending matters.

I assume Walter has this—not premature but prerequisite

From: Kreitman, Mark J.
Sent: Wednesday, August 17, 2005 11:26 AM
To: Aguirre, Gary J.; Jama, Liban A.; Eichner, Jim
Cc: Hanson, Robert
Subject: RE: Pequot pending matters.

Where are we on determining the date Mack was brought over the wall re GE-Heller deal—the necessary prerequisite to subpoena to Mack?

From: Aguirre, Gary J.
Sent: Wednesday, August 17, 2005 11:21 AM
To: Jama, Liban A.; Eichner, Jim
Cc: Kreitman, Mark J.
Subject: Pequot pending matters.

I summarize below a list of pending matters following up on our conversations over the past couple of days, yesterday with Liban alone. These items in bold will be the subject of phone calls this afternoon, if you would like to sit in.

Mark: since Bob is out, I am copying you on the list. I am leaving for vacation tomorrow, which I cleared with Bob.

1) Confirm exam date for Benton in NY for week of 9/5; get exam room and reporter;

2) Confirm exam dates for Dartley for week of Sept. 19 in DC and Samberg for week of Sept. 26 for NY; get exam room and reporter;

3) Pequot subpoena: Press Harnish for compliance with July subpoena (lets discuss);

4) Get status from Storch on each class of back up tapes.

5) Morgan Stanley: Get clarification from Ashley Wall on any soft spots in her letter re MS subpoena compliance; you can tackle this if you want while I'm out or I'll do when I'm back.

6) Status of FBI contact with Zilkha; we want Samberg exam immediately after Zilkha interview; we're waiting agent's callback. Agent is David Markel, tel # 718–286–7385

7) Telephone company subpoenas: Any useful phone records produced of Samberg calls from mid-June through end of July?

8) CSFB: Get press on Patalino for the following:

a) July subpoena paragraph 1: Thornberg and Rady's e-mails with Mack; Mack—CS (as parent) e-mails;

b) July subpoena paragraph 2: Thornberg or Radis notes or memo re Mack; CS notes or memos re Mack

c) Letter to Patalino on above;

d) Look for August 30 production of items 3–8.

e) Remind Patalino next week if we do not have his letter re above.

f) August 17 subpoena: we need to work out; he will ID info flow; we make sure his doc review gets docs.

9) Andor backup tapes issue: See my memo raising construction issue on Pequot-Andor agreement (will send an e-mail on this today);

10) Other acquisition players have contacts with Pequot before Samberg trades? You can ask them to collect this info by request letter. However, I doubt any will admit w/o docs. GE and JP Morgan say no docs. You have Wall letter. Need to check with Merrill on Hughes.

ATTACHMENT 9

the termination were, in fact, the true reasons for the termination? Was that the characterization—a fair characterization?

Ms. ANDREWS: No. We don't second-guess management decisions, so we wouldn't have been looking at, well, gee, did he really not get along with others or was it that he didn't do this ''i''.

We were looking only at the allegations that Mr. Aguirre raised in his September 2nd and October 11th letter, so the allegation was he was terminated for, among other reasons, the fact that he complained about not taking Mr. Mack's—him not being able to take Mr. Mack's testimony when he wanted to.

Ms. MIDDLETON: So you were looking for—yes. He was saying, I was terminated for——

Ms. ANDREWS: Complaining.

Ms. MIDDLETON:—unlawful reasons.

Ms. ANDREWS: He did say——

Mr. BRANSFORD: No, I don't think that's what he said.

Ms. ANDREWS: Right.

Ms. MIDDLETON: Okay.

Well, he did say——

Mr. BRANSFORD: It's not a fair way to characterized what he said. It's not necessarily

Ms. ANDREWS: What I see as the function?

Mr. FOSTER: Yes. I mean, you seem to be very narrowly construing Mr. Aguirre's September 2nd letter and his October 2nd letter, sort of very narrowly reading exactly what did he claim, and we're not going to investigate anything else besides what he exactly claimed.

Do you see it as the IG's function to just sort of very narrowly respond to a complaint like that? Do you think that you have a broader mandate to investigate and to seek out where there may be evidence of fraud, waste and abuse or misconduct, more generally speaking, regardless of whether a complaint comes to your office about it? Specifically—

Ms. ANDREWS: Well, one, I don't think it's for me to say what the role of the Inspector General's office is. At this point now, what I do is investigate allegations that come in, so that's what I was doing here. I was investigating the allegations, and that was what I was told to do.

Other unlawful reasons or—we don't second-guess management decisions and we don't necessarily look at every unlawful allegation, every unlawful reason that he was terminated. That's not something we normally look at. We don't second-guess why employees are terminated.

Ms. MIDDLETON: But if a letter comes to you to investigate and it says the management decisions were based on unlawful reasons, some of which I'm putting in my letter and some of which I'm not going to—

Ms. ANDREWS: Well, one of which he was putting in the letter.

Ms. MIDDLETON: One in the letter and others I'm not going to lay out right now to you, Commissioner Cox.

Ms. ANDREWS: Right. Chairman Cox.

Ms. MIDDLETON: Chairman Cox.

You're saying it's not your job to second-guess the management decisions, so it seems to me, if the letter is challenging the management decision and says it's for unlawful reasons, you're saying, well, I can't second-guess that. I can't investigate that. I can't see if it's true.

Ms. ANDREWS: My marching orders were to investigate the allegations he had made in both the September 2nd and October 11th letters. That's it.

Ms. MIDDLETON: Right. But—

Ms. ANDREWS: It's not my decision necessarily of what else we would be investigating.

Ms. MIDDLETON: But his allegation was, I was terminated for unlawful reasons.

Ms. ANDREWS: Right. We did not investigate to their allegations in the same way that you went to them to get their reaction to his, is that——

Ms. ANDREWS: Well, I didn't get their reaction to his. I'm calling them because they've been, you know, accused of wrongdoing, so I have to call them and——

Mr. FOSTER: And then when you did, they accused Mr. Aguirre of——

Ms. ANDREWS: He was——

Mr. FOSTER: —if not wrongdoing, of——

Ms. ANDREWS: Again, we're not second-guessing management decisions on terminating a probationary employee. Absolutely not. That's my understanding of our role in the IG's office.

Mr. FOSTER: Did you assume that Mr. Aguirre didn't have documents or wouldn't have been able to have documents that might substantiate his allegations that you might need to seek from him?

Ms. ANDREWS: I didn't make any assumptions about it. I have a lot of e-mails that he sent to people and people sent back to him.

Mr. FOSTER: Right. Which were given to you by the people——

Ms. ANDREWS: Right.

Mr. FOSTER:—against whom he made the allegations.

Mr. SPECTER. In the absence of any Senator on the floor seeking recognition, 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. SPECTER. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. SPECTER. Madam President, a personal comment or two. On the Senate floor, some years ago, I compared Senator GRASSLEY to Senator Harry Truman, later President Harry Truman. I did so after observing Senator GRASSLEY's work over a long period of time. Senator GRASSLEY prides himself on being a farmer—on being a farmer Senator. May the record show that Senator GRASSLEY is nodding in the affirmative. It may be—Senator GRASSLEY would have to speak for himself—he prides himself more on his status as a farmer than as a Senator. But if he were to do that, I would disagree with him, even not knowing his prowess as a farmer because of his prowess as a Senator.

Senator GRASSLEY is very direct and very plain spoken. I know of his career when he became a member of the Iowa legislature, the lower house. I have only a recollection, Senator GRASSLEY can correct me, that he earned $6 a day in the Iowa legislature at that time?

Mr. GRASSLEY. It was $30 a day but no expenses.

Mr. SPECTER. It was $30 a day but no expenses. As I recollect, Senator GRASSLEY told me it was an increase in pay from what he earned as a farmer.

Mr. GRASSLEY. It was.

Mr. SPECTER. It was. Senator GRASSLEY corroborates that. But I have seen Senator GRASSLEY take on the giants in the Senate. They say people in glass houses should not throw stones. Senator GRASSLEY has thrown a lot of stones in the 26 years he has been here and he doesn't live in a glass house, but he has taken on the giants in the Federal executive branch. He believes thoroughly in oversight, as I do. The work we are submitting today is an example of that.

I think it is a good analogy, between CHUCK GRASSLEY and Harry Truman. I may search the CONGRESSIONAL RECORD to see how long ago it was that I said it, but it is time it is said again.

Mr. GRASSLEY. Thank you, I appreciate that.

Mr. SPECTER. May the record show Senator GRASSLEY said thank you, and he appreciates it.

I may make one addendum, and that is that I say this notwithstanding the 26-years-plus ribbing I have taken from Senator GRASSLEY for being a Philadelphia lawyer.

Mr. GRASSLEY. I have always said: Thank God we only have to have one Philadelphia lawyer in the Senate.

Mr. SPECTER. The Senator said off-camera: Thank God we only have one Philadelphia lawyer in the Senate.

Mr. GRASSLEY. But I say that complimentary.

Mr. SPECTER. But says it complimentary. I don't know. The tone of his voice was usually derisive. There was one time the Senate had two Philadelphia lawyers, Senator Hugh Scott and Senator Joe Clark, they were lawyers together. Senator Clark was elected to the Senate in 1956 for two terms and Senator Scott in 1958 for three terms. So there was an overlapping period of time where there were two Philadelphia lawyers in the Senate.

But notwithstanding the questioning tone, sometimes, of Senator GRASSLEY about a Philadelphia lawyer, I maintain my view of him at the highest level of comparison to President Truman.

Mr. GRASSLEY. Thank you.

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

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

IRAQ

Mr. WARNER. Madam President, about a week ago, I think it was on the 23rd, my colleagues, the Senator from Nebraska, Mr. BEN NELSON, and the Senator from Maine, Ms. COLLINS, and I, together with several cosponsors, put into the RECORD a resolution—I underline put into the RECORD—so that all could have the benefit of studying it.

We three have continued to do a good deal of work. We have been in consultation with our eight other cosponsors on this resolution, and we are going to put in tonight, into the RECORD—the same procedures we followed before—another resolution which tracks very closely the one that is of record. But it has several provisions we believe should be considered by the Senate in the course of the debate. How that debate will occur and when it will occur. I cannot advise the Senate, but I do hope it is expeditious. I understand there is a cloture motion that could well begin the debate, depending upon how it is acted upon.

We have also had a hearing of the Senate Armed Services Committee last Friday. We had a hearing of the Senate Armed Services Committee again this morning. Friday was in open session. The session this morning was in closed session. The three of us, as members of the Armed Services Committee, have learned a good deal more about this subject and, I say with great respect, the plan as laid down by the President on the 10th of January. We believed we should make some additions to our resolution.

We have not had the opportunity, given the hour, to circulate this among all of our cosponsors so at this time it will not bind them, but subsequently, tomorrow, I hope to contact all of them, together with my two colleagues, and determine their concurrence to go on this one. I am optimistic they will all stay.

But let me give the Senate several examples of what we think is important in the course of the debate—that these subjects be raised. We put it before the Senate now in the form of filing this resolution, such that all can see it and have the benefit, to the extent it is reproduced and placed into the public domain. Because the three of us are still open for suggestions, and we will continue to have receptivity to suggestions as this critical and very important subject is deliberated by the Senate.

Our objective is to hope that somehow through our efforts and the efforts

of others, a truly bipartisan statement—I don't know in what form it may be made—a truly bipartisan statement can evolve from the debate and the procedure that will ensue in the coming days, and I presume into next week. We feel very strongly that we want to see our Armed Forces succeed in Iraq to help bring about greater stability to that country, greater security to that country, so that the current elected government, through a series of free elections—the current elected government can take a firmer and firmer hand on the reins of sovereignty. We believe if for political reasons all Members of the Senate go over to vote with their party, and the others go over to vote with their party, we will have lost and failed to provide the leadership I believe this Chamber can provide to the American people so they can better understand the new strategy, and that the President can take into consideration our resolution hasn't been changed.

We say to the President: We urge that you take into consideration the options that we put forth, the strategy that we sort of lay out, in the hopes that it will be stronger and better understood by the people in this country. Their support, together with a strong level of bipartisan support in the Congress for the President's plan, hopefully as slightly modified, can be successful. We want success, Madam President. We want success.

So that is the reason we come this evening. I am going to speak to one or two provisions, and my colleagues can address others.

First, the unity of command. We have a time-honored tradition with American forces that wherever possible, there be a unity of command from an American commander, whatever rank that may be, down to the private, and that our forces can best operate with that unity of command and provide the best security possible to all members of the Armed Forces that are engaged in carrying out such mission as that command is entrusted to perform.

A number of Senators, in the course of the hearing on Friday and the hearing this morning, raised questions about this serious issue of unity of command. I say serious issue because the President, in his remarks, described—and this is on January 10—described how there will be an Iraqi commander, and that we will have embedded forces with the Iraqi troops. Well, we are currently embedding forces, but I think the plan—and that is what I refer to, the President's announcement on January 10 in the generic sense as the plan—will require perhaps a larger number of embedded forces. But the plan envisions an Iraqi chain of command. The Iraqis indicated, in working with the President, this plan in many respects tracks the exchange of thoughts that the President and the Prime Minister have had through a series of meetings and telephonic conversations. So the plan embraces the goals of the Prime Minister of Iraq, the goals of our President.

But this is a unique situation where the Iraqis have a complete chain of command, from a senior officer in each of the nine districts in Baghdad, and the United States likewise will have a chain of command in that same district or such segments of this plan as the military finally put together—each will have a chain of command, the Iraqi forces and the United States forces.

In the course of the testimony that we received, particularly testimony from the retired Vice Chief of the U.S. Army on Friday afternoon, he was concerned, as a number of Senators are concerned—and our provision literally flags this, and flags it in such a way that we call upon the Secretary of Defense and the Chairman of the Joint Chiefs of Staff to look at that plan and to bring such clarification forward as may be necessary, and to do it in a way that will secure the safety of our forces, the protection of our forces, and yet go forward with this idea of a greater sharing of the command responsibility in the operations to take place in Baghdad. So we simply call on the administration to bring such clarification and specificity to the Congress and the people of the United States to ensure the protection of our force and that this command structure will work because I believe it doesn't have—I am trying to find a precedent where we have operated like this. I have asked the expert witnesses in hearings, and thus far those witnesses have not been able to explain the command structure that we have conceived, the concept of the plan of January 10, just how it will work.

Likewise, we put in a very important paragraph which says that nothing in this resolution should be construed as indicating that there is going to be a cutoff of funds. Given the complexity of this situation, there has been a lot of press written on the subject of our resolution. Colleagues have come up to me and said: Well, can you assure me that this doesn't provide a cutoff of funds.

Now, the cutoff of funds is the specific power given under the Constitution to the Congress of the United States. I personally think that power should not be exercised, certainly not given the facts and the circumstances today where this plan—which I hope in some manner will succeed and we are working better with the Prime Minister and his forces. So at this point in time I think it is important that our resolution carry language as follows:

> The Congress should not take any action that will endanger United States military forces in the field, including the elimination or reduction of funds for troops in the field, as such an action with respect to funding would undermine their safety or harm their effectiveness in pursuing their assigned missions.

So I think that very clearly eliminates any consideration there.

At this time I would like to yield the floor so that my colleagues can speak, and maybe I will have some concluding remarks.

I yield the floor.

Mr. LEVIN. Madam President, I wonder if the Senator will yield for a unanimous consent request.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. WARNER. Madam President, I really feel, if we could more fully——

Mr. LEVIN. It is just a unanimous consent request.

Mr. WARNER. Does it affect what we are trying to lay down in any way?

Mr. LEVIN. I was just going to ask unanimous consent that I be added as a cosponsor of the resolution.

Mr. WARNER. That is fine. I didn't realize that was coming to pass. It is late in the day, and I suppose we could anticipate a lot of things. But anyway I thank the Senator.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. As I understand, the resolution has not yet been sent to the desk.

Mr. WARNER. It momentarily will be.

Mr. LEVIN. I ask unanimous consent that I be added as a cosponsor to the resolution.

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

Mr. LEVIN. I thank my friend from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. NELSON of Nebraska. Madam President, tonight I believe we have seen the introduction of a resolution which not only has had bipartisan support in its prior form but will receive very strong bipartisan support in its current form, as amended.

I rise to support this resolution for a number of reasons. I think it is important that we continue to support our troops in the field and those who support the troops across the world. I think it is important that we thank them for their service and that we make it very clear that this resolution does not impair their ability to move forward in their command.

It is also important to point out that while some of the cosponsors haven't had the opportunity to review this, it is being circulated to them so that they do have the opportunity to review it. And I am sure they will become cosponsors with the new resolution.

It is important to point out that in this resolution, benchmarks are included that I believe will help break the cycle of dependence in Iraq by empowering and requiring the authority of the Iraqi Government and the responsibility of the Iraqi Government to take a greater role in the battle in Iraq, particularly as it relates to Baghdad. We generally believe that it is inappropriate for our troops to intercede in the battle between the Sunnis and the Shias on a sectarian basis in battles that are of a similar nature that

certainly do involve sectarian violence. There is a greater role for the Iraqi Government and the Iraqi military. This resolution in its present form will assure the assuming of that greater role, that greater responsibility by the Iraqi Government and certainly by the Iraqi Army.

It is a pleasure for me to introduce and thank our cosponsor, the Senator from Maine, Ms. COLLINS.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Madam President, first let me thank Senator WARNER and Senator NELSON for their continuing hard work in refining the language of this very important resolution, a resolution that I hope will garner widespread bipartisan support when it is brought to the Senate floor and debated next week.

Since we first introduced our resolution last week, we have had the benefit of further consultations with experts. We have had the benefit of conversations with our colleagues. We have had the benefit of alternative resolutions that have been proposed by other Senators, and we have had the benefit, most of all, of additional hearings in the Senate Armed Services Committee, including a classified briefing today. All of this activity has confirmed my belief that our resolution as originally proposed was on precisely the right track, but the benefit of these hearings, briefings, conversations and consultations has led us to improve our resolution by making four modifications that the distinguished Senators have just explained.

Let me, for the benefit of our colleagues, run through them one more time.

First, the resolution now makes very clear that nothing in it is to be construed as advocating any lessening of financial support for our troops. Indeed, it goes firmly on record as being opposed to cutting off funds that would be needed by our troops in Iraq. The language is very clear on that.

Second, there has been a great deal of discussion about the need for the Iraqis to meet certain benchmarks—benchmarks that in the past they have not met. So we include language in this resolution that makes very clear that we expect the Iraqi Prime Minister to agree to certain benchmarks; for example, to agree to work for the passage and achieve the passage of legislation that would ensure an equitable distribution of oil revenues. That is a very important issue in Iraq.

It also includes a benchmark that the Iraqis are going to produce the troops they have promised, and that they are going to operate according to the military rules of engagement without regard to the sectarian information or the sect of the people involved in the fighting. In other words, it doesn't matter whether an insurgent is a Sunni or a Shiite; if he is violating the law, engaging in violence, the Iraqi troops and our troops would be able to arrest and detain or otherwise battle these individuals.

It clarifies the language regarding the troop increase that the President has proposed, and as the Senator from Virginia has explained to our colleagues, it calls for a clarification of the command and control structure so that we don't have a dual line of command. We want to have a very clear chain of command, and we call for that. That isn't the case now, and if you ask any military officer, he or she will tell you that having a clear chain of command, a unity of command, is absolutely essential. We have made these four changes in our legislation, in the resolution. We hope our colleagues will take a close look at it. I look forward to debating it more fully when we get on this issue next week.

Again, I commend the distinguished Senators with whom I have been very privileged to work on this: Senator WARNER, the former chairman of the Committee on Armed Services, my colleague, Senator NELSON, also a member of the Committee on Armed Services. All three of us serve on that committee. We have brought to bear our experience and what we have learned in the last week as we continue to study this very important issue, perhaps the most vital issue facing our country.

Mr. WARNER. Madam President, I thank our distinguished colleague from Maine.

It has been a hard work in progress, but we reiterate, perhaps Members want to offer their own resolutions. We are open to suggestions. We are not trying to grab votes, just make ours stronger.

I bring to the attention of my colleague, this is not to be construed as saying, Mr. President, you cannot do anything; we suggest you look at openings by which we could, hopefully, have substantially less United States involvement of troops in what we foresee as a bitter struggle of sectarian violence.

The American GI, in my judgment, has sacrificed greatly, and their families, in giving sovereignty to this Nation. Now we see it is in the grip of extraordinary sectarian violence. Sunni upon Shia, Shia upon Sunni. I am not trying to ascribe which is more guilty than the other, but why should they proceed to try and destabilize the very government that gives all Iraqis a tremendous measure of freedom, free from tyranny and from Saddam Hussein. Why should the American GI, who does not have a language proficiency, who does not have a full understanding of the culture giving rise to these enormous animosities and hatreds that precipitate the killings and other actions—why should not that be left to the Iraqi forces?

We have trained upwards of 200,000. We have reason to believe today there are 60,000 to 70,000 who are tested—in many respects they have been participating in a number of military operations, together with our forces. Let elements of that group be the principals to take the lead, as they proudly say, give them the lead, and go into the sectarian violence. That would enable our commanders, our President, to send fewer than 20,500 into that area.

On the other hand, we support the President with respect to his options regarding the Anbar Province and the additional forces.

Am I not correct in that?

Ms. COLLINS. If the Senator will yield on that point.

Mr. WARNER. Yes.

Ms. COLLINS. The resolution we drafted very carefully distinguishes between the sectarian violence engulfing Baghdad, where the Senator and Senator NELSON believe it would be a huge mistake for additional American troops to be in the midst of that, versus a very different situation in Anbar Province.

In Anbar, the violence is not sectarian; the battle is with al-Qaida and with foreign fighters, the Sunni insurgencies, so we have Sunni versus Sunni. It is not sectarian. And what is more, local tribal leaders have recently joined with the coalition forces to fight al-Qaida. It is a completely different situation in Anbar. I do support the addition of more troops in Anbar. Indeed, the one American commander whom I met with in December who called for more troops in Anbar was General Kilmer.

Mr. WARNER. You refer to the one commander you met. I wonder if the Senator would reference your trip in December and what others told you about the addition of United States forces. I think that is important for the RECORD.

Ms. COLLINS. Madam President, if the Senator will continue to yield.

Mr. WARNER. Yes.

Ms. COLLINS. It was a very illuminating trip with other Senators. It has shaped my views on the issues before the Senate.

One American commander in Baghdad told me a jobs program would do more good than additional American troops in quelling the sectarian violence. He told me many Iraqi men were joining the militias or planting roadside bombs simply because they had been unemployed for so long they were desperate for money and would do anything to support their families. This was an American commander who told me this.

Prime Minister Maliki, in mid-December, made very clear he did not welcome the presence of additional American troops and, indeed, that he chafed at the restrictions on his control of the Iraqi troops. So I didn't hear it from Iraqi leaders, either.

The only place where I heard a request for more troops was in Anbar Province where the situation, as we have discussed, is totally different than the sectarian violence plaguing Baghdad.

Mr. WARNER. Madam President, I thank my colleague.

In my trip in the October timeframe, I would see much the same expression from military and civilian. Our codel visited, and it was following my trip that I came back and said in a press conference, this situation is moving sideways.

My observations, together with the observations of others—some in our Government, some in the private sector—induced the administration—I am not suggesting we were the triggering cause, but we may have contributed—to go to an absolutely, as you say in the Navy, ''general quarters'' to study every aspect of the strategy which then was in place, and which now is clearly stated as late as yesterday by the admiral who will be the CENTCOM commander, wasn't working.

I commend the President for taking the study and inviting a number of consultants. That whole process was very thorough.

The point the Senator is making, as late as December—mine in October, yours in December—we both gained the same impressions that no one was asking for additional United States troops at that time.

Ms. COLLINS. If the Senator will yield on that point, since the Senator was the chairman of the Committee on Armed Services, as well, I would also share with our colleagues that the Senator presided over a hearing in mid-November at which General Abizaid, the central command general, testified before our committee that more American troops were not needed. He reported he had consulted widely with generals on the ground in Iraq, including General Casey, in reaching that conclusion.

I say to our colleagues that I think the record is clear. If you look at the findings of your trip from October, the testimony before the Committee on Armed Services from General Abizaid in November, what I heard in mid-December, I have to say, respectfully, I do not believe the President's plan with regard to Baghdad—not Anbar but Baghdad—is consistent with what we were told.

Mr. WARNER. I thank my colleague.

We should add an important reference to work done by the Baker-Hamilton commission. They have made similar findings. They mention a slight surge, but in my study of that one sentence in that report, I don't think they ever envisioned a surge of the magnitude that is here.

They can best speak for themselves and, indeed, yesterday there was testimony taken from two senior members of that commission, but I don't know whether they were speaking for the entire commission, and whether, in their remarks, they may wish to amend portions of their report. I wasn't present for that testimony.

I hope someone in the Foreign Relations Committee can make that clear. Were they speaking for the entire commission? Did they wish to have their remarks amend their report which we followed? It was one of the guideposts we used, the important work of that group.

Again, we are doing what we think is constructive to help the Senate in preparing for its deliberations, to invite other colleagues to make suggestions. We stand open to consider other options that may come before the Senate.

At this point in time, our resolution is the same form as the resolution we filed here a week or so ago. We are not changing any of the procedures by which the Senate takes into consideration our points. Whether we will be able to utilize this as a substitute should other amendments be called upon the floor, the rules are quite complex on that matter, and I will not bring all of that into the record at this point. But there are certain impediments procedurally as to how this specific resolution could ever be actually used for the purposes of a substitute.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. WARNER. Madam President, in the colloquy I participated in with my distinguished colleagues, Senator BEN NELSON of Kansas and Senator COLLINS of Maine—and I take responsibility—somehow we had a misunderstanding about the status. We wish to send to the desk and ask that this be numbered a new S. Con. Res. and, therefore, have the same status as the current S. Con. Res. we had submitted a week ago.

The PRESIDING OFFICER. The resolution will be received and referred.

Mr. WARNER. I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDER OF PROCEDURE

Mr. REID. Madam President, I have already apologized to staff and others for having to wait around so long, but sometimes it takes a long time to get from here to there.

I, first of all, want to acknowledge the hard work of so many different people that allowed us to get where we are today, which certainly isn't the finish line, but it is a starting point.

People have heard me on other occasions, on other matters, talk about the Senator from Virginia, Mr. WARNER. In my 25 years in the Congress—and I say this without any reservation—I have not had dealings with anyone who better represents, in my mind, what a Senator should be. Not only does he look the part and act the part, but he is truly what our Founding Fathers had in mind when they talked about this deliberative body.

So I appreciate very much the bipartisan work of the Senator from Virginia, Mr. WARNER. He has worked with other Senators—I don't know who he has worked with, but some I am aware of because I have read about them: Senators COLLINS, HAGEL, BEN NELSON, SNOWE, BIDEN, COLEMAN, and I am sure there are others.

Today Senator WARNER and others submitted a new version of his concurrent resolution regarding the increase of troop levels in Iraq. Senator LEVIN has taken that language, and tonight we will introduce it as a bill. It will be introduced as a bill because that is the only way we can arrive at a point where we can start a deliberate debate on this most important issue. We will introduce this as a bill which will begin the rule XIV process in order to get it to the calendar and allow the Senate to move to Senator WARNER's legislation. We would prefer to do it as a concurrent resolution; however, that would only be the case if it would be open to complete substitute amendments, for obvious reasons.

In order to permit the Senate to consider amendments which are appropriate, I now ask unanimous consent that the Senate proceed to the consideration of Senator WARNER's concurrent resolution, S. Con. Res. 7, on Monday, February 5, at 12 noon, and that the entire concurrent resolution be open to amendments and that a cloture motion with respect to S. Con. Res. 2 be vitiated.

The PRESIDING OFFICER. Is there objection?

Mr. MCCONNELL. Reserving the right to object, I would say to my friend, the majority leader, about a week ago, the distinguished majority leader indicated that we were going to follow the regular order, that the Biden resolution coming out of the Foreign Relations Committee would be the vehicle for our debate, and I gather, in listening to the distinguished majority leader—if I might ask, without losing my right to the floor, what is the status of the Biden resolution that came out of the Foreign Relations Committee?

Mr. REID. A motion to invoke cloture was filed on that. After we complete work on the minimum wage bill, automatically we will vote on that. I say to my distinguished friend, cloture will not be invoked on that. What I would like is unanimous consent that we not have to vote cloture, that we just vitiate that vote and move to the Warner resolution and do that Monday. But, as I know, the distinguished Republican leader has only seen what I have given him, the last little bit, not because I didn't want to give it to him but I didn't have it. I certainly want

the leader to think about this during the night. I think it would be an expeditious way to get to this.

It has taken a lot of time. I haven't been involved in any of the negotiations. It was tempting, but I thought I would do more harm than good. I haven't been involved in any of the negotiations with the Senators whom I have mentioned here. I think it would be to the best interests of the Senate, majority and minority, to start Monday, as I have suggested, and allow Senators—I will say, at a subsequent time, when the distinguished Republican leader yields the floor, I am going to say that I want to work with the Republican leader in setting up a process for making sure people have the ability to offer reasonable amendments to this S. Con. Res. 7. That is my feeling. That is where we are with the Biden-Hagel-Snowe-Levin resolution that is before the Senate, or will be.

The PRESIDING OFFICER. Is there objection to the request of the majority leader?

Mr. MCCONNELL. Reclaiming the floor, reserving the right to object, so the Biden proposal which came out of the Foreign Relations Committee—I hear the majority leader—is no longer in consideration. If I understand the process correctly, it, too, could have been called up and an effort could have been made to turn it into a bill as well. If we were to stay in bill status, would it be the intent of the majority leader to fill up the tree?

Mr. REID. I will work with the Republican leader to take any suggestion the Republican leader would have as to how we can begin a debate. I would say in response to the statement, the reason I didn't put the Biden-Hagel matter in a rule XIV posture is that is not what we want to start debate on. There is a bipartisan group of Senators who believe the more appropriate matter is the Warner amendment. I don't know what happened in your caucus yesterday. In my caucus, there was near unanimity for the Warner resolution.

The PRESIDING OFFICER. Is there objection?

Mr. MCCONNELL. Reserving the right to object, Madam President, Senator WARNER has been working diligently on this issue and cares deeply about it. We have had some discussions, but I had not seen Senator WARNER's proposal until just tonight. I am not complaining about that, but the text of it is new to me as well as to the Democratic leader.

It is still my hope that we could, as we discussed over the last couple of weeks in anticipation of this debate, enter into a consent agreement under which we would have had several different proposals in their entirety, realizing the difficulty of amending a concurrent resolution—several different proposals in their entirety that the Senate could consider. Maybe this is a better way to go, but it occurred to me that was probably the best way to go forward with this important debate.

Given the lateness of the hour and the newness of all of this, I am going to be constrained to object and will consider—I know we will continue this conversation in the morning in hopes of reaching some agreement that is mutually acceptable.

The PRESIDING OFFICER. Objection is heard.

Mr. WARNER. Will the Senator yield to me for a minute?

Mr. REID. I will yield to the Senator from Virginia, just making one brief statement. I hope we can still do that. We still would like to do that. I think this will be, as I said, a good place to start. I also want the record to reflect tonight that the mere fact that this is in bill form is as a result of meeting the very stringent rules of the Senate to get it to the floor so we can have a vote on this matter on Monday; that at any time we would agree to take this not being bill language and would be strictly a concurrent resolution language. We can do that anytime. The reasons for that are quite obvious. We don't want this—a concurrent resolution, the President doesn't have to sign it, whatever happens on it. We will be happy to work on that, too.

I yield to the Senator from Virginia.

Mr. WARNER. I thank both leaders.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I join my leader in the objection because I do hope we can work it out, that we do not have to resort to a bill status. Everybody knows what the rules are and how that would then involve the President in a bill status. This should be a matter handled by the Senate and the other body, should they so desire.

I say to my distinguished leader, I did mention this afternoon that I was going to take these steps—basically the changes from the original one, which we filed a week ago. Senator NELSON, Senator COLLINS, and myself are still there. There is no major significant changes. We added a provision regarding the serious problem I and other Senators see—and we learned of it in the open session on Friday in the Armed Services Committee and again this morning in closed session—of the need to clarify this question of how a dual command can take place in each of the nine provinces of Baghdad between the Iraqi military and the U.S. military. And, General Keane, on Friday, said he is going to urge General Petraeus to try to work with that. I think that can be handled, but it has to be clarified.

The other thing is that some colleagues thought maybe we were laying the foundation of this body of the constitutional right of curtailing funds. That was never the intention, and that is made quite clear. The rest of it are changes that I believe are not ones that in any way affect basically the thrust of the original resolution, which was to try to put before the Senate as an institution the viewpoints of a bipartisan group—now 11 in number and others I think desiring to join—such that if the Senate speaks in some way on this eventually, after a debate, it represents to the American public the best efforts of this institution to reach a degree of bipartisanship on an issue which I think is one of the most important that I have visited in my now 29th year in the Senate.

So I thank both leaders, and I join my distinguished leader at this time in the objection because I do hope we do not have to resort to legislative need of a bill.

The PRESIDING OFFICER (Mr. SALAZAR). The majority leader is recognized.

Mr. REID. Mr. President, if we can't get such consent, then we will have to have a cloture vote on the motion to proceed to Senator LEVIN's bill on Monday at 12 noon. As for consideration of an amendment, as I stated in our colloquy, and I state now to the Chair, we will work with the Republican leader on an orderly process. He is an experienced legislator, as we all are, working on this bill. The problem we have is a narrow window of time because of the absolute requirement—absolute requirement to finish the continuing appropriations resolution by February 15 to avoid a total closure of the Federal Government—a total closure of the Federal Government. There would be more time to debate amendments, and I know the distinguished Republican leader is looking at this legislation tonight.

We didn't have to go through the cloture process on the motion to proceed to Senator WARNER's legislation. We simply want the Senate's will for the American people. I know that is what the minority wants, that is what the majority wants, and we have to figure out a process to do that. I am open to suggestions, but all I know, as I have told my two friends, there is no other way to get to the Warner resolution than how we have done it tonight. If during the night we can work out something to move forward to a debate starting Monday, I think it would be to the betterment of the Senate and the American people.

I repeat: It is done in bill form for the simple reason it is the only way to get it to the floor. I repeat now for the second time in front of the American people, at any time, either by unanimous consent or by a vote of the Democratic caucus, joining in with, I am sure, many Republicans, we will strip that language so it doesn't have to go to the President. We want this to be a resolution. This is something that is business within the family, the congressional family. The President doesn't have to be involved in this—only indirectly.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. MCCONNELL. Mr. President, just briefly, I got the Warner resolution language about 7 o'clock. There are others on our side of the aisle, including Senator MCCAIN, Senator GRAHAM,

Senator CORNYN, and others, who are deeply involved in this issue and interested in how it is going to be disposed of. Senator WARNER has done his usual thoughtful job. He is probably the Senate expert on our side of the aisle in these matters, and his views of which way the Senate should proceed carry a lot of weight in the Senate. But I cannot at this late hour agree to this proposal tonight.

Having said that—and these will be my last thoughts, I believe, for the evening—I do think there ought to be a way to work this out. We have made considerable progress on our side of the aisle in narrowing down the proposals that we might want to offer. And I still think the preferred way to do it—and I think the majority leader believes this as well—is to have a number of different concurrent resolutions in the queue. The distinguished Senator from Virginia has made it clear that he is very uncomfortable, as he just expressed himself a moment ago, with taking the bill approach to this. The majority leader has indicated that is not his preference either. I think the message is: Let's see if we can't craft a unanimous consent agreement that is fair to both sides so that we can have this important debate on this exceedingly important issue next week.

Mr. WARNER. Mr. President, I join in that because I think the operative phrase is to let the Senate work its will. Those are the first words I used in connection with this resolution when I laid it down last week. It is essential. This is one of the most important historic debates, as the distinguished leader—both leaders—have said. We should let this body work its will.

The PRESIDING OFFICER. The assistant majority leader.

Mr. DURBIN. Mr. President, first let me commend the Senator from Virginia for his leadership and the contribution he has made to this historic debate, both for the Senate and for our Nation. Thank you because I think what you have presented in good faith is an effort to engage in a very important and historic debate. I thank you for that. The fact that you have drawn so much support from both sides of the aisle is a testament to the fine work you have done, and I am glad that you are here this evening in an effort to continue that work.

I would say to the minority leader, the Senator from Kentucky, it is understandable that having been given this language and this information at this late hour that he wants a little more time to reflect on it, and I hope in the morning that we can come to the agreement that we all want. But to reiterate what the Senator from Nevada, the majority leader, has said, what we are seeking to do is what the minority leader has expressed, and that is to create the appropriate forum and the appropriate vehicle for the debate on this issue.

We struggle because the procedures in the Senate make it difficult to take resolutions and amendments. It is clumsy, it is awkward, it is difficult to do. So what the majority leader has suggested is to treat this resolution as a bill for the purpose of amendment but then to remove that bill status so that there is no question as to whether it is going to the President. That gives us a chance to work our will, as the Senator from Virginia has said, using the bill-like approach to amendment and gives the majority and minority leaders a chance to work together to find a reasonable number of reasonable amendments so that we can, in fact, express our will on this critically important issue.

But I say to the minority leader from Kentucky, there is no guile in this proposal. It is an effort to find a reasonable way for both sides of the aisle to address this historic debate.

RETIREMENT OF ED GREELEGS

Mr. DURBIN. Mr. President, I come to the Senate today to say something I hoped I would never have to say. I am here to say thank you and farewell to my chief of staff for the past 17 years, Ed Greelegs, as he retires from the Senate.

This is the first time he has ever been on the floor of the Senate while it was in session. Ed is the kind of person who does his work without a lot of fanfare, without a lot of need for attention, but he does it so very well.

Some people are drawn to Congress because of what they think are the perks and power that come with the job. That is not what Ed Greelegs has given so much of his life to. For Ed, being a good public servant has always been privilege enough. The desire to help others, to try to translate our Nation's most cherished values into law and policies that meet the challenge of our times—that is what brought Ed Greelegs to the U.S. Congress and why he stayed all these years.

I will say without fear of contradiction that Ed is one of the most well liked, even beloved figures on Capitol Hill. All you have to do is walk down a hallway in the Capitol with Ed Greelegs and you will know what I mean. He knows everybody and everybody knows him. His easygoing nature and real caring for people means that he has made thousands of friends on Capitol Hill. From those who do the important work of maintaining and cleaning our offices to those at the highest levels, Ed knows them all.

We have a saying in our office, incidentally: Talk to Ed, he probably knows somebody. Whenever a new issue comes up, if you want to know who you can turn to and trust, Ed invariably knows whom to call. The relations he has made and nurtured on and off the Hill have been a great help to me for 17 years. I can't tell you the countless people who have never met Ed but who have benefitted nonetheless from the alliances he has forged, the common ground he helped plow, and the laws he helped pass.

One of Ed's great talents is recognizing and nurturing talent among others. If I had a young person who came to me anytime in the last 17 years who said, It has always been my dream to work on Capitol Hill, I would say, I want you to meet Ed Greelegs. He would patiently take the time to read the resume, talk to them, relate his life experience on Capitol Hill, and point them in a direction so they had a chance to realize their dream, as he had. They come back to me, years later, after success on the Hill or at some other branch of Government, and ask, How is Ed? That is the most common question I run into.

Ed grew up in nearby Wheaton, MD, and graduated from the University of Maryland. He came to Capitol Hill as an intern in 1970. In the 20 years between that first internship and becoming my chief of staff, Ed worked for Congressman Marty Russo of Illinois, Congressman Bob Eckhart of Texas on the House Commerce Committee's Subcommittee on Investigations and Oversight, then for Congressman Sam Gejdenson of Connecticut, and finally back to Congressman Russo's office for most of the 1980s. He worked briefly for the Consumer Federation of America and for Fannie Mae. But when he left the Hill to go into the private sector, his heart was still here. He even told me stories of jobs in the private sector where he never unpacked the boxes. He just never felt comfortable. It was not where he wanted to be. He might have been making more money, but he wasn't happy. He found his way back to Capitol Hill.

It was the leadership he showed in the office of Marty Russo that really brought Ed to my attention. In 1990, I persuaded him to come work for me as my chief of staff in the House of Representatives. Six years later, I decided to run for the Senate seat that belonged to my longtime friend and mentor, Paul Simon. Ed Greelegs was at my side in that effort.

I wondered how he would adjust, making that transition from the House to the Senate, but it was seamless. He knew just as many people on this side of the Hill as he continues to know on the House side.

For the 10 years I have served in the Senate, Ed Greelegs has been an unfailing source of wisdom and thoughtful advice. His quiet, wry sense of humor has helped to lighten the mood when things become too intense, and his decency, modesty, and great egalitarian spirit have helped remind everybody on our side of what is most important and why we are here.

There are a few things Ed loves more than the Senate. Among them are his wife Susan and his stepchildren Andrew and Amanda; another, his books. Ed has so many books you wouldn't believe it. He has a room, I understand, completely filled in his home. The fact that Susan stays with him despite this obsession on books tells you what a strong marriage they have. When I

would look in his office and see all of the books stacked up, I would think, there is a guarantee he will never leave me because he just can't bring himself to pack up all those books. But now he is going to have to, I think.

Another one of Ed's loves is music. One of his favorite musicians is singer-songwriter John Hiatt. Ed even persuaded Susan to include a John Hiatt song at their wedding, entitled ''Have a Little Faith in Me.''

Over 17 years, I have come to have more than a little faith in Ed Greelegs—not just his knowledge but his character and his decency. What I know about him is that you never have to worry about his motives. You never have to wonder if his advice is crafted to serve himself or a friend more than it serves the common good. His goal has always been the same: He wants the best for the people of Illinois and the best for America. When things go well, as they often do when Ed is involved, he doesn't really care who gets the credit.

They say that behind every successful man is a surprised mother-in-law. I can tell you that behind every good Senator is a talented chief of staff. For the last 17 years, it has been my good fortune to have my friend Ed Greelegs in that critical position in my office. I am grateful to him for all he has done for me, for Illinois, and for our Nation. I wish him the very best as he begins the next chapter of his career. I am sure it will be a successful chapter.

As you wander around Washington, you come to understand that there are some people whom everybody likes. Ed Greelegs is one of those people.

My favorite story, which I want to add at this point, involves the first trip to Afghanistan after the Taliban were deposed. I joined with Senator Daschle and a number of other Senators. We went in on the first daylight landing at Bagram Air Force Base in Kabul in Afghanistan. It was very tense. There were armored personnel carriers in every direction and troops with weapons to defend us as we came off the C–130. As I came down the ramp and got into an armored personnel carrier, there was a man in civilian clothes standing there.

He asked: Are you Senator Dick Durbin?

I said: Yes.

He said: I am a friend of Ed Greelegs'.

I couldn't believe it. Here I am in the middle of a war zone, and I ran into a friend of Ed Greelegs'.

Whether it is war or peace, whether it is on the Hill or off, time and again, everybody knows that Ed Greelegs is genuine. He is the real thing. I have been honored to have him at my side for 17 years. I wish him the very best in his future pursuits.

Thanks, Ed.

NFC CHAMPIONSHIP GAME

Mr. VITTER. Mr. President, Senator LANDRIEU and I come to the Senate floor for a painful—for us—but necessary task, and that is to live up to our wager with colleagues from the great State of Illinois and congratulate them on the Bears' defeat of the New Orleans Saints in the NFC championship game.

Of course, the Bears won fair and square 39 to 14, but that score really doesn't reflect how the game was actually played. It was much closer than that for a long time. The Bears' defense played exceptionally, hats-off to them, strong pass rush that really put the Saints' quarterback, Drew Brees, in some precarious situations. They also played overall a really tough physical game, defensively and offensively. Because of some of the bone-crunching hits delivered by the Bears' defenders, the Saints had multiple turnovers, and certainly that was part of the problem from the Saints' perspective. But, really, I think the Chicago Bears won the game because of their incredible ability to manage field position. Each time the Saints' offense took the field, it appeared as if they had their back to the wall, including when a safety was scored against them.

So congratulations to the Chicago Bears. Again, Senator LANDRIEU and I are here to fulfill our commitment and pay our debt. By the way, we just served Senator BARACK OBAMA's staff a lunch of great Louisiana food, and we are about to do the exact same thing for Senator DURBIN and his staff.

But as we give the Bears their due, I know both Senator LANDRIEU and I also want to praise the Saints for an absolutely unbelievable season with the biggest turnaround in NFL history, going from a 3 in 13 last year to the NFC championship game this year. Much more importantly than just that, they serve as a wonderful example of renewal and rebuilding from which we all can learn and emulate in terms of the rebuilding of the gulf coast.

A lot of folks say it is just football, it is just sports, but particularly in the context of everything folks in the greater New Orleans area are going through post-Katrina, the Saints meant an awful lot to us this season, and their example of leadership and integrity and great turnarounds and commitment is something we all took pride in and I think something we all learned from. That example is going to be repeated in many other different walks of live as we spur on our recovery on the gulf coast even further.

So with that, Mr. President, I again congratulate the Chicago Bears. I congratulate our two Senate colleagues from Illinois. I wish them all the best in this Sunday's Super Bowl. But I also note, maybe they are going to need that good luck because they face another New Orleans powerhouse, Peyton Manning, in Miami. So good luck to them.

I yield the floor to Senator LANDRIEU.

The PRESIDING OFFICER. Speaking in my capacity as a Senator from Minnesota, I will say that our team, the Vikings, went four times and never won the Super Bowl, so there is always hope.

Ms. LANDRIEU. Mr. President, I thank my colleague for joining me this morning to deliver some delicious, piping hot, and very spicy red beans and rice that he and I cooked through the night to deliver to our colleagues, Senator OBAMA and Senator DURBIN. I would like to personally congratulate the Bears on their victory and say it was a hard-fought victory during a great game of icy and cold conditions, but our Saints stood up under the tremendous pressure of their defensive line.

As Senator VITTER said, the final score doesn't reflect the battle that was actually played that day on that field. But we congratulate the Bears on their victory and look forward to watching them in the Super Bowl this Sunday.

But to the Saints, I have to say again, as I have said several times on this Senate floor, thank you for being so reflective of and mirroring the spirit of the people from Louisiana, from New Orleans, from the region, and from south Louisiana who have struggled, and like you, have been fighting back to bring our cities and our communities, large and small, urban and rural, back from the brink, in many cases, of utter destruction. The Saints have shown us the way, having experienced themselves as players and family members the loss of their homes, the loss of their places of worship, the loss of the schools where their children attended but, like so many hundreds of thousands of citizens, have literally marched their way back to victory. So we are very grateful for their inspiration and their encouragement, every member of the team.

But to the Bears, led by Rex Grossman, who proved himself to be a Super Bowl quarterback, to, again, their extraordinary defense on the field, we congratulate them.

Senator VITTER and I love pizza. We were looking forward to that Chicago pizza, but we ended up, because of what happened, having to deliver our local favorite, red beans and rice, to Senator DURBIN and Senator OBAMA. But our congratulations to them and to the people of Chicago and to the citizens of Illinois who, I know, will be pulling for their team.

I also want to say we will be looking forward to seeing Peyton Manning on the field. He is a wonderful quarterback from a great family in New Orleans that has also helped us and inspired us a great deal.

HONORING GEORGE OMAS, CHAIRMAN, POSTAL RATE COMMISSION

Mr. LOTT. Mr. President. I rise to mark the retirement from Federal service, of a loyal friend and Mississippian, and a fine public servant, George Omas.

Word has reached me that George will soon be leaving the Postal Rate Commission, where he has been serving as Chairman since November 2001. His leadership at the helm of that agency, which oversees the revenues and expenses of the U.S. Postal Service and recommends the appropriate postage rates, has done much to restore financial confidence in the Postal Service.

September 11 and the accompanying anthrax attacks rocked our U.S. Postal Service with unplanned for expenses to such a degree that an increase in rates were badly needed to offset those expenses without reducing services to the American people. When the Postal Service made their request to the commission on September 24, 2001, George made history by thinking truly ''outside the box'' and proposed something never done before but was highly needed at the time: a ''settlement agreement'' of a major rate case. No small task as it required the Postal Service, the Postal Rate Commission and almost 100 interested parties and representatives of the mailing industry to agree to forgo lengthy litigation of the pending case and meet and work out differences together.

He was told it was ''impossible'' there was too much money at stake for parties to waive a good portion of their due process rights to achieve such an agreement. But, he felt strongly that September 11 was an extraordinary event and it called for extraordinary thinking on everyone's part, so on the first day of the hearings in that case after he had read his opening statement, he added these remarks:

> I have often heard it said that there could never be a settlement in an omnibus rate case. There are too many conflicting interests, and too much money is at stake. But it seems to me that if there was ever a time when 'business as usual' was not an attractive course of action, and when cooperative efforts to promptly resolve issues through settlement might be the right course of action, that time is now.

To everyone's surprise, even their own, the parties responded. In approximately two and a half months the many diverse interests that frequently bitterly contest multiple issues in postal rate cases were able to negotiate, revise, and submit a stipulation and agreement as a proposed settlement. Instead of the normal 10 months, the entire case was initiated, negotiated and agreed to within 6 months.

In the 2002 Annual Report of the Postal Service, the Postmaster General and the Chairman of the Board of Governors explained the effect of those momentous remarks:

> And, following a suggestion by the chairman of the Postal Rate Commission, we approached our major stakeholders and took a bold step that enabled us to implement new postage rates in June, 2002, rather than in the fall. This gained us an additional $1 billion in revenue. As a result, and despite the impacts of the recession and the terror attacks, we were able to close the year with a loss that was almost $700 million below original projections and half of last year's. None of the $762 million the Administration and Congress generously appropriated to the Postal Service to protect the security of the mail was used for operations.

George took the success of that effort and encouraged the Postal Service to look beyond the historical friction existing at their two agencies and focus on new ways to help the Postal Service continue to be successful. The Postal Service initiated a number of so-called negotiated service agreements and the commission and interested parties processed such agreements that brought in new volumes of mail and additional revenues to the Postal Service thus, extending the time needed between rate increases.

George has been a very successful chairman at the commission and I want to note his departure. I hope the legacy he leaves behind in the postal community and indeed, throughout government, is one of innovative thinking and the knowledge that working together can solve seemingly insurmountable problems.

So now that I have told you about George and the good things he has done, as a good Senator, I want to take credit for his good work by saying that I have known George since our days together at The University of Mississippi and that he served on my staff at various times in my career, including my time on the former House Committee on Post Office and Civil Service. When President Clinton nominated George as Postal Rate Commissioner in 1997, I was very pleased to introduce him at his confirmation hearings and give him my support. Needless to say, I was even more pleased when President Bush designated George as chairman of the commission in 2001.

George comes from good folks; his sister and her husband Bernadine and Ralph Marchitto, his niece Debra Lynn Wren, her husband John and George's grand niece Rebecca Elizabeth Wren still reside in the Biloxi area. Almost everyone who lived in Biloxi in the 1950s to the 1980s knew his parents, Violet and Pete Omas.

I will add that while George may be leaving the Postal Rate Commission, I don't believe he will going far, he has too much left to offer and I look forward to continuing to follow his future successes.

IRAQ

Mr. FEINGOLD. Mr. President, I have listened intently over the past few weeks as the President, members of his Cabinet, and Members of this Chamber have discussed Iraq, the war on terror, and ways to strengthen our national security.

For years, now, I have opposed this administration's policies in Iraq as a diversion from the fight against terrorism. But I have never been so sure of the fact that this administration misunderstands the nature of the threats that face our country. I am also surer than ever—and it gives me no pleasure to say this—that this President is incapable of developing and executing a national security strategy that will make our country safer.

Unfortunately, Mr. President, because of our disproportionate focus on Iraq, we are not using enough of our military and intelligence capabilities for defeating al-Qaida and other terrorist networks around the world, nor are we focusing sufficient attention on challenges we face with countries such as Iran, North Korea, Syria, or even China.

While we have been distracted in Iraq, terrorist networks have developed new capabilities and found new sources of support throughout the world. We have seen terrorist attacks in India, Morocco, Turkey, Afghanistan, Indonesia, Spain, Great Britain, and elsewhere. The administration has failed to adequately address the terrorist safe haven that has existed for years in Somalia or the recent instability that has threatened to destabilize the region. And resurgent Taliban forces are contributing to growing levels of instability in Afghanistan.

Meanwhile, the U.S. presence in Iraq is being used as a recruiting tool for terrorist organizations from around the world. We heard the testimony of Dr. Paul Pillar, former lead CIA analyst for the Middle-East, a few weeks ago in front of the Foreign Relations Committee. He said, and I quote:

> The effects of the war in Iraq on international terrorism were aptly summarized in the National Intelligence Estimate on international terrorism that was partially declassified last fall. In the words of the estimators, the war in Iraq has become a ''cause celebre'' for jihadists, is ''shaping a new generation of terrorist leaders and operatives,'' is one of the major factors fueling the spread of the global jihadist movement, and is being exploited by Al-Qa'ida ''to attract new recruits and donors.'' I concur with those judgments, as I believe would almost any other serious student of international terrorism. [January 10th, 2007]

Retired senior military officers have also weighed in against the President's handling of this war. Retired commander of Central Command, General Hoar, testified in front of the Foreign Relations Committee last week. This is what the general said:

> Sadly, the new strategy, a deeply flawed solution to our current situation, reflects the continuing and chronic inability of the administration to get it right. The courageous men and women of our Armed Forces have been superb. They have met all the challenges of this difficult war. Unfortunately, they have not been well served by the civilian leadership. [January 18th, 2007]

If we escalate our involvement in Iraq or continue the President's course, that means keeping large numbers of U.S. military personnel in Iraq indefinitely. It means continuing to ask our brave servicemembers to somehow provide a military solution to a political problem, one that will require the will of the Iraqi people to resolve.

Escalating our involvement in Iraq also means that our military's readiness levels will continue to deteriorate.

It means that a disproportionate level of our military resources will continue to be focused on Iraq while terrorist networks strengthen their efforts worldwide. The fight against the Taliban and al-Qaida in Afghanistan, too, will continue to suffer, as it has since we invaded Iraq. If we escalate our involvement in Iraq, we won't be able to finish the job in Afghanistan.

Finally, the safety of our country would be uncertain, at best. Terrorist organizations and insurgencies around the world will continue to use our presence in Iraq as a rallying cry and recruiting slogan. Terrorist networks will continue to increase their sophistication and reach as our military capabilities are strained in Iraq.

These are only some of the costs of this ongoing war in Iraq. I have not addressed the most fundamental cost of this war the loss of the lives of our Nation's finest men and women, and the grief and suffering that accompanies their sacrifice by their families. We have lost 3,075 men and women in uniform, and that number continues to rise.

These losses, and the damaging consequences to our national security, are not justified, in my mind, because the war in Iraq was, and remains, a war of choice. Some in this body, even those who have questioned the initial rationale for the war, suggest that we have no choice but to remain in Iraq indefinitely. Some here in this Chamber suggest that there is no choice than to continue to give the President deference, even when the result is damaging to our national security. Some argue it isn't the role of Congress to even debate bringing an end to this war.

That argument is mistaken. Congress has a choice, and a responsibility, to determine whether we continue to allow this President to devote so much of our resources to Iraq or whether we listen to the American public and put an end to this war, begin repairing our military, and devote our resources to waging a global campaign against al-Qaida and its allies. We cannot do both. The Constitution gives Congress the explicit power ''[to] declare War,'' ''[t]o raise and support Armies,'' ''[t]o provide and maintain a Navy,'' and ''[t]o make Rules for the Government and Regulation of the land and naval Forces.'' In addition, under article I, ''No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law.'' These are direct quotes from the Constitution of the United States. Yet to hear some in the administration talk, it is as if these provisions were written in invisible ink. They were not. These powers are a clear and direct statement from the Founders of our Republic that Congress has authority to declare, to define, and ultimately, to end a war.

Our Founders wisely kept the power to fund a war separate from the power to conduct a war. In their brilliant design of our system of government, Congress got the power of the purse, and the President got the power of the sword. As James Madison wrote, ''Those who are to conduct a war cannot in the nature of things, be proper or safe judges, whether a war ought to be commenced, continued or concluded.''

The President has made the wrong judgment about Iraq time and again, first by taking us into war on a fraudulent basis, then by keeping our brave troops in Iraq for nearly 4 years, and now by proceeding despite the opposition of the Congress and the American people to put 21,500 more American troops into harm's way.

If and when Congress acts on the will of the American people by ending our involvement in the Iraq war, Congress will be performing the role assigned it by the Founding Fathers defining the nature of our military commitments and acting as a check on a President whose policies are weakening our Nation.

There is little doubt that decisive action from the Congress is needed. Despite the results of the election and 2 months of study and supposed consultation—during which experts and Members of Congress from across the political spectrum argued for a new policy—the President has decided to escalate the war. When asked whether he would persist in this policy despite congressional opposition, he replied: ''Frankly, that's not their responsibility.''

Last week Vice President CHENEY was asked whether the nonbinding resolution passed by the Foreign Relations Committee that will soon be considered by the full Senate would deter the President from escalating the war. He replied: ''It's not going to stop us.''

In the United States of America, the people are sovereign, not the President. It is Congress's responsibility to challenge an administration that persists in a war that is misguided and that the country opposes. We cannot simply wring our hands and complain about the administration's policy. We cannot just pass resolutions saying ''your policy is mistaken.'' And we can't stand idly by and tell ourselves that it is the President's job to fix the mess he made. It is our job to fix the mess, and if we don't do so we are abdicating our responsibilities.

I have just introduced legislation, cosponsored by Senator BOXER, which will prohibit the use of funds to continue the deployment of U.S. forces in Iraq 6 months after enactment. By prohibiting funds after a specific deadline, Congress can force the President to bring our forces out of Iraq and out of harm's way.

This legislation will allow the President adequate time to redeploy our troops safely from Iraq, and it will make specific exceptions for a limited number of U.S. troops who must remain in Iraq to conduct targeted counterterrorism and training missions and protect U.S. personnel. It will not hurt our troops in any way—they will continue receiving their equipment, training, and salaries. It will simply prevent the President from continuing to deploy them to Iraq and will provide a hard deadline for bringing them home. By passing this bill, we can finally focus on repairing our military and countering the full range of threats that we face around the world.

There is plenty of precedent for Congress exercising its constitutional authority to stop U.S. involvement in armed conflict. Just yesterday, I chaired a Judiciary Committee hearing entitled ''Exercising Congress's Constitutional Power to End a War.''

Without exception, every witness—those called by the majority and the minority—did not challenge the constitutionality of Congress's authority to use the power of the purse to end a war. A number of the witnesses went further and said that Congress has not only the authority but the obligation to take specific actions that are in the interest of the nation.

I would like to read one quote by Mr. Lou Fisher of the Library of Congress. He said, and I quote:

> In debating whether to adopt statutory restrictions on the Iraq War, Members of Congress want to be assured that legislative limitations do not jeopardize the safety and security of U.S. forces. Understandably, every Member wants to respect and honor the performance of dedicated American soldiers. However, the overarching issue for lawmakers is always this: Is a military operation in the nation's interest? If not, placing more U.S. soldiers in harm's way is not a proper response. Members of the House and the Senate cannot avoid the question or defer to the President. Lawmakers always decide the scope of military operations, either by accepting the commitment as it is or by altering its direction and purpose. Decision legitimately and constitutionally resides in Congress.

There are significant historical precedents for this type of legislation that I have introduced today.

In late December 1970, Congress prohibited the use of funds to finance the introduction of ground combat troops into Cambodia or to provide United States advisors to or for Cambodian military forces in Cambodia.

In late June 1973, Congress set a date to cut off funds for combat activities in South East Asia. The provision read, and I quote:

> None of the funds herein appropriated under this act may be expended to support directly or indirectly combat activities in or over Cambodia, Laos, North Vietnam, and South Vietnam by United States forces, and after August 15, 1973, no other funds heretofore appropriated under any other act may be expended for such purpose.

More recently, President Clinton signed into law language that prohibited funding after March 31, 1994, for military operations in Somalia, with certain limited exceptions. And in 1998, Congress passed legislation including a provision that prohibited funding for Bosnia after June 30, 1998, unless the President made certain assurances.

Many Members of this body are well aware of this history. Unfortunately,

many Members of the Congress are still concerned that any effort to limit the President's damaging policies in Iraq would have adverse consequences.

Let me dispel a few myths that have been generated as a result of the discussion about the use of the power of the purse.

Some have suggested that if Congress uses the power of the purse, our brave troops in the field will somehow suffer or be hung out to dry. This is completely false. Congress has the power to end funding for the President's failed Iraq policy and force him to bring our troops home. Nothing—nothing—will prevent the troops from receiving the body armor, ammunition, and other resources they need to keep them safe before, during, and after their redeployment. By forcing the President to safely bring our forces out of Iraq, we will protect them, not harm them.

Others have suggested that using the power of the purse is micromanaging the war. Not so. It makes no sense to argue that once Congress has authorized a war it cannot take steps to limit or end that war. Setting a clear policy is not micromanaging; it is exactly what the Constitution contemplates, as we have heard today. Congress has had to use its power many times before, often when the executive branch was ignoring the will of the American people. It has done so without micromanaging and without endangering our soldiers.

Some have argued that cutting off funding would send the wrong message to the troops. Our new Defense Secretary even made this argument last week with respect to the nonbinding resolution now under consideration. These claims are offensive and self-serving.

Congress has the responsibility in our constitutional system to stand up to the President when he is using our military in a way that is contrary to our national interest. If anything, Congress's failure to act when the American people have lost confidence in the President's policy would send a more dangerous and demoralizing message to our troops—that Congress is willing to allow the President to pursue damaging policies that are a threat to our national security and that place them at risk.

Any effort to end funding for the war must ensure that our troops are not put in even more danger and that important counterterrorism missions are still carried out. Every Member of this body, without exception, wants to protect our troops, and our country. But we can do that while at the same time living up to our responsibility to stop the President's ill-advised, ill-conceived, and poorly executed policies, which are taking a devastating toll on our military and on our national security. It is up to Congress to do what is right for our troops and for our national security, which has been badly damaged by diverting so many resources into Iraq.

As long as this President goes unchecked by Congress, our troops will remain needlessly at risk, and our national security will be compromised. Congress has the duty to stand up and use its power to stop him. If Congress doesn't stop this war, it is not because it doesn't have the power; It is because it doesn't have the will.

COMMITTEE ON VETERANS' AFFAIRS RULES OF PROCEDURE

Mr. AKAKA. Mr. President, the Committee on Veterans' Affairs has adopted rules governing its procedures for the 110th Congress. Pursuant to rule XXVI, paragraph 2, of the Standing Rules of the Senate, on behalf of myself and Senator CRAIG, I ask unanimous consent that a copy of the committee rules be printed in the RECORD.

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

COMMITTEE ON VETERANS' AFFAIRS

RULES OF PROCEDURE 109TH CONGRESS

I. MEETINGS

(a) Unless otherwise ordered, the Committee shall meet on the first Wednesday of each month. The Chairman may, upon proper notice, call such additional meetings as deemed necessary.

(b) Except as provided in subparagraphs (b) and (d) of paragraph 5 of rule XXVI of the Standing Rules of the Senate, meetings of the Committee shall be open to the public. The Committee shall prepare and keep a complete transcript or electronic recording adequate to fully record the proceedings of each meeting whether or not such meeting or any part thereof is closed to the public.

(c) The Chairman of the Committee, or the Ranking Majority Member present in the absence of the Chairman, or such other Member as the Chairman may designate, shall preside at all meetings.

(d) Except as provided in rule XXVI of the Standing Rules of the Senate, no meeting of the Committee shall be scheduled except by majority vote of the Committee or by authorization of the Chairman of the Committee.

(e) The Committee shall notify the office designated by the Committee on Rules and Administration of the time, place, and purpose of each meeting. In the event such meeting is canceled, the Committee shall immediately notify such designated office.

(f) Written or electronic notice of a Committee meeting, accompanied by an agenda enumerating the items of business to be considered, shall be sent to all Committee member at least 72 hours (not counting Saturdays, Sundays, and Federal holidays) in advance of each meeting. In the event that the giving of such 72-hour notice is prevented by unforeseen requirements or Committee business, the Committee staff shall communicate notice by the quickest appropriate means to members or appropriate staff assistants of Members and an agenda shall be furnished prior to the meeting.

(g) Subject to the second sentence of this paragraph, it shall not be in order for the Committee to consider any amendment in the first degree proposed to any measure under consideration by the Committee unless a written or electronic copy of such amendment has been delivered to each member of the Committee at least 24 hours before the meeting at which the amendment is to be proposed. This paragraph may be waived by a majority vote of the members and shall apply only when 72-hour written notice has been provided in accordance with paragraph (f).

II. QUORUMS

(a) Subject to the provisions of paragraph (b), eight members of the Committee shall constitute a quorum for the reporting or approving of any measure or matter or recommendation. Five members of the Committee shall constitute a quorum for purposes of transacting any other business.

(b) In order to transact any business at a Committee meeting, at least one member of the minority shall be present. If, at any meeting, business cannot be transacted because of the absence of such a member, the matter shall lay over for a calendar day. If the presence of a minority member is not then obtained, business may be transacted by the appropriate quorum.

(c) One member shall constitute a quorum for the purpose of receiving testimony.

III. VOTING

(a) Votes may be cast by proxy. A proxy shall be written and may be conditioned by personal instructions. A proxy shall be valid only for the day given.

(b) There shall be a complete record kept of all Committee action. Such record shall contain the vote cast by each member of the Committee on any question on which a roll call vote is requested.

IV. HEARINGS AND HEARING PROCEDURES

(a) Except as specifically otherwise provided, the rules governing meetings shall govern hearings.

(b) At least 1 week in advance of the date of any hearing, the Committee shall undertake, consistent with the provisions of paragraph 4 of rule XXVI of the Standing Rules of the Senate, to make public announcements of the date, place, time, and subject matter of such hearing.

(c) The Committee shall require each witness who is scheduled to testify at any hearing to file 40 copies of such witness' testimony with the Committee not later than 48 hours prior to the witness' scheduled appearance unless the Chairman and Ranking Minority Member determine there is good cause for failure to do so.

(d) The presiding member at any hearing is authorized to limit the time allotted to each witness appearing before the Committee.

(e) The Chairman, with the concurrence of the Ranking Minority Member of the Committee, is authorized to subpoena the attendance of witnesses and the production of memoranda, documents, records, and any other materials. If the Chairman or a Committee staff member designated by the Chairman has not received from the Ranking Minority Member or a Committee staff member designated by the Ranking Minority Member notice of the Ranking Minority Member's nonconcurrence in the subpoena within 48 hours (excluding Saturdays, Sundays, and Federal holidays) of being notified of the Chairman's intention to subpoena attendance or production, the Chairman is authorized following the end of the 48–hour period involved to subpoena the same without the Ranking Minority Member's concurrence. Regardless of whether a subpoena has been concurred in by the Ranking Minority Member, such subpoena may be authorized by vote of the Members of the Committee. When the Committee or Chairman authorizes a subpoena, the subpoena may be issued upon the signature of the Chairman or of any other member of the Committee designated by the Chairman.

(f) Except as specified in Committee Rule VII (requiring oaths, under certain circumstances, at hearings to confirm Presidential nominations), witnesses at hearings

will be required to give testimony under oath whenever the presiding member deems such to be advisable.

V. MEDIA COVERAGE

Any Committee meeting or hearing which is open to the public may be covered by television, radio, and print media. Photographers, reporters, and crew members using mechanical recording, filming or broadcasting devices shall position and use their equipment so as not to interfere with the seating, vision, or hearing of the Committee members or staff or with the orderly conduct of the meeting or hearing. The presiding member of the meeting or hearing may for good cause terminate, in whole or in part, the use of such mechanical devices or take such other action as the circumstances and the orderly conduct of the meeting or hearing may warrant.

VI. GENERAL

All applicable requirements of the Standing Rules of the Senate shall govern the Committee.

VII. PRESIDENTIAL NOMINATIONS

(a) Each Presidential nominee whose nomination is subject to Senate confirmation and referred to this Committee shall submit a statement of his or her background and financial interests, including the financial interests of his or her spouse and of children living in the nominee's household, on a form approved by the Committee which shall be sworn to as to its completeness and accuracy. The Committee form shall be in two parts—

(A) information concerning employment, education, and background of the nominee which generally relates to the position to which the individual is nominated, and which is to be made public; and

(B) information concerning the financial and other background of the nominee, to be made public when the Committee determines that such information bears directly on the nominee's qualifications to hold the position to which the individual is nominated.

Committee action on a nomination, including hearings or a meeting to consider a motion to recommend confirmation, shall not be initiated until at least five days after the nominee submits the form required by this rule unless the Chairman, with the concurrence of the Ranking Minority Member, waives this waiting period.

(b) At any hearing to confine a Presidential nomination, the testimony of the nominee and, at the request of any Member, any other witness shall be under oath.

VIII. NAMING OF DEPARTMENT OF VETERANS AFFAIRS FACILITIES

It is the policy of the Committee that no Department of Veterans Affairs facility shall be named after any individual unless—

(A) such individual is deceased and was—

(1) a veteran who (i) was instrumental in the construction or the operation of the facility to be named, or

(ii) was a recipient of the Medal of Honor or, as determined by the Chairman and Ranking Minority Member, otherwise performed military service of an extraordinarily distinguished character;

(2) a member of the United States House of Representatives or Senate who had a direct association with such facility;

(3) an Administrator of Veterans' Affairs, a Secretary of Veterans Affairs, a Secretary of Defense or of a service branch, or a military or other Federal civilian official of comparable or higher rank; or

(4) an individual who, as determined by the Chairman and Ranking Minority Member, performed outstanding service for veterans;

(B) each member of the Congressional delegation representing the State in which the designated facility is located has indicated in writing such member's support of the proposal to name such facility after such individual; and

(C) the pertinent State department or chapter of each Congressionally chartered veterans' organization having a national membership of at least 500,000 has indicated in writing its support of such proposal.

IX. AMENDMENTS TO THE RULES

The rules of the Committee may be changed, modified, amended, or suspended at any time, provided, however, that no less than a majority of the entire membership so determine at a regular meeting with due notice, or at a meeting specifically called for that purpose. The rules governing quorums for reporting legislative matters shall govern rules changes, modification, amendments, or suspension.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS RULES OF PROCEDURE

Mr. KENNEDY, Mr. President, pursuant to the requirements of paragraph 2 of Senate rule XXVI, I ask unanimous consent to have printed in the RECORD the rules of the Committee on Health, Education, Labor, and Pensions for the 110th Congress adopted by the committee on January 31, 2007.

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

RULES OF PROCEDURE OF THE SENATE COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS, JANUARY 31, 2007

Rule 1.—Subject to the provisions of rule XXVI, paragraph 5, of the Standing Rules of the Senate, regular meetings of the committee shall be held on the second and fourth Wednesday of each month, at 10:00 a.m., in room SD–430, Dirksen Senate Office Building. The chairman may, upon proper notice, call such additional meetings as he may deem necessary.

Rule 2.—The chairman of the committee or of a subcommittee, or if the chairman is not present, the ranking majority member present, shall preside at all meetings. The chairman may designate the ranking minority member to preside at hearings of the committee or subcommittee.

Rule 3.—Meetings of the committee or a subcommittee, including meetings to conduct hearings, shall be open to the public except as otherwise specifically provided in subsections (b) and (d) of rule 26.5 of the Standing Rules of the Senate.

Rule 4.—(a) Subject to paragraph (b), one-third of the membership of the committee, actually present, shall constitute a quorum for the purpose of transacting business. Any quorum of the committee which is composed of less than a majority of the members of the committee shall include at least one member of the majority and one member of the minority.

(b) A majority of the members of a subcommittee, actually present, shall constitute a quorum for the purpose of transacting business: provided, no measure or matter shall be ordered reported unless such majority shall include at least one member of the minority who is a member of the subcommittee. If, at any subcommittee meeting, a measure or matter cannot be ordered reported because of the absence of such a minority member, the measure or matter shall lay over for a day. If the presence of a member of the minority is not then obtained, a majority of the members of the subcommittee, actually present, may order such measure or matter reported.

(c) No measure or matter shall be ordered reported from the committee or a subcommittee unless a majority of the committee or subcommittee is physically present.

Rule 5.—With the approval of the chairman of the committee or subcommittee, one member thereof may conduct public hearings other than taking sworn testimony.

Rule 6.—Proxy voting shall be allowed on all measures and matters before the committee or a subcommittee if the absent member has been informed of the matter on which he is being recorded and has affirmatively requested that he be so recorded. While proxies may be voted on a motion to report a measure or matter from the committee, such a motion shall also require the concurrence of a majority of the members who are actually present at the time such action is taken.

The committee may poll any matters of committee business as a matter of unanimous consent; provided that every member is polled and every poll consists of the following two questions:

(1) Do you agree or disagree to poll the proposal; and

(2) Do you favor or oppose the proposal.

Rule 7.—There shall be prepared and kept a complete transcript or electronic recording adequate to fully record the proceedings of each committee or subcommittee meeting or conference whether or not such meetings or any part thereof is closed pursuant to the specific provisions of subsections (b) and (d) of rule 26.5 of the Standing Rules of the Senate, unless a majority of said members vote to forgo such a record. Such records shall contain the vote cast by each member of the committee or subcommittee on any question on which a ''yea and nay'' vote is demanded, and shall be available for inspection by any committee member. The clerk of the committee, or the clerk's designee, shall have the responsibility to make appropriate arrangements to implement this rule.

Rule 8.—The committee and each subcommittee shall undertake, consistent with the provisions of rule XXVI, paragraph 4, of the Standing Rules of the Senate, to issue public announcement of any hearing it intends to hold at least one week prior to the commencement of such hearing.

Rule 9.—The committee or a subcommittee shall require all witnesses heard before it to file written statements of their proposed testimony at least 24 hours before a hearing, unless the chairman and the ranking minority member determine that there is good cause for failure to so file, and to limit their oral presentation to brief summaries of their arguments. Testimony may be filed electronically. The presiding officer at any hearing is authorized to limit the time of each witness appearing before the committee or a subcommittee. The committee or a subcommittee shall, as far as practicable, utilize testimony previously taken on bills and measures similar to those before it for consideration.

Rule 10.—Should a subcommittee fail to report back to the full committee on any measure within a reasonable time, the chairman may withdraw the measure from such subcommittee and report that fact to the full committee for further disposition.

Rule 11.—No subcommittee may schedule a meeting or hearing at a time designated for a hearing or meeting of the full committee. No more than one subcommittee executive meeting may be held at the same time.

Rule 12.—It shall be the duty of the chairman in accordance with section 133(c) of the Legislative Reorganization Act of 1946, as amended, to report or cause to be reported to

the Senate, any measure or recommendation approved by the committee and to take or cause to be taken, necessary steps to bring the matter to a vote in the Senate.

Rule 13.—Whenever a meeting of the committee or subcommittee is closed pursuant to the provisions of subsection (b) or (d) of rul 26.5 of the Standing Rules of the Senate, no person other than members of the committee, members of the staff of the committee, and designated assistants to members of the committee shall be permitted to attend such closed session, except by special dispensation of the committee or subcommittee or the chairman thereof.

Rule 14.—The chairman of the committee or a subcommittee shall be empowered to adjourn any meeting of the committee or a subcommittee if a quorum is not present within fifteen minutes of the time schedule for such meeting.

Rule 15.—Whenever a bill or joint resolution repealing or amending any statute or part thereof shall be before the committee or a subcommittee for final consideration, the clerk shall place before each member of the committee or subcommittee a print of the statute or the part or section thereof to be amended or replaced showing by stricken-through type, the part or parts to be omitted and in italics, the matter proposed to be added, if a member makes a timely request for such print.

Rule 16.—An appropriate opportunity shall be given the minority to examine the proposed text of committee reports prior to their filing or publication. In the event there are supplemental, minority, or additional views, an appropriate opportunity shall be given the majority to examine the proposed text prior to filing or publication. Unless the chairman and ranking minority member agree on a shorter period of time, the minority shall have no fewer than three business days to prepare supplemental, minority or additional views for inclusion in a committee report from the time the majority makes the proposed text of the committee report available to the minority.

Rule 17.—(a) The committee, or any subcommittee, may issue subpoenas, or hold hearings to take sworn testimony or hear subpoenaed witnesses, only if such investigative activity has been authorized by majority vote of the committee.

(b) For the purpose of holding a hearing to take sworn testimony or hear subpoenaed witnesses, three members of the committee or subcommittee shall constitute a quorum: provided, with the concurrence of the chairman and ranking minority member of the committee or subcommittee, a single member may hear subpoenaed witnesses or take sworn testimony.

(c) The committee may, by a majority vote, delegate the authority to issue subpoenas to the chairman of the committee or a subcommittee, or to any member designated by such chairman. Prior to the issuance of each subpoena, the ranking minority member of the committee or subcommittee, and any other member so requesting, shall be notified regarding the identity of the person to whom it will be issued and the nature of the information sought and its relationship to the authorized investigative activity, except where the chairman of the committee or subcommittee, in consultation with the ranking minority member, determines that such notice would unduly impede the investigation. All information obtained pursuant to such investigative activity shall be made available as promptly as possible to each member of the committee requesting same, or to any assistant to a member of the committee designated by such member in writing, but the use of any such information is subject to restrictions imposed by the rules of the Senate. Such information, to the extent that it is relevant to the investigation shall, if requested by a member, be summarized in writing as soon as practicable. Upon the request of any member, the chairman of the committee or subcommittee shall call an executive session to discuss such investigative activity or the issuance of any subpoena in connection therewith.

(d) Any witness summoned to testify at a hearing, or any witness giving sworn testimony, may be accompanied by counsel of his own choosing who shall be permitted, while the witness is testifying, to advise him of his legal rights.

(e) No confidential testimony taken or confidential material presented in an executive hearing, or any report of the proceedings of such an executive hearing, shall be made public, either in whole or in part or by way of summary, unless authorized by a majority of the members of the committee or subcommittee.

Rule 18.—Presidential nominees shall submit a statement of their background and financial interests, including the financial interests of their spouse and children living in their household, on a form approved by the committee which shall be sworn to as to its completeness and accuracy. The committee form shall be in two parts—

(I) information relating to employment, education and background of the nominee relating to the position to which the individual is nominated, and which is to be made public; and,

(II) information relating to financial and other background of the nominee, to be made public when the committee determines that such information bears directly on the nominee's qualifications to hold the position to which the individual is nominated.

Information relating to background and financial interests (parts I and II) shall not be required of (a) candidates for appointment and promotion in the Public Health Service Corps; and (b) nominees for less than full-time appointments to councils, commissions or boards when the committee determines that some or all of the information is not relevant to the nature of the position. Information relating to other background and financial interests (part II) shall not be required of any nominee when the committee determines that it is not relevant to the nature of the position.

Committee action on a nomination, including hearings or meetings to consider a motion to recommend confirmation, shall not be initiated until at least five days after the nominee submits the form required by this rule unless the chairman, with the concurrence of the ranking minority member, waives this waiting period.

Rule 19.—Subject to statutory requirements imposed on the committee with respect to procedure, the rules of the committee may be changed, modified, amended or suspended at any time; provided, not less than a majority of the entire membership so determine at a regular meeting with due notice, or at a meeting specifically called for that purpose.

Rule 20.—When the ratio of members on the committee is even, the term ''majority'' as used in the committee's rules and guidelines shall refer to the party of the chairman for purposes of party identification. Numerical requirements for quorums, votes and the like shall be unaffected.

Rule 21.—First degree amendments must be filed with the chairman at least 24 hours before an executive session. The chairman shall promptly distribute all filed amendments to the members of the committee. The chairman may modify the filing requirements to meet special circumstances with the concurrence of the ranking minority member.

Rule 22.—In addition to the foregoing, the proceedings of the committee shall be governed by the Standing Rules of the Senate and the provisions of the Legislative Reorganization Act of 1946, as amended.

[Excerpts from the Standing Rules of the Senate]

RULE XXV

STANDING COMMITTEES

1. The following standing committees shall be appointed at the commencement of each Congress, and shall continue and have the power to act until their successors are appointed, with leave to report by bill or otherwise on matters within their respective jurisdictions:

* * * * *

(m)(1) Committee on Health, Education, Labor, and Pensions, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Measures relating to education, labor, health, and public welfare.
2. Aging.
3. Agricultural colleges.
4. Arts and humanities.
5. Biomedical research and development.
6. Child labor.
7. Convict labor and the entry of goods made by convicts into interstate commerce.
8. Domestic activities of the American National Red Cross.
9. Equal employment opportunity.
10. Gallaudet College, Howard University, and Saint Elizabeths Hospital.
11. Individuals with disabilities.
12. Labor standards and labor statistics.
13. Mediation and arbitration of labor disputes.
14. Occupational safety and health, including the welfare of miners.
15. Private pension plans.
16. Public health.
17. Railway labor and retirement.
18. Regulation of foreign laborers.
19. Student loans.
20. Wages and hours of labor.

(2) Such committee shall also study and review, on a comprehensive basis, matters relating to health, education and training, and public welfare, and report thereon from time to time.

RULE XXVI

COMMITTEE PROCEDURE

1. Each standing committee, including any subcommittee of any such committee, is authorized to hold such hearings, to sit and act at such times and places during the sessions, recesses, and adjourned periods of the Senate, to require by subpoena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, and documents, to take such testimony and to make such expenditures out of the contingent fund of the Senate as may be authorized by resolutions of the Senate. Each such committee may make investigations into any matter within its jurisdiction, may report such hearings as may be had by it, and may employ stenographic assistance at a cost not exceeding the amount prescribed by the Committee on Rules and Administration. The expenses of the committee shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman.

* * * * *

5. (a) Notwithstanding any other provision of the rules, when the Senate is in session, no committee of the Senate or any subcommittee thereof may meet, without special leave, after the conclusion of the first

two hours after the meeting of the Senate commenced and in no case after two o'clock postmeridian unless consent therefor has been obtained from the majority leader and the minority leader (or in the event of the absence of either of such leaders, from his designee). The prohibition contained in the preceding sentence shall not apply to the Committee on Appropriations or the Committee on the Budget. The majority leader or his designee shall announce to the Senate whenever consent has been given under this subparagraph and shall state the time and place of such meeting. The right to make such announcement of consent shall have the same priority as the filing of a cloture motion.

(b) Each meeting of a committee, or any subcommittee thereof, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by a committee or a subcommittee thereof on the same subject for a period of no more than fourteen calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in clauses (1) through (6) would require the meeting to be closed, followed immediately by a record vote in open session by a majority of the members of the committee or subcommittee when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(2) will relate solely to matters of committee staff personnel or internal staff management or procedure;

(3) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy or will represent a clearly unwarranted invasion of the privacy of an individual;

(4) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(5) will disclose information relating to the trade secrets of financial or commercial information pertaining specifically to a given person if—

(A) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(6) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

(c) Whenever any hearing conducted by any such committee or subcommittee is open to the public, that hearing may be broadcast by radio or television, or both, under such rules as the committee or subcommittee may adopt.

(d) Whenever disorder arises during a committee meeting that is open to the public, or any demonstration of approval or disapproval is indulged in by any person in attendance of any such meeting, it shall be the duty of the Chair to enforce order on his own initiative and without any point of order being made by a Senator. When the Chair finds it necessary to maintain order, he shall have the power to clear the room, and the committee may act in closed session for so long as there is doubt of the assurance of order.

(e) Each committee shall prepare and keep a complete transcript or electronic recording adequate to fully record the proceeding of each meeting or conference whether or not such meeting or any part thereof is closed under this paragraph, unless a majority of its members vote to forgo such a record.

* * * * *

GUIDELINES OF THE SENATE COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS WITH RESPECT TO HEARINGS, MARKUP SESSIONS, AND RELATED MATTERS

HEARINGS

Section 133A(*a*) of the Legislative Reorganization Act requires each committee of the Senate to publicly announce the date, place, and subject matter of any hearing at least one week prior to the commencement of such hearing.

The spirit of this requirement is to assure adequate notice to the public and other Members of the Senate as to the time and subject matter of proposed hearings. In the spirit of section 133A*(a)* and in order to assure that members of the committee are themselves fully informed and involved in the development of hearings:

1. Public notice of the date, place, and subject matter of each committee or subcommittee hearing should be inserted in the Congressional Record seven days prior to the commencement of such hearing.

2. At least seven days prior to public notice of each committee or subcommittee hearing, the majority should provide notice to the minority of the time, place and specific subject matter of such hearing.

3. At least three days prior to the date of such hearing, the committee or subcommittee should provide to each member a list of witnesses who have been or are proposed to be invited to appear.

4. The committee and its subcommittee should, to the maximum feasible extent, enforce the provisions of rule 9 of the committee rules as it relates to the submission of written statements of witnesses twenty-four hours in advance of a hearing. Witnesses will be urged to submit testimony even earlier whenever possible. When statements are received in advance of a hearing, the committee or subcommittee (as appropriate) should distribute copies of such statements to each of its members. Witness testimony may be submitted and distributed electronically.

EXECUTIVE SESSIONS FOR THE PURPOSE OF MARKING UP BILLS

In order to expedite the process of marking up bills and to assist each member of the committee so that there may be full and fair consideration of each bill which the committee or a subcommittee is marking up the following procedures should be followed:

1. Seven days prior to the proposed data for an executive session for the purpose of marking up bills the committee or subcommittee (as appropriate) should provide written notice to each of its members as to the time, place, and specific subject matter of such session, including an agenda listing each bill or other matters to be considered and including:

(a) a copy of each bill, joint resolution, or other legislative matter (or committee print thereof) to be considered at such executive session; and

(b) a copy of a summary of the provisions of each bill, joint resolution, or other legislative matter to be considered at such executive session including, whenever possible, an explanation of changes to existing law proposed to be made.

2. Insofar as practical, prior to the scheduled date for an executive session for the purpose of marking up bills, the committee or a subcommittee (as appropriate) should provide each member with a copy of the printed record or a summary of any hearings conducted by the committee or a subcommittee with respect to each bill, joint resolution, or other legislative matter to be considered at such executive session.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS RULES OF PROCEDURES

Mrs. BOXER. Mr. President, I ask unanimous consent to have printed in the RECORD the Rules of the Committee on Environment and Public Works.

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

RULES OF THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS, JANUARY 17, 2007

Jurisdiction

Rule XXV, Standing Rules of the Senate

1. The following standing committees shall be appointed at the commencement of each Congress, and shall continue and have the power to act until their successors are appointed, with leave to report by bill or otherwise on matters within their respective jurisdictions:

* * * * *

(h)(1) Committee on Environment and Public Works, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Air pollution.
2. Construction and maintenance of highways.
3. Environmental aspects of Outer Continental Shelf lands.
4. Environmental effects of toxic substances, other than pesticides.
5. Environmental policy.
6. Environmental research and development.
7. Fisheries and wildlife.
8. Flood control and improvements of rivers and harbors, including environmental aspects of deepwater ports.
9. Noise pollution.
10. Nonmilitary environmental regulation and control of nuclear energy.
11. Ocean dumping.
12. Public buildings and improved grounds of the United States generally, including Federal buildings in the District of Columbia.
13. Public works, bridges, and dams.
14. Regional economic development.
15. Solid waste disposal and recycling.
16. Water pollution.
17. Water resources.

(2) Such committee shall also study and review, on a comprehensive basis, matters relating to environmental protection and resource utilization and conservation, and report thereon from time to time.

RULES OF PROCEDURE

RULE 1. COMMITTEE MEETINGS IN GENERAL

(a) REGULAR MEETING DAYS: For purposes of complying with paragraph 3 of Senate Rule XXVI, the regular meeting day of the committee is the first and third Thursday of each month at 10:00 a.m. If there is no business before the committee, the regular meeting shall be omitted.

(b) ADDITIONAL MEETINGS: The chair may call additional meetings, after consulting with the ranking minority member. Subcommittee chairs may call meetings, with

the concurrence of the chair, after consulting with the ranking minority members of the subcommittee and the committee.

(c) PRESIDING OFFICER:

(1) The chair shall preside at all meetings of the committee. If the chair is not present, the ranking majority member shall preside.

(2) Subcommittee chairs shall preside at all meetings of their subcommittees. If the subcommittee chair is not present, the ranking majority member of the subcommittee shall preside.

(3) Notwithstanding the rule prescribed by paragraphs (1) and (2), any member of the committee may preside at a hearing.

(d) OPEN MEETINGS: Meetings of the committee and subcommittees, including hearings and business meetings, are open to the public. A portion of a meeting may be closed to the public if the committee determines by roll call vote of a majority of the members present that the matters to be discussed or the testimony to be taken—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(2) relate solely to matters of committee staff personnel or internal staff management or procedure; or

(3) constitute any other grounds for closure under paragraph 5(b) of Senate Rule XXVI.

(e) BROADCASTING:

(1) Public meetings of the committee or a subcommittee may be televised, broadcast, or recorded by a member of the Senate press gallery or an employee of the Senate.

(2) Any member of the Senate Press Gallery or employee of the Senate wishing to televise, broadcast, or record a committee meeting must notify the staff director or the staff director's designee by 5:00 p.m. the day before the meeting.

(3) During public meetings, any person using a camera, microphone, or other electronic equipment may not position or use the equipment in a way that interferes with the seating, vision, or hearing of committee members or staff on the dais, or with the orderly process of the meeting.

RULE 2. QUORUMS

(a) BUSINESS MEETINGS: At committee business meetings, and for the purpose of approving the issuance of a subpoena or approving a committee resolution, six members, at least two of whom are members of the minority party, constitute a quorum, except as provided in subsection (d).

(b) SUBCOMMITTEE MEETINGS: At subcommittee business meetings, a majority of the subcommittee members, at least one of whom is a member of the minority party, constitutes a quorum for conducting business.

(c) CONTINUING QUORUM: Once a quorum as prescribed in subsections (a) and (b) has been established, the committee or subcommittee may continue to conduct business.

(d) REPORTING: No measure or matter may be reported to the Senate by the committee unless a majority of committee members cast votes in person.

(e) HEARINGS: One member constitutes a quorum for conducting a hearing.

RULE 3. HEARINGS

(a) ANNOUNCEMENTS: Before the committee or a subcommittee holds a hearing, the chair of the committee or subcommittee shall make a public announcement and provide notice to members of the date, place, time, and subject matter of the hearing. The announcement and notice shall be issued at least one week in advance of the hearing, unless the chair of the committee or subcommittee, with the concurrence of the ranking minority member of the committee or subcommittee, determines that there is good cause to provide a shorter period, in which event the announcement and notice shall be issued at least twenty-four hours in advance of the hearing.

(b) STATEMENTS OF WITNESSES:

(1) A witness who is scheduled to testify at a hearing of the committee or a subcommittee shall file 100 copies of the written testimony at least 48 hours before the hearing. If a witness fails to comply with this requirement, the presiding officer may preclude the witness' testimony. This rule may be waived for field hearings, except for witnesses from the Federal Government.

(2) Any witness planning to use at a hearing any exhibit such as a chart, graph, diagram, photo, map, slide, or model must submit one identical copy of the exhibit (or representation of the exhibit in the case of a model) and 100 copies reduced to letter or legal paper size at least 48 hours before the hearing. Any exhibit described above that is not provided to the committee at least 48 hours prior to the hearing cannot be used for purpose of presenting testimony to the committee and will not be included in the hearing record.

(3) The presiding officer at a hearing may have a witness confine the oral presentation to a summary of the written testimony.

(4) Notwithstanding a request that a document be embargoed, any document that is to be discussed at a hearing, including, but not limited to, those produced by the General Accounting Office, Congressional Budget Office, Congressional Research Service, a Federal agency, an Inspector General, or a nongovernmental entity, shall be provided to all members of the committee at least 72 hours before the hearing.

RULE 4. BUSINESS MEETINGS: NOTICE AND FILING REQUIREMENTS

(a) NOTICE: The chair of the committee or the subcommittee shall provide notice, the agenda of business to be discussed, and the text of agenda items to members of the committee or subcommittee at least 72 hours before a business meeting. If the 72 hours falls over a weekend, all materials will be provided by close of business on Friday.

(b) AMENDMENTS: First-degree amendments must be filed with the chair of the committee or the subcommittee at least 24 hours before a business meeting. After the filing deadline, the chair shall promptly distribute all filed amendments to the members of the committee or subcommittee.

(c) MODIFICATIONS: The chair of the committee or the subcommittee may modify the notice and filing requirements to meet special circumstances, with the concurrence of the ranking member of the committee or subcommittee.

RULE 5. BUSINESS MEETINGS: VOTING

(a) PROXY VOTING:

(1) Proxy voting is allowed on all measures, amendments, resolutions, or other matters before the committee or a subcommittee.

(2) A member who is unable to attend a business meeting may submit a proxy vote on any matter, in writing, orally, or through personal instructions.

(3) A proxy given in writing is valid until revoked. A proxy given orally or by personal instructions is valid only on the day given.

(b) SUBSEQUENT VOTING: Members who were not present at a business meeting and were unable to cast their votes by proxy may record their votes later, so long as they do so that same business day and their vote does not change the outcome.

(c) PUBLIC ANNOUNCEMENT:

(1) Whenever the committee conducts a rollcall vote, the chair shall announce the results of the vote, including a tabulation of the votes cast in favor and the votes cast against the proposition by each member of the committee.

(2) Whenever the committee reports any measure or matter by rollcall vote, the report shall include a tabulation of the votes cast in favor of and the votes cast in opposition to the measure or matter by each member of the committee.

RULE 6. SUBCOMMITTEES

(a) REGULARLY ESTABLISHED SUBCOMMITTEES: The committee has six subcommittees: Public Sector Solutions to Global Warming, Oversight, and Children's Health Protection; Transportation and Infrastructure; Private Sector and Consumer Solutions to Global Warming and Wildlife Protection; Clean Air and Nuclear Safety; Superfund and Environmental Health; and Transportation Safety, Infrastructure Security, and Water Quality.

(b) MEMBERSHIP: The committee chair, after consulting with the ranking minority member, shall select members of the subcommittees.

RULE 7. STATUTORY RESPONSIBILITIES AND OTHER MATTERS

(a) ENVIRONMENTAL IMPACT STATEMENTS: No project or legislation proposed by any executive branch agency may be approved or otherwise acted upon unless the committee has received a final environmental impact statement relative to it, in accordance with section 102(2)(C) of the National Environmental Policy Act, and the written comments of the Administrator of the Environmental Protection Agency, in accordance with section 309 of the Clean Air Act. This rule is not intended to broaden, narrow, or otherwise modify the class of projects or legislative proposals for which environmental impact statements are required under section 102(2)(C).

(b) PROJECT APPROVALS:

(1) Whenever the committee authorizes a project under Public Law 89–298, the Rivers and Harbors Act of 1965; Public Law 83–566, the Watershed Protection and Flood Prevention Act; or Public Law 86–249, the Public Buildings Act of 1959, as amended; the chairman shall submit for printing in the Congressional Record, and the committee shall publish periodically as a committee print, a report that describes the project and the reasons for its approval, together with any dissenting or individual views.

(2) Proponents of a committee resolution shall submit appropriate evidence in favor of the resolution.

(c) BUILDING PROSPECTUSES:

(1) When the General Services Administration submits a prospectus, pursuant to section 7(a) of the Public Buildings Act of 1959, as amended, for construction (including construction of buildings for lease by the government), alteration and repair, or acquisition, the committee shall act with respect to the prospectus during the same session in which the prospectus is submitted.

A prospectus rejected by majority vote of the committee or not reported to the Senate during the session in which it was submitted shall be returned to the General Services Administration and must then be resubmitted in order to be considered by the committee during the next session of the Congress.

(2) A report of a building project survey submitted by the General Services Administration to the committee under section 11(b) of the Public Buildings Act of 1959, as amended, may not be considered by the committee as being a prospectus subject to approval by committee resolution in accordance with section 7(a) of that Act. A project described in the report may be considered for committee action only if it is submitted as a prospectus in accordance with section 7(a) and is subject to the provisions of paragraph (1) of this rule.

(d) NAMING PUBLIC FACILITIES: The committee may not name a building, structure or facility for any living person, except former Presidents or former Vice Presidents of the United States, former Members of Congress over 70 years of age, former Justices of the United States Supreme Court over 70 years of age, or Federal judges who are fully retired and over 75 years of age or have taken senior status and are over 75 years of age.

RULE 8. AMENDING THE RULES

The rules may be added to, modified, amended, or suspended by vote of a majority of committee members at a business meeting if a quorum is present.

COMMITTEE OF THE BUDGET RULES OF PROCEDURES

Mr. CONRAD. Mr. President, I ask unanimous consent to have printed in the RECORD the Rules of the Committee on the Budget.

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

RULES OF THE COMMITTEE ON THE BUDGET, ONE-HUNDRED-TENTH CONGRESS

I. MEETINGS

(1) The committee shall hold its regular meeting on the first Thursday of each month. Additional meetings may be called by the chair as the chair deems necessary to expedite committee business.

(2) Each meeting of the committee, including meetings to conduct hearings, shall be open to the public, except that a portion or portions of any such meeting may be closed to the public if the committee determines by record vote in open session of a majority of the members of the committee present that the matters to be discussed or the testimony to be taken at such portion or portions—

(a) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(b) will relate solely to matters of the committee staff personnel or internal staff management or procedure;

(c) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(d) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement; or

(e) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

(i) an act of Congress requires the information to be kept confidential by Government officers and employees; or

(ii) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person.

(f) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

(3) Notice of, and the agenda for, any business meeting or markup shall be provided to each member and made available to the public at least 48 hours prior to such meeting or markup.

II. QUORUMS AND VOTING

(1) Except as provided in paragraphs (2) and (3) of this section, a quorum for the transaction of committee business shall consist of not less than one-third of the membership of the entire committee: Provided, that proxies shall not be counted in making a quorum.

(2) A majority of the committee shall constitute a quorum for reporting budget resolutions, legislative measures or recommendations: Provided, that proxies shall not be counted in making a quorum.

(3) For the purpose of taking sworn or unsworn testimony, a quorum of the committee shall consist of one Senator.

(4)(a) The committee may poll—

(i) internal committee matters including those concerning the committee's staff, records, and budget;

(ii) steps in an investigation, including issuance of subpoenas, applications for immunity orders, and requests for documents from agencies; and

(iii) other committee business that the committee has designated for polling at a meeting, except that the committee may not vote by poll on reporting to the Senate any measure, matter, or recommendation, and may not vote by poll on closing a meeting or hearing to the public.

(b) To conduct a poll, the chair shall circulate polling sheets to each member specifying the matter being polled and the time limit for completion of the poll. If any member requests, the matter shall be held for a meeting rather than being polled. The chief clerk shall keep a record of polls; if the committee determines by record vote in open session of a majority of the members of the committee present that the polled matter is one of those enumerated in rule I(2)(a)–(e), then the record of the poll shall be confidential. Any member may move at the committee meeting following a poll for a vote on the polled decision.

III. PROXIES

When a record vote is taken in the committee on any bill, resolution, amendment, or any other question, a quorum being present, a member who is unable to attend the meeting may vote by proxy if the absent member has been informed of the matter on which the vote is being recorded and has affirmatively requested to be so recorded; except that no member may vote by proxy during the deliberations on Budget Resolutions.

IV. HEARINGS AND HEARING PROCEDURES

(1) The committee shall make public announcement of the date, place, time, and subject matter of any hearing to be conducted on any measure or matter at least 1 week in advance of such hearing, unless the chair and ranking member determine that there is good cause to begin such hearing at an earlier date.

(2) In the event that the membership of the Senate is equally divided between the two parties, the ranking member is authorized to call witnesses to testify at any hearing in an amount equal to the number called by the chair. The previous sentence shall not apply in the case of a hearing at which the committee intends to call an official of the Federal government as the sole witness.

(3) A witness appearing before the committee shall file a written statement of proposed testimony at least 1 day prior to appearance, unless the requirement is waived by the chair and the ranking member, following their determination that there is good cause for the failure of compliance.

V. COMMITTEE REPORTS

(1) When the committee has ordered a measure or recommendation reported, following final action, the report thereon shall be filed in the Senate at the earliest practicable time.

(2) A member of the committee, who gives notice of an intention to file supplemental, minority, or additional views at the time of final committee approval of a measure or matter, shall be entitled to not less than 3 calendar days in which to file such views, in writing, with the chief clerk of the committee. Such views shall then be included in the committee report and printed in the same volume, as a part thereof, and their inclusions shall be noted on the cover of the report. In the absence of timely notice, the committee report may be filed and printed immediately without such views.

VI. USE OF DISPLAY MATERIALS IN COMMITTEE

Graphic displays used during any meetings or hearings of the committee are limited to the following:

Charts, photographs, or renderings:

Size: no larger than 36 inches by 48 inches.

Where: on an easel stand next to the member's seat or at the rear of the committee room.

When: only at the time the member is speaking.

Number: no more than two may be displayed at a time.

VII. CONFIRMATION STANDARDS AND PROCEDURES

(1) Standards. In considering a nomination, the committee shall inquire into the nominee's experience, qualifications, suitability, and integrity to serve in the position to which he or she has been nominated. The committee shall recommend confirmation if it finds that the nominee has the necessary integrity and is affirmatively qualified by reason of training, education, or experience to carry out the functions of the office to which he or she was nominated.

(2) Information Concerning the Nominee. Each nominee shall submit the following information to the committee:

(a) A detailed biographical resume which contains information concerning education, employment, and background which generally relates to the position to which the individual is nominated, and which is to be made public;

(b) Information concerning financial and other background of the nominee which is to be made public; provided, that financial information that does not relate to the nominee's qualifications to hold the position to which the individual is nominated, tax returns or reports prepared by federal agencies that may be submitted by the nominee shall, after review by the chair, ranking member, or any other member of the committee upon request, be maintained in a manner to ensure confidentiality; and,

(c) Copies of other relevant documents and responses to questions as the committee may so request, such as responses to questions concerning the policies and programs the nominee intends to pursue upon taking office.

(3) Report on the Nominee. After a review of all information pertinent to the nomination, a confidential report on the nominee may be prepared by the committee staff for the chair, the ranking member and, upon request, for any other member of the committee. The report shall summarize the steps taken and the results of the committee inquiry, including any unresolved matters that have been raised during the course of the inquiry.

(4) Hearings. The committee shall conduct a hearing during which the nominee shall be called to testify under oath on all matters relating to his or her suitability for office, including the policies and programs which he or she would pursue while in that position. No hearing or meeting to consider the confirmation shall be held until at least 72 hours after the following events have occurred: the

nominee has responded to the requirements set forth in subsection (2), and, if a report described in subsection (3) has been prepared, it has been presented to the chairman and ranking member, and is available to other members of the committee, upon request.

RETIREMENT OF TERESA POOLE

Mr. BOND. Mr. President it is both with deep gratitude and regret that I announce the retirement of my Academies Coordinator, Teresa Poole, from the public sector.

Teresa Poole, a distinguished U.S. Senate staffer, is set to retire from the political arena on January 31, 2007. This year has been a milestone, marking her thirtieth year of hard work and dedication to the Federal Government, the citizens of southwest Missouri, and most importantly the U.S. Senate offices of Danforth, Ashcroft, and BOND. We have come together to honor and congratulate Teresa on her devotion, team spirit, and the proficient skills she has provided the Springfield office over the past 30 years. Teresa is to be envied and admired by all in government for her service to the public, which she has done with a helpful heart.

In January 1977, Teresa Poole was member of the first U.S. Senate constituent service office in southwest Missouri for Senator Danforth. Little would Teresa know this would begin a remarkable 30-year trek with the U.S. Senate. With her incredible knowledge of the inner workings of government and her history with the U.S. Senate, Teresa has been a great source of information. She took pride in being able to guide effectively constituents, organizations, and coworkers through the complex infrastructure of government.

Among the numerous achievements that Teresa has attained over the years, her most remarkable was her enthusiastic commitment to the Military Academies. She has worked tirelessly to help students from across Missouri to achieve their dreams of becoming officers in the U.S. military by guiding them through the process required to gain a congressional nomination. Teresa has sifted through thousands of letters, applications, and grades, and made endless calls to hopeful applicants. All of this would be finally completed in December, only to start over the next year with new names, faces, and challenges.

Teresa Poole has shown unwavering loyalty and dedication to her job over the past 30 years. From the day to day routine of compiling local clips to answering the phone, Teresa has approached every task with hard work and a positive attitude. She has delighted everyone she meets with her love of antiques and finding good deals at various auctions and sales, her love of travel with her mother and daughter, her passion for her family and heritage, and her impeccable spirit. We commend her for a stunning and distinguished career with the U.S. Senate and wish Teresa the best in all her future endeavors.

Teresa, we have been honored to work with you for so many years. We will miss you and we wish you and your family the very best.

ADDITIONAL STATEMENTS

TRIBUTE TO GARRETT WALTON

• Mr. MARTINEZ. Mr. President, today I wish to discuss the power of volunteerism and how one person can—in the truest sense—make a lasting difference in the world.

The volunteer spirit helps to keep society civil; volunteers give of themselves in a selfless manner. That spirit is exemplified by the acts of one of my own constituents, Mr. Garrett Walton.

Garrett Walton and volunteerism seem to be synonymous with one another.

When Hurricane Ivan ravaged northwest Florida in September of 2004, Walton, a former attorney-turned-developer put his career on hold, and took on a full-time volunteer role to help an entire region of our State recover.

While the eye of the storm came ashore at Gulf Shores, AL, its most severe winds hit the Florida counties of Santa Rosa and Escambia. Those most damaging of winds, exceeding 140 miles per hour, were a part of a colossal hurricane that triggered more than 100 tornadoes, and also brought a 13-foot storm surge.

Roughly 75,000 homes were damaged; 50,000 people were displaced; and of all of the damaged homes, 37,000 of them belonged to families whose household incomes totaled less than $30,000 a year.

Garrett helped to lead a group of civic-minded citizens that met in each others' homes to discuss how they could rebuild the community.

What grew out of that was a volunteer organization known as REBUILD Northwest Florida. It was a grassroots effort that grew into something extraordinary. More than 4,000 volunteers have contributed close to a quarter of a million hours of volunteer service. Garrett has himself contributed close to 5,000 hours of service.

As of the first week of this year, REBUILD had completed more than 1,350 projects. And as recently as this month, January of 2007, Mr. Walton has continued his relentless quest to rebuild communities in northwest Florida.

With the help of a few other volunteers, including Carolyn Appleyard, Miles Anderson, and Mark Ramos, this small contingent has taken it upon themselves to help many of their fellow Floridians pick up their lives after this awful natural disaster. Ivan caused widespread devastation; and as one of Florida's most deadly and costly storms, we knew the recovery effort would be long and arduous. I commend Garrett Walton for rising to the challenge.

He put others ahead of himself—and not just for a day, a week, or a month, but for several years now. Thank you, Garrett, for your dedication to the people of Florida. You are an exemplar of the volunteer spirit, and make us all very proud to be called Floridians.•

TRIBUTE TO DAVIS MORIUCHI

• Mrs. MURRAY. Mr. President, today I wish share with the Senate a tribute to Mr. Davis Moriuchi, a leader in the Pacific Northwest who is retiring after 30 years of service with the Army Corps of Engineers. During his tenure with the Corps, Davis has left an indelible mark on the environment, economy, and people of Washington State. His expertise and dedication will be sorely missed.

My work with Davis over the years has served as a reminder of the difference dedicated individuals make in large and complex organizations like the Corps of Engineers. As we all know, the Corps tackles huge projects that have a widespread impact on our Nation. Davis's work has reaffirmed for me the importance of committed individuals on the success of those projects. Our State has been lucky to have been able to rely on his personal touch and expertise for so many years.

In Davis, my staff and I have also found an invaluable resource whose devotion to the region is as great as ours. Time and again, Davis has taken the time to explain even the most detailed aspects of Corps initiatives. His patience, clarity, and honesty have allowed me to be a stronger advocate for programs that will have long-term consequences for the Pacific Northwest.

While the extent of Davis's impact cannot be measured by projects alone, I would be remiss if I did not mention a few of the projects that he has taken on. We in Washington State will particularly miss Davis's leadership on water resource projects. From the new Navigation Lock at the Bonneville Dam to the ongoing Columbia River Channel Improvement Project, Davis's work on the health of our State's critical waterways will have lasting effects.

Davis has also championed interim repairs of the Columbia River jetties. It was a very exciting day last August, when Colonel O'Donavon, Davis, a host of other stakeholders and I stood at the mouth of the Columbia River and saw interim jetty repairs. Davis was instrumental in making that day possible.

Davis is ending his career as the deputy district commander for project management and the chief of Planning, Programs and Project Management Division for the U.S Army Corps of Engineers, Portland District. It is a title that, while long in syllables, does not begin to grasp at the immensity of his service. But then again, Davis has never worked for titles or credit. His main concern has always been that the work of the Corps is well-executed and timely.

Davis's devotion to the region will be truly missed. I would like to wish him

the best of luck in an enjoyable retirement and thank him for his distinguished service.●

RETIREMENT OF JOE ALSTON

● Mr. McCAIN. Mr. President, today I wish to honor the service of the Grand Canyon National Park Superintendent, Joe Alston, who is retiring this week. Joe is a man of considerable integrity, ability, and achievement, and his presence at the Grand Canyon will be deeply missed.

After 31 dedicated years, Joe Alston is retiring from the National Park Service. He has spent the last 6 years serving as the superintendent of the Grand Canyon National Park, the crown jewel of Arizona and one of the Nation's oldest and most heavily visited National Parks. Joe has held a wide variety of positions in the Park Service beginning with his first job as a seasonal firefighter on the North Rim of the Grand Canyon. In the years that followed, Joe worked as a concessions specialist at Yellowstone National Park and later became the chief of the Concessions Management Division in the Alaska Regional Office. More recently, Joe Alston was the assistant superintendent of Yellowstone National Park and eventually served as superintendent at several major National Park units such as the Glacier Bay National Park and Preserve, the Curecanti National Recreation Area, the Glen Canyon National Recreation Area, and the Rainbow Bridge National Monument.

We are very fortunate to have benefited from the passion and expertise that Superintendent Alston brought to the Grand Canyon. Joe was challenged with many complex issues and longstanding conflicts ranging from park transportation to aircraft overflights, yet he has managed them all with foresight, thoughtfulness, and resolve. Under Joe's leadership, the Park Service saw the completion of the Colorado River Management Plan, which protects park resources by implementing a new river permitting system that balances competing commercial and recreational interests. Despite its highly contentious nature, it was Superintendent Alston's desire to hear and understand the views of river runners and other constituents by affording the public every opportunity to provide input during the CRMP planning process. Few superintendents in National Park Service history have undertaken such an open nationwide approach that concluded with such remarkable success.

The Grand Canyon has received many honors during Superintendent Alston's tenure. In 2004, Grand Canyon National Park was recognized for a number of environmental accomplishments by EPA Administrator Mike Leavitt, including having the first EPA certified Leadership in Energy and Environmental Design ''green building'' owned and operated in a National Park. Joe was the driving force behind the implementation of new training programs that led to the reduction of visitor and employee injuries which earned the Park the Regional Director's Safety Excellence Award and the Director's Safety Excellence Award for Public Safety Achievement in 2005. Among the many accolades Joe has received over the years, perhaps the most noteworthy came in 2005 when Secretary Gale Norton awarded him the Meritorious Service Award, the second highest honorary recognition granted to Interior Department employees.

Joe Alston's ties to the Grand Canyon extend beyond his outstanding professional career. Indeed, the Grand Canyon also happens to be where he met his wife, Judy, who is a teacher with the Grand Canyon Public Schools System. Joe is regarded by those living in northern Arizona as an individual deeply connected to the community. Just last month, he accepted the Community Person of the Year award from the Grand Canyon Rotary Club for ushering in a new era of partnership between the communities of Tusayan, AZ, and Grand Canyon National Park.

My son and I had the distinct pleasure of hiking the Grand Canyon rim to rim last year with the accompaniment of Joe Alston. I can think of few others alive today who are as knowledgeable and devoted to the history and culture of the Grand Canyon than Superintendent Alston. I wish Joe the very best in his future goals and ambitions.●

SAINT PHOTIOS NATIONAL SHRINE

● Mr. MARTINEZ. Mr. President, today I honor the 25th anniversary of the Saint Photios National Shrine, the only Greek Orthodox National Shrine in the country, located in Saint Augustine, FL.

As early as 1768 and under the leadership of Dr. Andrew Turnbull, Greek immigrants traveled to America to seek a better life in Florida. Many of these early Greek Americans migrated to Saint Augustine, where, over time, a strong Greek community has formed. Greek immigrants found refuge there as many gathered for solace, fellowship, and worship at the historic Averos House built in 1749 on Saint George Street. The Averos House was purchased by the Greek Orthodox Archdiocese in 1965, and in 1982, was opened as a National Greek Orthodox Shrine named after Saint Photios the Great, Patriarch of Constantinople.

The Saint Photios Greek Orthodox National Shrine gives honor to the memory of the first colony of Greeks in the Americas and the succeeding generations of Greek immigrants; it now serves as a connection and pilgrimage point for Greek Americans and the Greek Orthodox Church in America. It also serves to preserve, enhance, and promote the ethnic and cultural traditions of Greek heritage and the teachings of the Greek Orthodox Church in America.

The Shrine continues to be faithful in maintaining and perpetuating the Greek Orthodox faith and Hellenic Heritage through its programs and activities to all who pass through its historic doors.

Mr. President, February 4, 2007, will mark the 25th anniversary of the Saint Photios Greek Orthodox National Shrine, and I ask my colleagues to join me in honoring the purposeful commitment and achievements of this religious and historical institution.●

HONORING HANLEY DENNING

● Ms. SNOWE. Mr. President, today I mourn the loss of Hanley Denning, a truly remarkable native of Maine who in word and deed represented the very best of our State and Nation.

Hanley was the visionary founder and executive director of Safe Passage, a Central American-based nonprofit agency which provides children who live in the Guatemala City garbage dump opportunity and hope through myriad forms, including education, nutrition, and health care. Hanley founded Safe Passage in 1999 after having seen children existing amid the squalor and destitution of refuse and trash. But where many would have seen a dead-end marked by desolation, Hanley saw a need which soon after evolved into a calling that required conscience and action. She imagined a pathway out—and possessed the will, determination, and resolve to forge a plan to begin making that route a reality. Hanley took a dilapidated church near the waste dump and developed a drop-in center where children could receive food and a safe haven.

Hanley found that access to education of any kind was not a possibility for children who couldn't begin to afford the enrollment fees, school supplies, and books required by the Guatemalan public schools—not to mention requisite school uniforms and shoes. But thanks to Safe Passage, children have been able to attend a local public school for at least a half-day term. And that experience is complemented by the additional educational reinforcement, care, and supervision received at the center. Whether it is homework, hands-on learning activities, nutrition, medical attention, or a range of other programs, these at-risk youth are recipients of the care they deserve. Today, remarkably, Safe Passage serves as many as 600 children ages 2 to 19 years old.

Irish playwright George Bernard Shaw once famously wrote that ''You see things; and you say, 'Why?' But I dream things that never were; and I say, 'Why not?' '' When Hanley saw despair, poverty, and indescribable hopelessness, she must have at first said, ''Why?'' But she responded to an unforgivable, intolerable situation—not with indifference, resignation, or anger—but by saying, ''Why not?'' Why not carve out a way forward for these children that leads from an abject condition to

one where the objective is a better way of life.

Hanley's response to the deplorable situation she found at the Guatemalan dump is emblematic of her overall approach to so much of her life—one filled with a selfless care for others and a willful devotion to being an agent of good will and positive change. Although she hadn't created Safe Passage until 1999, Hanley had been offering a kind of safe passage for so many during years prior to her arrival in Guatemala. Along with earning a master's degree along the way, Hanley was also working at a mental health center, assisting children affected by AIDS, and teaching in a Head Start program.

With this shining example of service, it is little wonder Bowdoin College, her alma mater, recognized Hanley's extraordinary contributions by honoring her with its 2002 Common Good Award. What was so exceptional about Hanley was her longstanding dedication and unfailing determination to address and improve the human condition. She truly exemplified words spoken in 1902 by Joseph McKeen, first president of Bowdoin:

> . . . institutions are founded and endowed for the common good and not for the private advantage of those who resort to them for education. It is not that they may be able to pass through life in an easy and reputable manner, but that their mental powers may be cultivated and improved for the benefit of society.

Hanley's greatest legacy and enduring cause will be memorialized in her name and with her spirit—in a thriving center given to helping those who truly cannot help themselves; a center where, according to a Portland Press Herald account, just last year six Safe Passage students were selected to enroll in Guatemala City's foremost private high schools, where the annual budget has grown from funds in the hundreds to $1.6 million and an employee base of 100, and where more than 500 people from Greater Portland are counted among an emerging force for good of Safe Passage volunteers.

Our thoughts and prayers go out to Hanley's parents, Michael and Marina Denning, and her three brothers, Jordan, Seth, and Lucas.

Thank you, Mr. President, for affording me the opportunity to speak about this truly exceptional Mainer and American whose memory will be a lasting inspiration to us all.●

MESSAGES FROM THE HOUSE

At 11:52 a.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. 49. An act to designate the facility of the United States Postal Service located at 1300 North Frontage Road West in Vail, Colorado, as the ''Gerald R. Ford, Jr. Post Office Building''.

H.R. 335. An act to designate the facility of the United States Postal Service located at 152 North 5th Street in Laramie, Wyoming, as the ''Gale W. McGee Post Office''.

H.R. 521. An act to designate the facility of the United States Postal Service located at 2633 11th Street in Rock Island, Illinois, as the ''Lane Evans 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. 20. Concurrent resolution calling on the Government of the United Kingdom to immediately establish a full, independent, and public judicial inquiry into the murder of Northern Ireland defense attorney Patrick Finucane, as recommended by Judge Peter Cory as part of the Weston Park Agreement, in order to move forward on the Northern Ireland peace process.

The message further announced that pursuant to 22 U.S.C. 1928a, and the order of the House of January 4, 2007, the Speaker appoints the following Members of the House of Representatives to the United States Group of the NATO Parliamentary Assembly, in addition to Mr. TANNER of Tennessee, Chairman, appointed on January 11, 2007: Mrs. TAUSCHER of California, Vice Chairman, Mr. ROSS of Arkansas, Mr. CHANDLER of Kentucky, Mr. LARSON of Connecticut, Mr. MEEK of Florida, Mr. SCOTT of Georgia and Ms. BEAN of Illinois.

The message also announced that pursuant to 22 U.S.C. 1928a, clause 10 of rule I, and the order of the House of January 4, 2007, the Speaker appoints the following Members of the House of Representatives to the United States Group of the NATO Parliamentary Assembly: Mr. GILLMOR of Ohio, Mr. REGULA of Ohio, Mr. BOOZMAN of Arkansas, and Mr. SHIMKUS of Illinois.

At 4:01 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 joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 20. A resolution making further continuing appropriations for the fiscal year 2007, and for other purposes.

At 4:31 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 5. Concurrent resolution expressing support for the designation and goals of ''Hire a Veteran Week'' and encouraging the President to issue a proclamation supporting those goals.

H. Con. Res. 34. Concurrent resolution honoring the life of Perry Lavon Julian, a pioneer in the field of organic chemistry research and development and the first and only African American chemist to be inducted into the National Academy of Sciences.

The message further announced that pursuant to section 161(a) of the Trade Act of 1974 (19 U.S.C. 2211), and the order of the House of January 4, 2007, the Speaker appoints the following Members of the House of Representatives as Congressional Advisers on Trade Policy and Negotiations: Mr. RANGEL of New York, Mr. LEVIN of Michigan, Mr. TANNER of Tennessee, Mr. MCCRERY of Louisiana, and Mr. HERGER of California.

The message also announced that pursuant to section 8002 of the Internal Revenue Code of 1986, the Committee on Ways and Means appoints the following Members to serve on the Joint Committee on Taxation: Mr. RANGEL of New York, Mr. STARK of California, Mr. LEVIN of Michigan, Mr. MCCRERY of Louisiana: and Mr. HERGER of California.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 49. An act to designate the facility of the United States Postal Service located at 1300 North Frontage Road West in Vail, Colorado, as the ''Gerald R. Ford, Jr. Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

H.R. 335. An act to designate the facility of the United States Postal Service located at 152 North 5th Street in Laramie, Wyoming, as the ''Gale W. McGee Post Office''; to the Committee on Homeland Security and Governmental Affairs.

H.R. 521. An act to designate the facility of the United States Postal Service located at 2633 11th Street in Rock Island, Illinois, as the ''Lane Evans Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 470. A bill to express the sense of Congress on Iraq.

The following joint resolution was read the first time:

H.J. Res. 20. Joint resolution making further continuing appropriations for the fiscal year 2007, 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–562. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Thiabendazole; Pesticide Tolerances for Emergency Exemptions'' (FRL No. 8111–1) received on January 26, 2007; to the Committee on Agriculture, Nutrition, and Forestry.

EC–563. A communication from the Acting Associate Director, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Foreign Assets Control Regulations'' (31 CFR Part 500) received on January 29, 2007; to the Committee on Banking, Housing, and Urban Affairs.

EC–564. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled

''Drawbridge Operation Regulations; Amendment'' ((RIN1625–AA36)(USCG 2001–10881)) received on January 29, 2007; to the Committee on Commerce, Science, and Transportation.

EC–565. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report entitled ''Fundamental Properties of Asphalts and Modified Asphalts—II''; to the Committee on Commerce, Science, and Transportation.

EC–566. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting two documents issued by the Agency relative to its regulatory programs; to the Committee on Environment and Public Works.

EC–567. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Virginia; Emission Standards for Consumer Products in the Northern Virginia Volatile Organic Compound Emissions Control Area'' (FRL No. 8273–9) received on January 26, 2007; to the Committee on Environment and Public Works.

EC–568. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Michigan; Control of Gasoline Volatility'' (FRL No. 8274–4) received on January 26, 2007; to the Committee on Environment and Public Works.

EC–569. A communication from the Fiscal Assistant Secretary, Department of the Treasury, transmitting, pursuant to law, a report relative to the Secretary of the Treasury's actions directed at correcting the effects of a clerical error by the Social Security Administration; to the Committee on Finance.

EC–570. A communication from the Chief of the Trade and Commercial Regulations Branch, Customs and Border Protection, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Conditional Release Period and CBP Bond Obligations for Food, Drugs, Devices and Cosmetics'' (RIN1505–AB57) received on January 29, 2007; to the Committee on Finance.

EC–571. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled ''Amendment of the International Traffic in Arms Regulations: Policy with Respect to Libya and Venezuela'' (22 CFR Part 126) received on January 26, 2007; to the Committee on Foreign Relations.

EC–572. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled ''Report to Congress on Head Start Monitoring for Fiscal Year 2005''; to the Committee on Health, Education, Labor, and Pensions.

EC–573. A communication from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medical Devices; Immunology and Microbiology Devices; Classification of Quality Control Material for Cystic Fibrosis Nucleic Acid Assays'' (Docket No. 2006N–0517) received on January 26, 2007; to the Committee on Health, Education, Labor, and Pensions.

EC–574. A communication from the Deputy Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting, pursuant to law, a report relative to the Commission's competitive sourcing efforts during fiscal year 2006; to the Committee on Health, Education, Labor, and Pensions.

EC–575. A communication from the Acting Administrator, Office of Information and Regulatory Affairs, Executive Office of the President, transmitting, pursuant to law, a report relative to Federal participation in the development and use of voluntary consensus standards during fiscal year 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–576. A communication from the Director of Legislative Affairs, Office of the Director of National Intelligence, transmitting, pursuant to law, the report of a nomination for the position of Director of National Intelligence, received on January 26, 2007; to the Select Committee on Intelligence.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CONRAD, from the Committee on the Budget, without amendment:

S. Res. 52. An original resolution authorizing expenditures by the Committee on the Budget.

By Mr. KENNEDY, from the Committee on Health, Education, Labor, and Pensions, without amendment:

S. Res. 54. An original resolution authorizing expenditures by the Committee on Health, Education, Labor, and Pensions.

By Mr. AKAKA, from the Committee on Veterans' Affairs, without amendment:

S. Res. 55. An original resolution authorizing expenditures by the Committee on Veterans' Affairs.

By Mr. DODD, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. Res. 56. An original resolution authorizing expenditures by the Committee on Banking, Housing, and Urban Affairs.

By Mr. HARKIN, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. Res. 57. An original resolution authorizing expenditures by the Committee on Agriculture, Nutrition, and Forestry.

By Mr. INOUYE, from the Committee on Commerce, Science, and Transportation, without amendment:

S. Res. 58. An original resolution authorizing expenditures by the Committee on Commerce, Science, and Transportation.

By Mr. BAUCUS, from the Committee on Finance, without amendment:

S. Res. 59. An original resolution authorizing expenditures by the Committee on Finance.

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, without amendment:

S. Res. 60. An original resolution authorizing expenditures by the Committee on Homeland Security and Governmental Affairs.

By Mrs. FEINSTEIN, from the Committee on Rules and Administration, without amendment:

S. Res. 63. An original resolution authorizing expenditures by the Committee on Rules and Administration.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. BAUCUS for the Committee on Finance.

Michael J. Astrue, of Massachusetts, to be Commissioner of Social Security for a term expiring January 19, 2013.

*Irving A. Williamson, of New York, to be a Member of the United States International Trade Commission for the term expiring June 16, 2014.

*Dean A. Pinkert, of Virginia, to be a Member of the United States International Trade Commission for the term expiring December 16, 2015.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

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. REID (for himself, Mrs. LINCOLN, Mr. BIDEN, Ms. MIKULSKI, Mrs. BOXER, Mr. DURBIN, Mr. SALAZAR, and Mr. BROWN):

S. 439. A bill to amend title 10, United States Code, to permit certain retired members of the uniformed services who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service or Combat-Related Special Compensation; to the Committee on Armed Services.

By Mr. ENZI (for himself and Mr. THOMAS):

S. 440. A bill to designate the National Museum of Wildlife Art, located at 2820 Rungius Road, Jackson, Wyoming, as the ''National Museum of Wildlife Art of the United States''; to the Committee on Energy and Natural Resources.

By Mr. DURBIN (for himself and Mr. OBAMA):

S. 441. A bill to permit certain school districts in Illinois to be reconstituted for purposes of determining assistance under the Impact Aid program; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DURBIN (for himself, Mr. SPECTER, Mr. LEAHY, Mr. SMITH, Mr. KERRY, and Ms. COLLINS):

S. 442. A bill to provide for loan repayment for prosecutors and public defenders; to the Committee on the Judiciary.

By Mr. SALAZAR (for himself and Mr. ALLARD):

S. 443. A bill to establish the Sangre de Cristo National Heritage Area in the State of Colorado, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SALAZAR:

S. 444. A bill to establish the South Park National Heritage Area in the State of Colorado, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. STABENOW (for herself, Mr. GRAHAM, and Mr. LEVIN):

S. 445. A bill to establish the position of Trade Enforcement Officer and a Trade Enforcement Division in the Office of the United States Trade Representative, to require identification of trade enforcement priorities, and for other purposes; to the Committee on Finance.

By Mr. DURBIN:

S. 446. A bill to amend the Public Health Service Act to authorize capitation grants to

increase the number of nursing faculty and students, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. FEINGOLD:

S. 447. A bill to abolish the death penalty under Federal law; to the Committee on the Judiciary.

By Mr. FEINGOLD (for himself, Mrs. BOXER, and Mr. LEAHY):

S. 448. A bill to prohibit the use of funds to continue deployment of the United States Armed Forces in Iraq beyond six months after the date of the enactment of this Act; to the Committee on Foreign Relations.

By Mr. BIDEN (for himself, Mr. MCCONNELL, Mr. MENENDEZ, Mrs. MURRAY, and Mr. SPECTER):

S. 449. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to provide standards and procedures to guide both State and local law enforcement agencies and law enforcement officers during internal investigations, interrogation of law enforcement officers, and administrative disciplinary hearings, to ensure accountability of law enforcement officers, to guarantee the due process rights of law enforcement officers, and to require States to enact law enforcement discipline, accountability, and due process laws; to the Committee on the Judiciary.

By Mr. ENSIGN (for himself, Mrs. LINCOLN, Mr. CARDIN, Ms. COLLINS, Mr. REED, Mr. WARNER, Mr. GRAHAM, Mr. AKAKA, Mr. HAGEL, Mr. HATCH, and Mr. DODD):

S. 450. A bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps; to the Committee on Finance.

By Mr. AKAKA (for himself, Mr. COCHRAN, Mr. DODD, Mr. FEINGOLD, and Mr. DURBIN):

S. 451. A bill to establish a National Foreign Language Coordination Council; to the Committee on Health, Education, Labor, and Pensions.

By Ms. CANTWELL (for herself, Mrs. BOXER, and Mr. LAUTENBERG):

S. 452. A bill to amend title 11, United States Code, to ensure that liable entities meet environmental cleanup obligations, and for other purposes; to the Committee on Environment and Public Works.

By Mr. OBAMA (for himself, Mr. SCHUMER, Mr. LEAHY, Mr. CARDIN, Mr. FEINGOLD, Mr. KERRY, Mrs. FEINSTEIN, Mrs. CLINTON, Mrs. BOXER, and Mr. KENNEDY):

S. 453. A bill to prohibit deceptive practices in Federal elections; to the Committee on the Judiciary.

By Ms. COLLINS:

S. 454. A bill to provide an increase in funding for Federal Pell Grants, to amend the Internal Revenue Code of 1986 in order to expand the deduction for interest paid on student loans, raise the contribution limits for Coverdell Education Savings Accounts, and make the exclusion for employer provided educational assistance permanent, and for other purposes; to the Committee on Finance.

By Mr. KERRY:

S. 455. A bill to amend the Internal Revenue Code of 1986 to provide tax relief to active duty military personnel and employers who assist them, and for other purposes; to the Committee on Finance.

By Mrs. FEINSTEIN (for herself, Mr. HATCH, Mr. SCHUMER, Mr. SPECTER, Mr. BIDEN, Mr. KYL, Mr. STEVENS, Ms. CANTWELL, Mr. COLEMAN, Ms. MIKULSKI, Mr. BAUCUS, Mr. PRYOR, Mr. SALAZAR, Mrs. MURRAY, Mr. BROWN, Mrs. CLINTON, Mrs. DOLE, Mr. CORNYN, Mr. KOHL, and Mr. CASEY):

S. 456. A bill to increase and enhance law enforcement resources committed to investigation and prosecution of violent gangs, to deter and punish violent gang crime, to protect law-abiding citizens and communities from violent criminals, to revise and enhance criminal penalties for violent crimes, to expand and improve gang prevention programs, and for other purposes; to the Committee on the Judiciary.

By Mr. VOINOVICH (for himself, Mr. BROWN, Mr. SESSIONS, Mr. BINGAMAN, Mrs. CLINTON, Mr. DOMENICI, Mr. KENNEDY, Mr. LIEBERMAN, Mr. LOTT, and Mr. REED):

S. 457. A bill to extend the date on which the National Security Personnel System will first apply to certain defense laboratories; to the Committee on Homeland Security and Governmental Affairs.

By Mrs. LINCOLN (for herself, Mr. THOMAS, and Mr. PRYOR):

S. 458. A bill to amend title XVIII of the Social Security Act to provide for the treatment of certain physician pathology services under the Medicare program; to the Committee on Finance.

By Ms. SNOWE (for herself, Ms. LANDRIEU, Mr. COCHRAN, Mrs. MURRAY, Mr. LAUTENBERG, Mr. DURBIN, Mrs. CLINTON, Mr. SANDERS, Mrs. FEINSTEIN, Mrs. BOXER, Ms. CANTWELL, Ms. MIKULSKI, Mr. HARKIN, Mr. SCHUMER, and Mr. MENENDEZ):

S. 459. A bill to require that health plans provide coverage for a minimum hospital stay for mastectomies, lumpectomies, and lymph node dissection for the treatment of breast cancer and coverage for secondary consultations; to the Committee on Health, Education, Labor, and Pensions.

By Ms. SNOWE (for herself and Mr. ROCKEFELLER):

S. 460. A bill to make determinations by the United States Trade Representative under title III of the Trade Act of 1974 reviewable by the Court of International Trade and to ensure that the United States Trade Representative considers petitions to enforce United States Trade rights, and for other purposes; to the Committee on Finance.

By Mr. GRASSLEY:

S. 461. A bill to amend title 28, United States Code, to provide an Inspector General for the judicial branch, and for other purposes; to the Committee on the Judiciary.

By Mr. REID (for himself and Mr. ENSIGN):

S. 462. A bill to approve the settlement of the water rights claims of the Shoshone-Paiute Tribes of the Duck Valley Indian Reservation in Nevada, to require the Secretary of the Interior to carry out the settlement, and for other purposes; to the Committee on Indian Affairs.

By Mr. MCCAIN (for himself and Mr. FEINGOLD):

S. 463. A bill to amend the Federal Election Campaign Act of 1971 to clarify when organizations described in section 527 of the Internal Revenue Code of 1986 must register as political committees, and for other purposes; to the Committee on Rules and Administration.

By Mr. ROCKEFELLER (for himself, Ms. COLLINS, and Mr. NELSON of Florida):

S. 464. A bill to amend title XVIII and XIX of the Social Security Act to improve the requirements regarding advance directives in order to ensure that an individual's health care decisions are complied with, and for other purposes; to the Committee on Finance.

By Mr. NELSON of Florida (for himself, Mr. LUGAR, Mr. ROCKEFELLER, Ms. COLLINS, Mr. DURBIN, and Mr. BINGAMAN):

S. 465. A bill to amend titles XVIII and XIX of the Social Security Act and title III of the Public Health Service Act to improve access to information about individuals' health care options and legal rights for care near the end of life, to promote advance care planning and decisionmaking so that individuals' wishes are known should they become unable to speak for themselves, to engage health care providers in disseminating information about and assisting in the preparation of advance directives, which include living wills and durable powers of attorney for health care, and for other purposes; to the Committee on Finance.

By Mr. ROCKEFELLER (for himself, Mr. NELSON of Florida, and Mr. LUGAR):

S. 466. A bill to amend title XVIII of the Social Security Act to provide for coverage of an end-of-life planning consultation as part of an initial preventive physical examination under the Medicare program; to the Committee on Finance.

By Mr. DODD (for himself, Mr. GRASSLEY, Mr. WYDEN, Mr. BINGAMAN, Mr. DURBIN, and Mr. HARKIN):

S. 467. A bill to amend the Public Health Service Act to expand the clinical trials drug data bank; to the Committee on Health, Education, Labor, and Pensions.

By Mr. GRASSLEY (for himself, Mr. DODD, Ms. MIKULSKI, and Mr. BINGAMAN):

S. 468. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to drug safety, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BAUCUS (for himself and Mr. GRASSLEY):

S. 469. A bill to amend the Internal Revenue Code of 1986 to make permanent the special rule for contributions of qualified conservation contributions; to the Committee on Finance.

By Mr. LEVIN:

S. 470. A bill to express the sense of Congress on Iraq; read the first time.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CONRAD:

S. Res. 52. An original resolution authorizing expenditures by the Committee on the Budget; from the Committee on the Budget; to the Committee on Rules and Administration.

By Mr. DURBIN (for himself and Mr. OBAMA):

S. Res. 53. A resolution congratulating Illinois State University as it marks its sesquicentennial; to the Committee on the Judiciary.

By Mr. KENNEDY:

S. Res. 54. An original resolution authorizing expenditures by the Committee on Health, Education, Labor, and Pensions; from the Committee on Health, Education, Labor, and Pensions; to the Committee on Rules and Administration.

By Mr. AKAKA:

S. Res. 55. An original resolution authorizing expenditures by the Committee on Veterans' Affairs; from the Committee on Veterans' Affairs; to the Committee on Rules and Administration.

By Mr. DODD:

S. Res. 56. An original resolution authorizing expenditures by the Committee on Banking, Housing, and Urban Affairs; from the Committee on Banking, Housing, and

Urban Affairs; to the Committee on Rules and Administration.

By Mr. HARKIN:

S. Res. 57. An original resolution authorizing expenditures by the Committee on Agriculture, Nutrition, and Forestry; from the Committee on Agriculture, Nutrition, and Forestry; to the Committee on Rules and Administration.

By Mr. INOUYE:

S. Res. 58. An original resolution authorizing expenditures by the Committee on Commerce, Science, and Transportation; from the Committee on Commerce, Science, and Transportation; to the Committee on Rules and Administration.

By Mr. BAUCUS:

S. Res. 59. An original resolution authorizing expenditures by the Committee on Finance; from the Committee on Finance; to the Committee on Rules and Administration.

By Mr. LIEBERMAN:

S. Res. 60. An original resolution authorizing expenditures by the Committee on Homeland Security and Governmental Affairs; from the Committee on Homeland Security and Governmental Affairs; to the Committee on Rules and Administration.

By Mr. KENNEDY (for himself, Mr. MCCAIN, Mr. AKAKA, Mr. BOND, Mr. BURR, Ms. CANTWELL, Mr. CARPER, Mrs. CLINTON, Mr. COCHRAN, Mr. COLEMAN, Mr. CONRAD, Mr. DODD, Mrs. DOLE, Mr. DOMENICI, Mr. DURBIN, Mr. ENSIGN, Mr. GRASSLEY, Mr. ISAKSON, Mr. KERRY, Ms. LANDRIEU, Mr. LEAHY, Mr. LEVIN, Ms. MURKOWSKI, Mr. PRYOR, Mr. SANDERS, Mr. REID, and Mr. SPECTER):

S. Res. 61. A resolution designating January 2007 as ''National Mentoring Month''; considered and agreed to.

By Mr. VITTER (for himself and Ms. LANDRIEU):

S. Res. 62. A resolution recognizing the goals of Catholic Schools Week and honoring the valuable contributions of Catholic schools in the United States; considered and agreed to.

By Mrs. FEINSTEIN:

S. Res. 63. An original resolution authorizing expenditures by the Committee on Rules and Administration; from the Committee on Rules and Administration; placed on the calendar.

By Mr. OBAMA (for himself, Mr. DURBIN, Mr. DODD, Mr. LUGAR, Mr. LIEBERMAN, and Mr. BAYH):

S. Con. Res. 5. A concurrent resolution honoring the life of Percy Lavon Julian, a pioneer in the field of organic chemistry and the first and only African-American chemist to be inducted into the National Academy of Sciences; to the Committee on the Judiciary.

By Mr. ENZI (for himself and Mr. THOMAS):

S. Con. Res. 6. A concurrent resolution expressing the sense of Congress that the National Museum of Wildlife Art, located in Jackson, Wyoming, should be designated as the ''National Museum of Wildlife Art of the United States''; to the Committee on Energy and Natural Resources.

By Mr. WARNER (for himself, Mr. NELSON of Nebraska, Ms. COLLINS, Mr. LEVIN, and Ms. SNOWE):

S. Con. Res. 7. A concurrent resolution expressing the sense of Congress on Iraq; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 101

At the request of Mr. STEVENS, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 101, a bill to update and reinvigorate universal service provided under the Communications Act of 1934.

S. 166

At the request of Mr. MCCAIN, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 166, a bill to restrict any State from imposing a new discriminatory tax on cell phone services.

S. 233

At the request of Mr. KENNEDY, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 233, a bill to prohibit the use of funds for an escalation of United States military forces in Iraq above the numbers existing as of January 9, 2007.

S. 268

At the request of Ms. CANTWELL, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 268, a bill to designate the Ice Age Floods National Geologic Trail, and for other purposes.

S. 281

At the request of Mr. VITTER, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 281, a bill to amend title 44 of the United States Code, to provide for the suspension of fines under certain circumstances for first-time paperwork violations by small business concerns.

S. 287

At the request of Mr. KENNEDY, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 287, a bill to prohibit the use of funds for an escalation of United States military forces in Iraq above the numbers existing as of January 9, 2007.

S. 380

At the request of Mr. WYDEN, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 380, a bill to reauthorize the Secure Rural Schools and Community Self-Determination Act of 2000, and for other purposes.

S. 381

At the request of Mr. INOUYE, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 381, a bill to establish a fact-finding Commission to extend the study of a prior Commission to investigate and determine facts and circumstances surrounding the relocation, internment, and deportation to Axis countries of Latin Americans of Japanese descent from December 1941 through February 1948, and the impact of those actions by the United States, and to recommend appropriate remedies, and for other purposes.

S. 408

At the request of Mr. CHAMBLISS, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 408, a bill to recognize the heritage of hunting and provide opportunities for continued hunting on Federal public land.

S. 430

At the request of Mr. BOND, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 430, a bill to amend title 10, United States Code, to enhance the national defense through empowerment of the Chief of the National Guard Bureau and the enhancement of the functions of the National Guard Bureau, and for other purposes.

At the request of Mr. LEAHY, the names of the Senator from Maryland (Ms. MIKULSKI), the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from Montana (Mr. BAUCUS), the Senator from Massachusetts (Mr. KERRY) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. 430, supra.

S. 431

At the request of Mr. MCCAIN, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 431, a bill to require convicted sex offenders to register online identifiers, and for other purposes.

AMENDMENT NO. 115

At the request of Mr. KYL, the names of the Senator from Tennessee (Mr. ALEXANDER) and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of amendment No. 115 proposed to H.R. 2, a bill to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage.

AMENDMENT NO. 209

At the request of Mr. KYL, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of amendment No. 209 proposed to H.R. 2, a bill to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REID (for himself, Mrs. LINCOLN, Mr. BIDEN, Ms. MIKULSKI, Mrs. BOXER, Mr. DURBIN, Mr. SALAZAR, and Mr. BROWN):

S. 439. A bill to amend title 10, United States Code, to permit certain retired members of the uniformed services who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service or Combat-Related Special Compensation; to the Committee on Armed Services.

Mr. REID. Mr. President, we are going to have a debate on Iraq, and it will be a historic debate about that war, a war that has demanded unparalleled sacrifices from our men and women in uniform.

While we have our disagreements with the President's conduct of the war, all 100 Senators stand side by side in supporting our troops. They have done everything asked of them, carrying out a difficult mission with honor and skill. We as a country owe the brave men and women in our military a debt of gratitude and have responsibility to ensure our veterans receive both the thanks of a grateful nation and the benefits they have earned,

and that is a subject I would like to discuss briefly this morning.

About 8 years ago, one of my staff came to me and said: Senator, do you realize that if a person is disabled in the military and retires from the military, they cannot draw on both their benefits? I said: What? And he repeated that. If you are in the military and you become disabled and you retire, you cannot draw both your benefits. I thought my staffer didn't know what he was talking about, but he did. That was the law in our country and had been for many years, and it was a wrong law. That law is still mostly in effect, and that is too bad.

When someone who is disabled retires from the U.S. military, he or she cannot draw on both their benefits. If you retire from any other branch of the Federal Government, such as the Bureau of Land Management, you can draw both your disability pay and your retirement pay but, no, not if you are in the military. These people have been robbed of their benefits, in my opinion, and I refer specifically to thousands of men and women who have been denied their retirement because of an unfair policy referred to as concurrent receipt.

By law, disabled veterans, as I have said, cannot collect disability pay and retirement pay at the same time. What does this mean? It means for every dollar of compensation a disabled veteran receives as a result of their injuries, they must sacrifice a dollar of their retirement pay they earned in the service of our Nation. In many cases, this ban takes away a veteran's full retirement pay, wiping away the benefits he or she earned in 20 or more years of service. That is wrong.

Concurrent receipt is a special tax on the men and women who keep us safe. Few veterans can afford to live on their retirement pay alone. Those burdened with disability face an even greater struggle, often denied any postservice work. They receive disability compensation to pay for pain, suffering, and loss of future earnings caused by a service-connected illness or injury. No other Federal retiree is forced to make forfeit of their retirement—only our disabled military retirees. This is not just an error, it is a disgrace.

Of course, concurrent receipt is not a new problem. I hope most everyone in the Senate knows about it. This is the seventh year I have introduced legislation to give disabled veterans the support they have earned, and I will continue fighting until we succeed, ending this unacceptable policy.

I first of all want to suggest that the two managers of the Defense bill, every year since I have worked on this, have been Senator WARNER and Senator LEVIN, and they have helped me. I appreciate that very much. They have been thoughtful and understanding in their approach to this issue. What has happened these past 7 years is good but not really good. We have chipped away at this unfair policy of concurrent receipt.

In 2000, I introduced legislation to eliminate this unfair policy for the first time. I did it at the end of the 106th Congress. This legislation passed the Senate but was removed by the House during conference. So I reintroduced the legislation in the 107th Congress, in both 2001 and 2002. Unfortunately, it was once again adopted by the Senate but removed in conference.

In 2003, I proposed legislation to allow disabled veterans with at least a 50-percent disability rating to become eligible for full concurrent receipt over a 10-year phase-in period. Despite veto threats from the Bush administration, Congress passed this very important version of concurrent receipt.

In 2004, I took it a step further. I introduced legislation to eliminate the 10-year phase-in period for veterans with a 100-percent disability. The motivation here was to get concurrent receipt to the most severely disabled veterans. We thought many of these veterans would never see the benefits with a 10-year phase-in. They are old World War II veterans, where the average age is well over 80 now, and to think they would have to wait 10 years for a phase-in isn't very fair.

In 2005, we focused on the most severely disabled veterans and successfully eliminated the 10-year phase-in for veterans listed as unemployable. I was pleased with the passage of that 2005 amendment but disappointed that the conference committee chose not to enact this valuable legislation for veterans rated as unemployable until 2009. So in 2006, I sought to get unemployable veterans immediate relief, but we didn't act. Congress didn't act.

So here we are in 2007, back at it again. Today, concurrent receipt remains one of my highest priorities. It is a priority, I believe, in fairness. We need to continue to chip away at this policy, and I am committed to that goal 100 percent, so that 100 percent of disabled veterans get the money they earn in being part of the great fighting force of this Nation.

We are blessed in this country to be defended by an All-Volunteer Army. These patriots put their lives and safety on the line because they love this country. I believe it is time for this country and this Congress to repay their service and sacrifice, and that is why I am reintroducing today the Retired Pay Restoration Act of 2007.

Mr. President, I ask unanimous consent that the text of this legislation be printed in the RECORD.

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

S. 439

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 ''Retired Pay Restoration Act of 2007''.

SEC. 2. ELIGIBILITY FOR PAYMENT OF BOTH RETIRED PAY AND VETERANS' DISABILITY COMPENSATION FOR CERTAIN MILITARY RETIREES WITH COMPENSABLE SERVICE-CONNECTED DISABILITIES.

(a) EXTENSION OF CONCURRENT RECEIPT AUTHORITY TO RETIREES WITH SERVICE-CONNECTED DISABILITIES RATED LESS THAN 50 PERCENT.—

(1) REPEAL OF 50 PERCENT REQUIREMENT.—Section 1414 of title 10, United States Code, is amended by striking paragraph (2) of subsection (a).

(2) COMPUTATION.—Paragraph (1) of subsection (c) of such section is amended by adding at the end the following new subparagraph:

''(G) For a month for which the retiree receives veterans' disability compensation for a disability rated as 40 percent or less or has a service-connected disability rated as zero percent, $0.''.

(b) REPEAL OF PHASE-IN OF CONCURRENT RECEIPT FOR RETIREES WITH SERVICE-CONNECTED DISABILITIES RATED AS TOTAL.—Subsection (a)(1) of such section is amended by striking ''except that'' and all that follows and inserting ''except—

''(A) in the case of a qualified retiree receiving veterans' disability compensation for a disability rated as 100 percent, payment of retired pay to such veteran is subject to subsection (c) only during the period beginning on January 1, 2004, and ending on December 31, 2004; and

''(B) in the case of a qualified retiree receiving veterans' disability compensation for a disability rated as total by reason of unemployability, payment of retired pay to such veteran is subject to subsection (c) only during the period beginning on January 1, 2004, and ending on December 31, 2007.''.

(c) CLERICAL AMENDMENTS.—

(1) The heading for section 1414 of such title is amended to read as follows:

''§ 1414. Members eligible for retired pay who are also eligible for veterans' disability compensation: concurrent payment of retired pay and disability compensation''.

(2) The item relating to such section in the table of sections at the beginning of chapter 71 of such title is amended to read as follows:

''1414. Members eligible for retired pay who are also eligible for veterans' disability compensation: concurrent payment of retired pay and disability compensation.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2008, and shall apply to payments for months beginning on or after that date.

SEC. 3. COORDINATION OF SERVICE ELIGIBILITY FOR COMBAT-RELATED SPECIAL COMPENSATION AND CONCURRENT RECEIPT.

(a) ELIGIBILITY FOR TERA RETIREES.—Subsection (c) of section 1413a of title 10, United States Code, is amended by striking ''entitled to retired pay who—'' and inserting ''who—

''(1) is entitled to retired pay, other than a member retired under chapter 61 of this title with less than 20 years of service creditable under section 1405 of this title and less than 20 years of service computed under section 12732 of this title; and

''(2) has a combat-related disability.''.

(b) AMENDMENTS TO STANDARDIZE SIMILAR PROVISIONS.—

(1) CLERICAL AMENDMENT.—The heading for paragraph (3) of section 1413a(b) of such title is amended by striking ''RULES'' and inserting ''RULE''.

(2) QUALIFIED RETIREES.—Subsection (a) of section 1414 of such title, as amended by section 2(a), is amended—

(A) by striking ''a member or'' and all that follows through ''retiree'')'' and inserting ''a qualified retiree''; and

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

''(2) QUALIFIED RETIREES.—For purposes of this section, a qualified retiree, with respect to any month, is a member or former member of the uniformed services who—

''(A) is entitled to retired pay, other than in the case of a member retired under chapter 61 of this title with less than 20 years of service creditable under section 1405 of this title and less than 20 years of service computed under section 12732 of this title; and

''(B) is also entitled for that month to veterans' disability compensation.''.

(3) DISABILITY RETIREES.—Subsection (b) of section 1414 of such title is amended—

(A) by striking ''SPECIAL RULES'' in the subsection heading and all that follows through ''is subject to'' and inserting ''SPECIAL RULE FOR CHAPTER 61 DISABILITY RETIREES.—In the case of a qualified retiree who is retired under chapter 61 of this title, the retired pay of the member is subject to''; and

(B) by striking paragraph (2).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2008, and shall apply to payments for months beginning on or after that date.

By Mr. DURBIN (for himself and Mr. OBAMA):

S. 441. A bill to permit certain school districts in Illinois to be reconstituted for purposes of determining assistance under the Impact Aid program; to the Committee on Health, Education, Labor, and Pensions.

Mr. DURBIN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 441

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

SECTION 1. ELIGIBILITY FOR IMPACT AID PAYMENT.

(a) LOCAL EDUCATIONAL AGENCIES.—Notwithstanding section 8013(9)(B) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)(B)), North Chicago Community Unit School District 187, North Shore District 112, and Township High School District 113 in Lake County, Illinois, and Glenview Public School District 34 and Glenbrook High School District 225 in Cook County, Illinois, shall be considered local educational agencies as such term is used in and for purposes of title VIII of such Act.

(b) COMPUTATION.—Notwithstanding any other provision of law, federally connected children (as determined under section 8003(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(a))) who are in attendance in the North Shore District 112, Township High School District 113, Glenview Public School District 34, and Glenbrook High School District 225 described in subsection (a), shall be considered to be in attendance in the North Chicago Community Unit School District 187 described in subsection (a) for purposes of computing the amount that the North Chicago Community Unit School District 187 is eligible to receive under subsection (b) or (d) of such section if—

(1) such school districts have entered into an agreement for such students to be so considered and for the equitable apportionment among all such school districts of any amount received by the North Chicago Community Unit School District 187 under such section; and

(2) any amount apportioned among all such school districts pursuant to paragraph (1) is used by such school districts only for the direct provision of educational services.

By Mr. DURBIN (for himself, Mr. SPECTER, Mr. LEAHY, Mr. SMITH, Mr. KERRY, and Ms. COLLINS):

S. 442. A bill to provide for loan repayment for prosecutors and public defenders; to the Committee on the Judiciary.

Mr. DURBIN. Mr. President, I rise today to introduce the John R. Justice Prosecutors and Defenders Incentive Act of 2007. I am honored to have the support and cosponsorship of Senator LEAHY and Senator SPECTER, the chairman and ranking member of the Judiciary Committee, on this important legislation. I look forward to working closely with Chairman LEAHY and Ranking Member SPECTER to advance it through the Judiciary Committee and secure its enactment into law. I also appreciate the cosponsorship of Senator SMITH, Senator KERRY and Senator COLLINS on this bipartisan bill.

Our bill seeks to enhance our criminal justice system by encouraging talented law school graduates to serve as criminal prosecutors and public defenders. The bill would establish a student loan repayment program for qualified attorneys who agree to remain employed for at least 3 years as State or local criminal prosecutors, or as State, local, or Federal public defenders in criminal cases.

This legislation is supported by the American Bar Association, the National District Attorneys Association, the National Association of Prosecutor Coordinators, the National Legal Aid and Defender Association, and the National Association of Criminal Defense Lawyers.

For our criminal justice system to function effectively, we need to have a sufficient supply of dedicated and competent attorneys working in prosecutor and public defender offices. However, many qualified law school graduates who have a strong motivation to work in the public sector find it economically impossible due to the overwhelming burden of student loan debt.

The legal profession and our communities pay a severe price when law graduates are shut out from pursuing public service careers due to educational debt. When prosecutor and public defender offices cannot attract new lawyers or keep experienced ones, their ability to protect the public interest is compromised. Such offices may find themselves unable to take on new cases due to staffing shortages, and their existing staff may be forced to handle unmanageable workloads. Cases may suffer from lengthy and unnecessary delays, and some cases may be mishandled by inexperienced or overworked attorneys. As a result, innocent people may be sent to jail, and criminals may go free.

Our bill, the John R. Justice Prosecutors and Defenders Incentive Act, is designed to help remedy some of these problems. The availability of student loan repayment can be a powerful incentive for attracting talented new lawyers to public service employment. Our proposal complements loan forgiveness options that currently exist for Federal prosecutors. Passage of this bill will help make prosecutor and public defender jobs at all levels of government more attractive and financially viable for law school graduates who have incurred significant educational debt.

Our bill is named after the late John R. Justice, former president of the National District Attorneys Association and a distinguished prosecutor from the State of South Carolina. John Justice was instrumental in promoting student loan repayment efforts for law school graduates seeking to work in public service. This bill is a fitting tribute to his dedicated efforts.

The need for this legislation is evident. In recent years, the costs of a law school education have skyrocketed. Researchers found that tuition increased about 340 percent from 1985 to 2002 for private law school students and for out-of-State students at public law schools. In-State students at public law schools saw their tuition jump about 500 percent during that time. In 2005, the average annual tuition was $28,900 for private law schools, $22,987 for nonresident students at public law schools, and $13,145 for resident students at public law schools. These tuition costs do not include the costs of food, lodging, books, fees and personal expenses over 3 years of law school.

Unsurprisingly, the vast majority of law students—over 80 percent—must borrow funds to finance their legal education. According to the American Bar Association, the average total cumulative educational debt for law school graduates in the class of 2005 was $78,763 for private schools and $51,056 for public schools. Two-thirds of law students generally carry additional unpaid debt from their undergraduate studies. These education debts are serious financial obligations that must be repaid, as any default on a loan triggers significant consequences.

Many law students graduate with a deep commitment to pursuing a career in public service. However, they need a level of income sufficient to meet the demands of their educational loan liabilities, and public service salaries have not kept up with rising law school debt burdens. From 1985 to 2002, while law school tuition increased 340 percent for private law school students and 500 percent for in-state students at public law schools, salaries for public service lawyers such as prosecutors and public defenders increased by just 70 percent. According to the National Association for Law Placement, NALP, the median entry-level salary for public defenders is $43,000. With 11 to 15 years of experience, the median salary

increases only to $65,500. The salary progression for State prosecuting attorneys is similar, starting at around $46,000 and progressing to about $68,000 for those with 11 to 15 years of experience.

Many law school graduates can earn much more and repay their student loans much faster by entering the private sector. According to a NALP survey, in 2005 the median salary for first-year attorneys at law firms ranged from $67,500 in firms of 2 to 25 attorneys to $135,000 in firms of 500 attorneys or more. The median first-year salary for all firms participating in the survey was $100,000. When choosing between a private sector job and a job as a prosecutor or defender, talented law graduates with large debt burdens must take into consideration this salary differential.

It is clear that large student debt deters many law graduates from pursuing public service careers. According to a national survey of 1,622 students from 117 law schools conducted by Equal Justice Works, the Partnership for Public Service, and NALP in 2002, 66 percent of respondents stated that law school debt prevented them from considering a public interest or government job.

Some law graduates initially accept public service jobs despite their high debt burdens. However, many attorneys cannot repay their loan obligations as well as pay all their other living expenses on a government salary. Attorneys who begin careers in public service, and who would like to remain, frequently leave after a few years when they find their debts are hindering their ability to provide for themselves, much less support their families or save for retirement.

Many public service employers report having a difficult time attracting and retaining talented law graduates. Prosecutor and public defender offices across the country have vacancies they cannot fill because new law graduates cannot afford to work for them. Alternatively, those who do hire law graduates find that, because of educational debt burdens, those whom they do hire leave just at the point when they have acquired the experience to provide the most valuable services. According to a Bureau of Justice Statistics survey, 24 percent of state prosecutors' offices reported problems in 2005 with recruiting new attorneys, and 35 percent reported problems in retaining attorneys. Another survey administered by Equal Justice Works and the National Legal Aid & Defender Association in 2002 found that over 60 percent of public interest law employers, including state and local prosecutor and public defender offices, reported difficulty in attorney recruitment and retention.

I recently received a letter from Bernard Murray, President of the Prosecutors Bar Association and Chief of the Criminal Prosecutions Bureau for the Cook County State's Attorney's Office in Chicago. He wrote: ''[W]e are faced with enormous hurdles in attracting first-rate candidates to pursue a career with the Cook County State's Attorney's Office. We simply cannot afford to pay new assistants a salary high enough to offset the enormous debt load that follows them from their law school graduation.''

His letter also stated: ''We are observing an exodus of talent at about the three to five year experience mark in the office when assistants are no longer able to postpone life events such as marriage, home ownership, and starting a family. We are losing much of our best talent before they even have a chance to put their skills to use in felony cases.''

I also received a copy of a letter from Michael Judge, Chief Defender of the Los Angeles County Public Defender Office, the oldest and largest such office in the Nation. His letter states the following about his office's efforts to recruit new lawyers: ''It became necessary to expand the ambit of recruiting from locally to statewide, to the western region of the country and now to the entire nation to ensure the success of our recruiting in the face of the deterrent of crushing student loan debt. . . . In some sense we are 'poaching' in the territory of other defender offices. . . . I have experienced more 'turndowns' of employment offers in the recent past than during my first 9 or 10 years as Chief Defender. I attribute that to the 'ice cold water in the face syndrome' experienced by motivated candidates making the final net calculations and discovering a defender career can be an adventure in deficit financing.''

It harms the public interest when communities face a shortage of attorneys who can effectively prosecute cases and provide criminal defendants with their constitutional right to counsel. Sadly, these situations occur all too frequently. We can—and should—do more to help prosecutor and public defender offices recruit and retain attorneys in the face of increasing student debt burdens and higher private sector salaries.

Our legislation would help by establishing, within the Department of Justice, a program of student loan repayment for borrowers who agree to remain employed for at least three years as State or local criminal prosecutors, or as State, local, or Federal public defenders in criminal cases. It would allow eligible attorneys to receive student loan debt repayments of up to $10,000 per year, with a maximum aggregate over time of $60,000. The bill would cover student loans made, insured, or guaranteed under the Higher Education Act of 1965, including consolidation loans.

Under our bill, repayment benefits for public sector attorneys would be made available on a first-come, first-served basis, and would be subject to the availability of appropriations. Priority would be given to borrowers who received repayment benefits for the preceding fiscal year and who have completed less than three years of the first required service period. Borrowers could enter into an additional agreement, after the required three-year period, for a successive period of service which may be less than three years. Attorneys who do not complete their required period of service would be required to repay the government.

In addition to covering those who agree to serve in State and local prosecutor and defender offices, our bill complements existing loan forgiveness programs that are currently available for Federal prosecutors by making loan relief available to Federal public defenders as well.

Our bill is modeled on a loan repayment program that has been created for Federal executive branch employees and that has enjoyed growing success. Federal law currently permits Federal executive branch agencies to repay their employees' student loans, up to $10,000 in a year, and up to a lifetime maximum of $60,000. In exchange, the employee must agree to remain with the agency for at least three years. According to the Office of Personnel Management (OPM), during fiscal year 2005 there were 479 lawyers working in Federal agencies who received loan repayments under this program, including 242 lawyers for the Securities and Exchange Commission and 85 attorneys for the Department of Justice. According to OPM, Federal agencies across the board say that the program has been of tremendous benefit in recruiting and retaining attorneys.

As I have worked on behalf of our legislation, I have been moved by the personal stories of attorneys who have been trying to embark on a career of public service but have been struggling because of student loans. One compelling letter I received came from Aisha Cornelius, an Assistant State's Attorney in Cook County, Illinois. Her letter said the following: ''I am a full-time prosecutor in Cook County. I wanted this job because I desired to use my law degree for public service. Although making a lot of money was not my primary goal, I had hoped at least for financial stability. This, however, is difficult to accomplish as my student loan payments take up a considerable amount of my income. I have more than $100,000 in student loan debt. I am also a single mother with a five-year-old daughter in kindergarten. In order to work, I have to pay for before- and after-school care for her. . . . I depleted my savings while studying for the bar exam last year and I essentially live check to check. In order to supplement my income, I sell cosmetics and skin care. I am also in the process of applying for a part-time evening teaching position. I love my job and serving the greater good. The only reason I would ever leave public service is if I could no longer afford to stay. This is much more of a possibility than I would like it to be. Loan repayment assistance would help me stay longer in a position

that allows me to serve the community during the day while giving me the freedom and peace of mind to focus [on] my daughter at night.''

I appreciate Ms. Cornelius's willingness to share her story with me. By enacting and funding this legislation, we can take a meaningful step toward alleviating some of the financial burden for attorneys such as Ms. Cornelius who choose careers as criminal prosecutors and public defenders.

I know there are many other law graduates who, like Aisha Cornelius, want to apply their legal training and develop their skills in the public sector, but are deterred by the weight of student loan obligations. Passage of the John R. Justice Prosecutors and Defenders Incentive Act will help them make their career dreams a reality. I urge its swift adoption.

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

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

S. 442

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 ''John R. Justice Prosecutors and Defenders Incentive Act of 2007''.

SEC. 2. LOAN REPAYMENT FOR PROSECUTORS AND DEFENDERS.

Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following:

''PART JJ—LOAN REPAYMENT FOR PROSECUTORS AND PUBLIC DEFENDERS

''SEC. 3111. GRANT AUTHORIZATION.

''(a) PURPOSE.—The purpose of this section is to encourage qualified individuals to enter and continue employment as prosecutors and public defenders.

''(b) DEFINITIONS.—In this section:

''(1) PROSECUTOR.—The term 'prosecutor' means a full-time employee of a State or local agency who—

''(A) is continually licensed to practice law; and

''(B) prosecutes criminal cases at the State or local level.

''(2) PUBLIC DEFENDER.—The term 'public defender' means an attorney who—

''(A) is continually licensed to practice law; and

''(B) is—

''(i) a full-time employee of a State or local agency or a nonprofit organization operating under a contract with a State or unit of local government, that provides legal representation to indigent persons in criminal cases; or

''(ii) employed as a full-time Federal defender attorney in a defender organization established pursuant to subsection (g) of section 3006A of title 18, United States Code, that provides legal representation to indigent persons in criminal cases.

''(3) STUDENT LOAN.—The term 'student loan' means—

''(A) a loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.);

''(B) a loan made under part D or E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq. and 1087aa et seq.); and

''(C) a loan made under section 428C or 455(g) of the Higher Education Act of 1965 (20 U.S.C. 1078–3 and 1087e(g)) to the extent that such loan was used to repay a Federal Direct Stafford Loan, a Federal Direct Unsubsidized Stafford Loan, or a loan made under section 428 or 428H of such Act.

''(c) PROGRAM AUTHORIZED.—The Attorney General shall establish a program by which the Department of Justice shall assume the obligation to repay a student loan, by direct payments on behalf of a borrower to the holder of such loan, in accordance with subsection (d), for any borrower who—

''(1) is employed as a prosecutor or public defender; and

''(2) is not in default on a loan for which the borrower seeks forgiveness.

''(d) TERMS OF AGREEMENT.—

''(1) IN GENERAL.—To be eligible to receive repayment benefits under subsection (c), a borrower shall enter into a written agreement that specifies that—

''(A) the borrower will remain employed as a prosecutor or public defender for a required period of service of not less than 3 years, unless involuntarily separated from that employment;

''(B) if the borrower is involuntarily separated from employment on account of misconduct, or voluntarily separates from employment, before the end of the period specified in the agreement, the borrower will repay the Attorney General the amount of any benefits received by such employee under this section;

''(C) if the borrower is required to repay an amount to the Attorney General under subparagraph (B) and fails to repay such amount, a sum equal to that amount shall be recoverable by the Federal Government from the employee (or such employee's estate, if applicable) by such methods as are provided by law for the recovery of amounts owed to the Federal Government;

''(D) the Attorney General may waive, in whole or in part, a right of recovery under this subsection if it is shown that recovery would be against equity and good conscience or against the public interest; and

''(E) the Attorney General shall make student loan payments under this section for the period of the agreement, subject to the availability of appropriations.

''(2) REPAYMENTS.—

''(A) IN GENERAL.—Any amount repaid by, or recovered from, an individual or the estate of an individual under this subsection shall be credited to the appropriation account from which the amount involved was originally paid.

''(B) MERGER.—Any amount credited under subparagraph (A) shall be merged with other sums in such account and shall be available for the same purposes and period, and subject to the same limitations, if any, as the sums with which the amount was merged.

''(3) LIMITATIONS.—

''(A) STUDENT LOAN PAYMENT AMOUNT.—Student loan repayments made by the Attorney General under this section shall be made subject to such terms, limitations, or conditions as may be mutually agreed upon by the borrower and the Attorney General in an agreement under paragraph (1), except that the amount paid by the Attorney General under this section shall not exceed—

''(i) $10,000 for any borrower in any calendar year; or

''(ii) an aggregate total of $60,000 in the case of any borrower.

''(B) BEGINNING OF PAYMENTS.—Nothing in this section shall authorize the Attorney General to pay any amount to reimburse a borrower for any repayments made by such borrower prior to the date on which the Attorney General entered into an agreement with the borrower under this subsection.

''(e) ADDITIONAL AGREEMENTS.—

''(1) IN GENERAL.—On completion of the required period of service under an agreement under subsection (d), the borrower and the Attorney General may, subject to paragraph (2), enter into an additional agreement in accordance with subsection (d).

''(2) TERM.—An agreement entered into under paragraph (1) may require the borrower to remain employed as a prosecutor or public defender for less than 3 years.

''(f) AWARD BASIS; PRIORITY.—

''(1) AWARD BASIS.—Subject to paragraph (2), the Attorney General shall provide repayment benefits under this section on a first-come, first-served basis, and subject to the availability of appropriations.

''(2) PRIORITY.—The Attorney General shall give priority in providing repayment benefits under this section in any fiscal year to a borrower who—

''(A) received repayment benefits under this section during the preceding fiscal year; and

''(B) has completed less than 3 years of the first required period of service specified for the borrower in an agreement entered into under subsection (d).

''(g) REGULATIONS.—The Attorney General is authorized to issue such regulations as may be necessary to carry out the provisions of this section.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $25,000,000 for fiscal year 2008 and such sums as may be necessary for each succeeding fiscal year.''.

By Mr. DURBIN:

S. 446. A bill to amend the Public Health Service Act to authorize capitation grants to increase the number of nursing faculty and students, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DURBIN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 446

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 ''Nurse Education, Expansion, and Development Act of 2007''.

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) While the Nurse Reinvestment Act (Public Law 107–205) helped to increase applications to schools of nursing by 125 percent, schools of nursing have been unable to accommodate the influx of interested students because they have an insufficient number of nurse educators. It is estimated that—

(A) in the 2006–2007 school year—

(i) 66.6 percent of schools of nursing had from 1 to 18 vacant faculty positions; and

(ii) an additional 16.7 percent of schools of nursing needed additional faculty, but lacked the resources needed to add more positions; and

(B) 41,683 eligible candidates were denied admission to schools of nursing in 2005, primarily due to an insufficient number of faculty members.

(2) A growing number of nurses with doctoral degrees are choosing careers outside of education. Over the last few years, 22.5 percent of doctoral nursing graduates reported seeking employment outside the education profession.

(3) In 2006 the average age of nurse faculty at retirement is 63.1 years. With the average age of doctorally-prepared nurse faculty at 54.7 years in 2005, a wave of retirements is expected within the next 10 years.

(4) Master's and doctoral programs in nursing are not producing a large enough pool of potential nurse educators to meet the projected demand for nurses over the next 10 years. While graduations from master's and doctoral programs in nursing rose by 12.8 percent (or 1,369 graduates) and 13.1 percent (or 56 graduates), respectively, in the 2005–2006 school year, projections still demonstrate a shortage of nurse faculty. Given current trends, there will be at least 2,616 unfilled faculty positions in 2012.

(5) According to the February 2004 Monthly Labor Review of the Bureau of Labor Statistics, more than 1,000,000 new and replacement nurses will be needed by 2012.

SEC. 3. CAPITATION GRANTS TO INCREASE THE NUMBER OF NURSING FACULTY AND STUDENTS.

(a) GRANTS.—Part D of title VIII of the Public Health Service Act (42 U.S.C. 296p) is amended by adding at the end the following:

"SEC. 832. CAPITATION GRANTS.

''(a) IN GENERAL.—For the purpose described in subsection (b), the Secretary, acting through the Health Resources and Services Administration, shall award a grant each fiscal year in an amount determined in accordance with subsection (c) to each eligible school of nursing that submits an application in accordance with this section.

''(b) PURPOSE.—A funding agreement for a grant under this section is that the eligible school of nursing involved will expend the grant to increase the number of nursing faculty and students at the school, including by hiring new faculty, retaining current faculty, purchasing educational equipment and audiovisual laboratories, enhancing clinical laboratories, repairing and expanding infrastructure, or recruiting students.

''(c) GRANT COMPUTATION.—

''(1) AMOUNT PER STUDENT.—Subject to paragraph (2), the amount of a grant to an eligible school of nursing under this section for a fiscal year shall be the total of the following:

''(A) $1,800 for each full-time or part-time student who is enrolled at the school in a graduate program in nursing that—

''(i) leads to a master's degree, a doctoral degree, or an equivalent degree; and

''(ii) prepares individuals to serve as faculty through additional course work in education and ensuring competency in an advanced practice area.

''(B) $1,405 for each full-time or part-time student who—

''(i) is enrolled at the school in a program in nursing leading to a bachelor of science degree, a bachelor of nursing degree, a graduate degree in nursing if such program does not meet the requirements of subparagraph (A), or an equivalent degree; and

''(ii) has not more than 3 years of academic credits remaining in the program.

''(C) $966 for each full-time or part-time student who is enrolled at the school in a program in nursing leading to an associate degree in nursing or an equivalent degree.

''(2) LIMITATION.—In calculating the amount of a grant to a school under paragraph (1), the Secretary may not make a payment with respect to a particular student—

''(A) for more than 2 fiscal years in the case of a student described in paragraph (1)(A) who is enrolled in a graduate program in nursing leading to a master's degree or an equivalent degree;

''(B) for more than 4 fiscal years in the case of a student described in paragraph (1)(A) who is enrolled in a graduate program in nursing leading to a doctoral degree or an equivalent degree;

''(C) for more than 3 fiscal years in the case of a student described in paragraph (1)(B); or

''(D) for more than 2 fiscal years in the case of a student described in paragraph (1)(C).

''(d) ELIGIBILITY.—For purposes of this section, the term 'eligible school of nursing' means a school of nursing that—

''(1) is accredited by a nursing accrediting agency recognized by the Secretary of Education;

''(2) has a passage rate on the National Council Licensure Examination for Registered Nurses of not less than 80 percent for each of the 3 school years preceding submission of the grant application; and

''(3) has a graduation rate (based on the number of students in a class who graduate relative to, for a baccalaureate program, the number of students who were enrolled in the class at the beginning of junior year or, for an associate degree program, the number of students who were enrolled in the class at the end of the first year) of not less than 80 percent for each of the 3 school years preceding submission of the grant application.

''(e) REQUIREMENTS.—The Secretary may award a grant under this section to an eligible school of nursing only if the school gives assurances satisfactory to the Secretary that, for each school year for which the grant is awarded, the school will comply with the following:

''(1) The school will maintain a passage rate on the National Council Licensure Examination for Registered Nurses of not less than 80 percent.

''(2) The school will maintain a graduation rate (as described in subsection (d)(3)) of not less than 80 percent.

''(3)(A) Subject to subparagraphs (B) and (C), the first-year enrollment of full-time nursing students in the school will exceed such enrollment for the preceding school year by 5 percent or 5 students, whichever is greater.

''(B) Subparagraph (A) does not apply to the first school year for which a school receives a grant under this section.

''(C) With respect to any school year, the Secretary may waive application of subparagraph (A) if—

''(i) the physical facilities at the school involved limit the school from enrolling additional students; or

''(ii) the school has increased enrollment in the school (as described in subparagraph (A)) for each of the 2 preceding school years.

''(4) Not later than 1 year after receipt of the grant, the school will formulate and implement a plan to accomplish at least 2 of the following:

''(A) Establishing or significantly expanding an accelerated baccalaureate degree nursing program designed to graduate new nurses in 12 to 18 months.

''(B) Establishing cooperative intradisciplinary education among schools of nursing with a view toward shared use of technological resources, including information technology.

''(C) Establishing cooperative interdisciplinary training between schools of nursing and schools of allied health, medicine, dentistry, osteopathy, optometry, podiatry, pharmacy, public health, or veterinary medicine, including training for the use of the interdisciplinary team approach to the delivery of health services.

''(D) Integrating core competencies on evidence-based practice, quality improvements, and patient-centered care.

''(E) Increasing admissions, enrollment, and retention of qualified individuals who are financially disadvantaged.

''(F) Increasing enrollment of minority and diverse student populations.

''(G) Increasing enrollment of new graduate baccalaureate nursing students in graduate programs that educate nurse faculty members.

''(H) Developing post-baccalaureate residency programs to prepare nurses for practice in specialty areas where nursing shortages are most severe.

''(I) Increasing integration of geriatric content into the core curriculum.

''(J) Partnering with economically disadvantaged communities to provide nursing education.

''(K) Expanding the ability of nurse managed health centers to provide clinical education training sites to nursing students.

''(5) The school will submit an annual report to the Secretary that includes updated information on the school with respect to student enrollment, student retention, graduation rates, passage rates on the National Council Licensure Examination for Registered Nurses, the number of graduates employed as nursing faculty or nursing care providers within 12 months of graduation, and the number of students who are accepted into graduate programs for further nursing education.

''(6) The school will allow the Secretary to make on-site inspections, and will comply with the Secretary's requests for information, to determine the extent to which the school is complying with the requirements of this section.

''(f) REPORTS TO CONGRESS.—The Secretary shall evaluate the results of grants under this section and submit to the Congress—

''(1) not later than 18 months after the date of the enactment of this section, an interim report on such results; and

''(2) not later than the end of fiscal year 2010, a final report on such results.

''(g) APPLICATION.—To seek a grant under this section, a school nursing shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require.

''(h) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—For the costs of carrying out this section (except the costs described in paragraph (2)), there are authorized to be appropriated $75,000,000 for fiscal year 2008, $85,000,000 for fiscal year 2009, and $95,000,000 for fiscal year 2010.

''(2) ADMINISTRATIVE COSTS.—For the costs of administering this section, including the costs of evaluating the results of grants and submitting reports to the Congress, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2008, 2009, and 2010.''.

(b) GAO STUDY.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall conduct a study and submit a report to the Congress on ways to increase participation in the nurse faculty profession.

(2) CONTENTS OF REPORT.—The report required by paragraph (1) shall include the following:

(A) A discussion of the master's degree and doctoral degree programs that are successful in placing graduates as faculty in schools of nursing.

(B) An examination of compensation disparities throughout the nursing profession and compensation disparities between higher education instructional faculty generally and higher education instructional nursing faculty.

By Mr. FEINGOLD:

S. 447. A bill to abolish the death penalty under Federal law; to the Committee on the Judiciary.

Mr. FEINGOLD. Mr. President, today I am introducing the Federal Death Penalty Abolition Act of 2007. This bill would abolish the death penalty at the Federal level. It would put an immediate halt to executions and forbid the imposition of the death penalty as a sentence for violations of Federal law.

Since 1976, when the death penalty was reinstated by the Supreme Court, there have been 1,060 executions across the country, including three at the Federal level. During that same time period, 123 people on death row have been exonerated and released from death row. These people never should have been convicted in the first place.

Consider those numbers. One thousand and sixty executions, and one hundred and twenty-three exonerations in the modern death penalty era. Had those exonerations not taken place, had those 123 people been executed, those executions would have represented an error rate of greater than 10 percent. That is more than an embarrassing statistic; it is a horrifying one, one that should have us all questioning the use of capital punishment in this country. In fact, since 1999 when I first introduced this bill, 46 death row inmates have been exonerated throughout the country.

In the face of these numbers, the national debate on the death penalty has intensified. For the second year in a row, the number of executions, the number of death sentences imposed, and the size of the death row population have decreased as a growing number of voices have joined to express doubt about the use of capital punishment in America. The voices of those questioning the fairness of the death penalty have been heard from college campuses and courtrooms and podiums across the Nation, to the Senate Judiciary Committee hearing room, to the United States Supreme Court. The American public understands that the death penalty raises serious and complex issues. The death penalty can no longer be exploited for political purposes. In fact, for the first time, a May 2006 Gallup Poll reported that more Americans prefer a sentence of life without parole over the death penalty when given a choice. If anything, the political consensus is that it is time for a change. We must not ignore these voices.

In the wake of the Supreme Court's decision in 1976 to allow capital punishment, the Federal Government first resumed death penalty prosecutions after enactment of a 1988 Federal law that provided for the death penalty for murder in the course of a drug-kingpin conspiracy. The Federal death penalty was then expanded significantly in 1994, when the omnibus crime bill expanded its use to a total of some 60 Federal offenses. And despite my best efforts to halt the expansion of the Federal death penalty, more and more provisions seem to be added every year. While the use of and confidence in the death penalty is decreasing overall, the Federal Government has been going in the opposite direction, making more defendants eligible for capital punishment and increasing the size of its Federal death row. Moreover, there are now six individuals on Federal death row from States that do not have capital punishment. The Federal Government is pulling in the wrong direction as the rest of the Nation moves toward a more just system.

On this very day eight years ago, Governor George Ryan took the historic step of placing a moratorium on executions in Illinois and creating an independent, blue ribbon commission to review the State's death penalty system. The Commission conducted an extensive study of the death penalty in Illinois and released a report with 85 recommendations for reform of the death penalty system. The Commission concluded that the death penalty system is not fair, and that the risk of executing the innocent is alarmingly real. Governor Ryan later pardoned four death row inmates and commuted the sentences of all remaining Illinois death row inmates to life in prison before he left office in January 2003.

Illinois is not alone. Seven years ago, then Maryland Governor Parris Glendening learned of suspected racial disparities in the administration of the death penalty in Maryland. Governor Glendening did not look the other way. He commissioned the University of Maryland to conduct the most exhaustive study of Maryland's application of the death penalty in history. Then faced with the rapid approach of a scheduled execution, Governor Glendening acknowledged that it was unacceptable to allow executions to take place while the study he had ordered was not yet complete. So, in May 2002, he placed a moratorium on executions. Although Governor Bob Ehrlich lifted that moratorium and allowed executions to resume during his tenure, Governor Martin O'Malley has indicated that he would approve a legislative repeal of the death penalty and that he, like the majority in this country, favors life without parole.

Other States also have taken important steps. New York's death penalty was overturned by a court decision in 2004 and has not been reinstated by the legislature, and New Jersey enacted a moratorium in 2006. Along with New York and New Jersey, four other States that still have the death penalty technically on their books have not executed any individuals since 1976. In addition, there are 12 States, plus the District of Columbia, whose laws do not provide for capital punishment at all. And following in the footsteps of Illinois and Maryland, North Carolina and California both began legislative studies of their own capital punishment systems this past year.

The more we learn about the death penalty through studies like those, the more reasons we have to oppose it. For example, the Maryland study—released in January 2003—contained findings that should startle us all. The study found that blacks accused of killing whites are more likely to receive a death sentence than blacks who kill blacks, or than white killers. According to the report, black offenders who kill whites are four times as likely to be sentenced to death as blacks who kill blacks, and twice as likely to get a death sentence as whites who kill whites.

The Maryland and Illinois studies cannot be brushed aside as atypical or dismissed as revealing state-specific anomalies in an otherwise perfect system. Years of study have shown that the death penalty does little to deter crime, and that defendants' likelihood of being sentenced to death depends heavily on illegitimate factors such as whether they are rich or poor. Since reinstatement of the modern death penalty, 80 percent of murder victims in cases where death sentences were handed down were white, even though only 50 percent of murder victims are white. Nationwide, more than half of the death row inmates are African Americans or Hispanic Americans. There is evidence of racial disparities, inadequate counsel, prosecutorial misconduct, and false scientific evidence in death penalty systems across the country.

At least Maryland, Illinois, North Carolina, and California have begun the process of investigating the flaws in their own systems. But there are 36 other States that have death penalty provisions in their laws, 36 other States with systems that are most likely plagued with the same flaws. And these systems come at great additional cost to the taxpayers. For example, a 2005 report found that California's death penalty system costs taxpayers $114 million in additional costs each year. Similar reports detailing the extraordinary financial costs of the death penalty have been generated for States across the Nation.

Moreover, there are growing concerns about the most common method of execution, lethal injection. These concerns are so grave that eight States and the Federal system all halted individual executions in 2006 to work through these problems. And these numbers are growing. Just this last week, executions in North Carolina were halted because of challenges to lethal injection. More and more research is emerging that suggests that lethal injections are unnecessarily painful and cruel, and that this method of capital punishment—however sanitary or humane it may appear—is no less barbaric than the more antiquated methods lethal injection was designed to replace, such as the noose or the firing squad, no less horrific than the electric chair or the gas chamber.

Nothing is more barbaric, of course, than the execution of an innocent person, and it is clearer than ever that the

risk is very real. Already, information has surfaced that suggests that two men put to death in the 1990s may have been innocent. This is a chilling prospect, one that illustrates the very grave danger in imposing the death penalty. The loss of just one innocent life through capital punishment should be enough to force all of us to stop and reconsider this penalty.

And while we examine the flaws in our death penalty system, we cannot help but note that our use of the death penalty stands in stark contrast to the majority of nations, which have abolished the death penalty in law or practice. There are now 123 countries that have done so. In 2005, only China, Iran, and Saudi Arabia executed more people than we did. These countries, and others on the list of nations that actively use capital punishment, are countries that we often criticize for human rights abuses. The European Union denies membership in the alliance to those nations that use the death penalty. In fact, it passed a resolution calling for the immediate and unconditional global abolition of the death penalty, and it specifically called on all States within the United States to abolish the death penalty. This is significant because it reflects the unanimous view of a group of nations with which the United States enjoys close relationships and shares common values. We should join with them and with the over 100 other nations that have renounced this practice.

We are a Nation that prides itself on the fundamental principles of justice, liberty, equality and due process. We are a Nation that scrutinizes the human rights records of other nations. Historically, we are one of the first Nations to speak out against torture and killings by foreign governments. We should hold our own system of justice to the highest standard.

As a matter of justice, this is an issue that transcends political allegiances. A range of prominent voices in our country are raising serious questions about the death penalty, and they are not just voices of liberals, or of the faith community. They are the voices of former FBI Director William Sessions, former Justice Sandra Day O'Connor, Reverend Pat Robertson, George Will, former Mississippi warden Donald Cabana, the Republican former Governor of Illinois, George Ryan, and the Democratic former Governor of Maryland, Parris Glendening. The voices of those questioning our application of the death penalty are growing in number, they are growing louder, and they are reflected in some of the decisions of the highest court of the land. In recent years, the Supreme Court has held that the execution of juvenile offenders and the mentally retarded is unconstitutional.

As we begin a new year and a new Congress, I believe the continued use of the death penalty in the United States is beneath us. The death penalty is at odds with our best traditions. It is wrong and it is immoral. The adage ''two wrongs do not make a right,'' applies here in the most fundamental way. Our Nation has long ago done away with other barbaric punishments like whipping and cutting off the ears of criminals. Just we did away with these punishments as contrary to our humanity and ideals, it is time to abolish the death penalty as we seek to spread peace and justice both here and overseas. It is not just a matter of morality. The continued viability of our criminal justice system as a truly just system that deserves the respect of our own people and the world requires that we do so. Our Nation's goal to remain the world's leading defender of freedom, liberty and equality demands that we do so.

Abolishing the death penalty will not be an easy task. It will take patience, persistence, and courage. As we work to move forward in a rapidly changing world, let us leave this archaic practice behind.

I ask my colleagues to join me in taking the first step in abolishing the death penalty in our great Nation. I also call on each State that authorizes the use of the death penalty to cease this practice. Let us together reject violence and restore fairness and integrity to our criminal justice system.

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

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

S. 447

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Death Penalty Abolition Act of 2007''.

SEC. 2. REPEAL OF FEDERAL LAWS PROVIDING FOR THE DEATH PENALTY.

(a) HOMICIDE-RELATED OFFENSES.—

(1) MURDER RELATED TO THE SMUGGLING OF ALIENS.—Section 274(a)(1)(B)(iv) of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)(B)(iv)) is amended by striking ''punished by death or''.

(2) DESTRUCTION OF AIRCRAFT, MOTOR VEHICLES, OR RELATED FACILITIES RESULTING IN DEATH.—Section 34 of title 18, United States Code, is amended by striking ''to the death penalty or''.

(3) MURDER COMMITTED DURING A DRUG-RELATED DRIVE-BY SHOOTING.—Section 36(b)(2)(A) of title 18, United States Code, is amended by striking ''death or''.

(4) MURDER COMMITTED AT AN AIRPORT SERVING INTERNATIONAL CIVIL AVIATION.—Section 37(a) of title 18, United States Code, is amended, in the matter following paragraph (2), by striking ''punished by death or''.

(5) MURDER COMMITTED USING CHEMICAL WEAPONS.—Section 229A(a)(2) of title 18, United States Code, is amended—

(A) in the paragraph heading, by striking ''DEATH PENALTY'' and inserting ''CAUSING DEATH''; and

(B) by striking ''punished by death or''.

(6) CIVIL RIGHTS OFFENSES RESULTING IN DEATH.—Chapter 13 of title 18, United States Code, is amended—

(A) in section 241, by striking '', or may be sentenced to death'';

(B) in section 242, by striking '', or may be sentenced to death'';

(C) in section 245(b), by striking '', or may be sentenced to death''; and

(D) in section 247(d)(1), by striking '', or may be sentenced to death''.

(7) MURDER OF A MEMBER OF CONGRESS, AN IMPORTANT EXECUTIVE OFFICIAL, OR A SUPREME COURT JUSTICE.—Section 351 of title 18, United States Code, is amended—

(A) in subsection (b)—

(i) by striking ''(1)''; and

(ii) by striking '', or (2) by death'' and all that follows through the end of the subsection and inserting a period; and

(B) in subsection (d)—

(i) by striking ''(1)''; and

(ii) by striking '', or (2) by death'' and all that follows through the end of the subsection and inserting a period.

(8) DEATH RESULTING FROM OFFENSES INVOLVING TRANSPORTATION OF EXPLOSIVES, DESTRUCTION OF GOVERNMENT PROPERTY, OR DESTRUCTION OF PROPERTY RELATED TO FOREIGN OR INTERSTATE COMMERCE.—Section 844 of title 18, United States Code, is amended—

(A) in subsection (d), by striking ''or to the death penalty'';

(B) in subsection (f)(3), by striking ''subject to the death penalty, or'';

(C) in subsection (i), by striking ''or to the death penalty''; and

(D) in subsection (n), by striking ''(other than the penalty of death)''.

(9) MURDER COMMITTED BY USE OF A FIREARM OR ARMOR PIERCING AMMUNITION DURING COMMISSION OF A CRIME OF VIOLENCE OR A DRUG TRAFFICKING CRIME.—Section 924 of title 18, United States Code, is amended—

(A) in subsection (c)(5)(B)(i), by striking ''punished by death or''; and

(B) in subsection (j)(1), by striking ''by death or''.

(10) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking ''death or''.

(11) FIRST DEGREE MURDER.—Section 1111(b) of title 18, United States Code, is amended by striking ''by death or''.

(12) MURDER BY A FEDERAL PRISONER.—Section 1118 of title 18, United States Code, is amended—

(A) in subsection (a), by striking ''by death or''; and

(B) in subsection (b), in the third undesignated paragraph—

(i) by inserting ''or'' before ''an indeterminate''; and

(ii) by striking '', or an unexecuted sentence of death''.

(13) MURDER OF A STATE OR LOCAL LAW ENFORCEMENT OFFICIAL OR OTHER PERSON AIDING IN A FEDERAL INVESTIGATION; MURDER OF A STATE CORRECTIONAL OFFICER.—Section 1121 of title 18, United States Code, is amended—

(A) in subsection (a), by striking ''by sentence of death or''; and

(B) in subsection (b)(1), by striking ''or death''.

(14) MURDER DURING A KIDNAPING.—Section 1201(a) of title 18, United States Code, is amended by striking ''death or''.

(15) MURDER DURING A HOSTAGE-TAKING.—Section 1203(a) of title 18, United States Code, is amended by striking ''death or''.

(16) MURDER WITH THE INTENT OF PREVENTING TESTIMONY BY A WITNESS, VICTIM, OR INFORMANT.—Section 1512(a)(2)(A) of title 18, United States Code, is amended by striking ''the death penalty or''.

(17) MAILING OF INJURIOUS ARTICLES WITH INTENT TO KILL OR RESULTING IN DEATH.—Section 1716(j)(3) of title 18, United States Code, is amended by striking ''to the death penalty or''.

(18) ASSASSINATION OR KIDNAPING RESULTING IN THE DEATH OF THE PRESIDENT OR VICE PRESIDENT.—Section 1751 of title 18, United States Code, is amended—

(A) in subsection (b)—

(i) by striking ''(1)''; and

(ii) by striking '', or (2) by death'' and all that follows through the end of the subsection and inserting a period; and

(B) in subsection (d)—

(i) by striking ''(1)''; and

(ii) by striking '', or (2) by death'' and all that follows through the end of the subsection and inserting a period.

(19) MURDER FOR HIRE.—Section 1958(a) of title 18, United States Code, is amended by striking ''death or''.

(20) MURDER INVOLVED IN A RACKETEERING OFFENSE.—Section 1959(a)(1) of title 18, United States Code, is amended by striking ''death or''.

(21) WILLFUL WRECKING OF A TRAIN RESULTING IN DEATH.—Section 1992 of title 18, United States Code, is amended—

(A) in subsection (a), in the matter following paragraph (10), by striking ''or subject to death,''; and

(B) in subsection (b), in the matter following paragraph (3), by striking '', and if the offense resulted in the death of any person, the person may be sentenced to death''.

(22) BANK ROBBERY-RELATED MURDER OR KIDNAPING.—Section 2113(e) of title 18, United States Code, is amended by striking ''death or''.

(23) MURDER RELATED TO A CARJACKING.—Section 2119(3) of title 18, United States Code, is amended by striking '', or sentenced to death''.

(24) MURDER RELATED TO AGGRAVATED CHILD SEXUAL ABUSE.—Section 2241(c) of title 18, United States Code, is amended by striking ''unless the death penalty is imposed,''.

(25) MURDER RELATED TO SEXUAL ABUSE.—Section 2245 of title 18, United States Code, is amended by striking ''punished by death or''.

(26) MURDER RELATED TO SEXUAL EXPLOITATION OF CHILDREN.—Section 2251(e) of title 18, United States Code, is amended by striking ''punished by death or''.

(27) MURDER COMMITTED DURING AN OFFENSE AGAINST MARITIME NAVIGATION.—Section 2280(a)(1) of title 18, United States Code, is amended by striking ''punished by death or''.

(28) MURDER COMMITTED DURING AN OFFENSE AGAINST A MARITIME FIXED PLATFORM.—Section 2281(a)(1) of title 18, United States Code, is amended by striking ''punished by death or''.

(29) MURDER USING DEVICES OR DANGEROUS SUBSTANCES IN WATERS OF THE UNITED STATES.—Section 2282A of title 18, United States Code, is amended—

(A) by striking subsection (b); and

(B) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(30) MURDER INVOLVING THE TRANSPORTATION OF EXPLOSIVE, BIOLOGICAL, CHEMICAL, OR RADIOACTIVE OR NUCLEAR MATERIALS.—Section 2283 of title 18, United States Code, is amended—

(A) by striking subsection (b); and

(B) by redesignating subsection (c) as subsection (b).

(31) MURDER INVOLVING THE DESTRUCTION OF VESSEL OR MARITIME FACILITY.—Section 2291(d) of title 18, United States Code, is amended by striking ''to the death penalty or''.

(32) MURDER OF A UNITED STATES NATIONAL IN ANOTHER COUNTRY.—Section 2332(a)(1) of title 18, United States Code, is amended by striking ''death or''.

(33) MURDER BY THE USE OF A WEAPON OF MASS DESTRUCTION.—Section 2332a of title 18, United States Code, is amended—

(A) in subsection (a), in the matter following paragraph (4), by striking '', and if death results shall be punished by death'' and all that follows through the end of the subsection and inserting a period; and

(B) in subsection (b), by striking '', and if death results shall be punished by death'' and all that follows through the end of the subsection and inserting a period.

(34) MURDER BY ACT OF TERRORISM TRANSCENDING NATIONAL BOUNDARIES.—Section 2332b(c)(1)(A) of title 18, United States Code, is amended by striking ''by death, or''.

(35) MURDER INVOLVING TORTURE.—Section 2340A(a) of title 18, United States Code, is amended by striking ''punished by death or''.

(36) MURDER INVOLVING A WAR CRIME.—Section 2441(a) of title 18, United States Code, is amended by striking '', and if death results to the victim, shall also be subject to the penalty of death''.

(37) MURDER RELATED TO A CONTINUING CRIMINAL ENTERPRISE OR RELATED MURDER OF A FEDERAL, STATE, OR LOCAL LAW ENFORCEMENT OFFICER.—Section 408(e) of the Controlled Substances Act (21 U.S.C. 848(e)) is amended—

(A) in the subsection heading, by striking ''DEATH PENALTY'' and inserting ''INTENTIONAL KILLING''; and

(B) in paragraph (1)—

(i) subparagraph (A), by striking '', or may be sentenced to death''; and

(ii) in subparagraph (B), by striking '', or may be sentenced to death''.

(38) DEATH RESULTING FROM AIRCRAFT HIJACKING.—Section 46502 of title 49, United States Code, is amended—

(A) in subsection (a)(2)(B), by striking ''put to death or''; and

(B) in subsection (b)(1)(B), by striking ''put to death or''.

(b) NON-HOMICIDE RELATED OFFENSES.—

(1) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking ''punished by death or'' and all that follows before the period and inserting ''imprisoned for any term of years or for life''.

(2) TREASON.—Section 2381 of title 18, United States Code, is amended by striking ''shall suffer death, or''.

(c) TITLE 10.—

(1) OFFENSES.—

(A) CONSPIRACY.—Section 881(b) of title 10, United States Code (article 81(b) of the Uniform Code of Military Justice), is amended by striking '', if death results'' and all that follows through the end and inserting ''as a court-martial or military commission may direct.''.

(B) DESERTION.—Section 885(c) of title 10, United States Code (article 85(c)), is amended by striking '', if the offense is committed in time of war'' and all that follows through the end and inserting ''as a court-martial may direct.''.

(C) ASSAULTING OR WILLFULLY DISOBEYING SUPERIOR COMMISSIONED OFFICER.—Section 890 of title 10, United States Code (article 90), is amended by striking '', if the offense is committed in time of war'' and all that follows and inserting ''as a court-martial may direct.''.

(D) MUTINY OR SEDITION.—Section 894(b) of title 10, United States Code (article 94(b)), is amended by striking ''by death or such other punishment''.

(E) MISBEHAVIOR BEFORE THE ENEMY.—Section 899 of title 10, United States Code (article 99), is amended by striking ''by death or such other punishment''.

(F) SUBORDINATE COMPELLING SURRENDER.—Section 900 of title 10, United States Code (article 100), is amended by striking ''by death or such other punishment''.

(G) IMPROPER USE OF COUNTERSIGN.—Section 901 of title 10, United States Code (article 101), is amended by striking ''by death or such other punishment''.

(H) FORCING A SAFEGUARD.—Section 902 of title 10, United States Code (article 102), is amended by striking ''suffer death'' and all that follows and inserting ''be punished as a court-martial may direct.''.

(I) AIDING THE ENEMY.—Section 904 of title 10, United States Code (article 104), is amended by striking ''suffer death or such other punishment as a court-martial or military commission may direct'' and inserting ''be punished as a court-martial or military commission may direct''.

(J) SPIES.—Section 906 of title 10, United States Code (article 106), is amended by striking ''by death'' and inserting ''by imprisonment for life''.

(K) ESPIONAGE.—Section 906a of title 10, United States Code (article 106a), is amended—

(i) by striking subsections (b) and (c);

(ii) by redesignating paragraphs (2) and (3) of subsection (a) as subsections (b) and (c), respectively;

(iii) in subsection (a)—

(I) by striking ''(1)'';

(II) by striking ''paragraph (2)'' and inserting ''subsection (b)'';

(III) by striking ''paragraph (3)'' and inserting ''subsection (c)''; and

(IV) by striking ''as a court-martial may direct,'' and all that follows and inserting ''as a court-martial may direct.'';

(iv) in subsection (b), as so redesignated—

(I) by striking ''paragraph (1)'' and inserting ''subsection (a)''; and

(II) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively; and

(v) in subsection (c), as so redesignated, by striking ''paragraph (1)'' and inserting ''subsection (a)''.

(L) IMPROPER HAZARDING OF VESSEL.—The text of section 910 of title 10, United States Code (article 110), is amended to read as follows:

''Any person subject to this chapter who willfully and wrongfully, or negligently, hazards or suffers to be hazarded any vessel of the Armed Forces shall be punished as a court-martial may direct.''.

(M) MISBEHAVIOR OF SENTINEL.—Section 913 of title 10, United States Code (article 113), is amended by striking '', if the offense is committed in time of war'' and all that follows and inserting ''as a court-martial may direct.''.

(N) MURDER.—Section 918 of title 10, United States Code (article 118), is amended by striking ''death or imprisonment for life as a court-martial may direct'' and inserting ''imprisonment for life''.

(O) DEATH OR INJURY OF AN UNBORN CHILD.—Section 919a(a) of title 10, United States Code, is amended—

(i) in paragraph (1), by striking '', other than death,''; and

(ii) by striking paragraph (4).

(P) RAPE.—Section 920(a) of title 10, United States Code (article 120(a)), is amended by striking ''by death or such other punishment''.

(Q) CRIMES TRIABLE BY MILITARY COMMISSION.—Section 950v(b) of title 10, United States Code, is amended—

(i) in paragraph (1), by striking ''by death or such other punishment'';

(ii) in paragraph (2), by striking '', if death results'' and all that follows and inserting ''as a military commission under this chapter may direct.'';

(iii) in paragraph (7), by striking '', if death results'' and all that follows and inserting ''as a military commission under this chapter may direct.'';

(iv) in paragraph (8), by striking '', if death results'' and all that follows and inserting ''as a military commission under this chapter may direct.'';

(v) in paragraph (9), by striking '', if death results'' and all that follows and inserting

''as a military commission under this chapter may direct.'';

(vi) in paragraph (11)(A), by striking '', if death results'' and all that follows and inserting ''as a military commission under this chapter may direct.'';

(vii) in paragraph (12)(A), by striking '', if death results'' and all that follows and inserting ''as a military commission under this chapter may direct.'';

(viii) in paragraph (13)(A), by striking '', if death results'' and all that follows and inserting ''as a military commission under this chapter may direct.'';

(ix) in paragraph (14), by striking '', if death results'' and all that follows and inserting ''as a military commission under this chapter may direct.'';

(x) in paragraph (15), by striking ''by death or such other punishment'';

(xi) in paragraph (17), by striking '', if death results'' and all that follows and inserting ''as a military commission under this chapter may direct.'';

(xii) in paragraph (23), by striking '', if death results'' and all that follows and inserting ''as a military commission under this chapter may direct.'';

(xiii) in paragraph (24), by striking '', if death results'' and all that follows and inserting ''as a military commission under this chapter may direct.'';

(xiv) in paragraph (27), by striking ''by death or such other punishment''; and

(xv) in paragraph (28), by striking '', if death results'' and all that follows and inserting ''as a military commission under this chapter may direct.''.

(2) JURISDICTIONAL AND PROCEDURAL MATTERS.—

(A) DISMISSED OFFICER'S RIGHT TO TRIAL BY COURT-MARTIAL.—Section 804(a) of title 10, United States Code (article 4(a) of the Uniform Code of Military Justice), is amended by striking ''or death''.

(B) COURTS-MARTIAL CLASSIFIED.—Section 816(1)(A) of title 10, United States Code (article 10(1)(A)), is amended by striking ''or, in a case in which the accused may be sentenced to a penalty of death'' and all that follows through ''(article 25a)''.

(C) JURISDICTION OF GENERAL COURTS-MARTIAL.—Section 818 of title 10, United States Code (article 18), is amended—

(i) in the first sentence by striking ''including the penalty of death when specifically authorized by this chapter'' and inserting ''except death''; and

(ii) by striking the third sentence.

(D) JURISDICTION OF SPECIAL COURTS-MARTIAL.—Section 819 of title 10, United States Code (article 19), is amended in the first sentence by striking ''for any noncapital offense'' and all that follows and inserting ''for any offense made punishable by this chapter.''.

(E) JURISDICTION OF SUMMARY COURTS-MARTIAL.—Section 820 of title 10, United States Code (article 20), is amended in the first sentence by striking ''noncapital''.

(F) NUMBER OF MEMBERS IN CAPITAL CASES.—

(i) IN GENERAL.—Section 825a of title 10, United States Code (article 25a), is repealed.

(ii) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter V of chapter 47 of title 10, United States Code, is amended by striking the item relating to section 825a (article 25a).

(G) ABSENT AND ADDITIONAL MEMBERS.—Section 829(b)(2) of title 10, United States Code (article 29(b)(2)), is amended by striking ''or, in a case in which the death penalty may be adjudged'' and all that follows and inserting a period.

(H) STATUTE OF LIMITATIONS.—Subsection (a) of section 843 of title 10, United States Code (article 43), is amended to read as follows:

''(a)(1) A person charged with an offense described in paragraph (2) may be tried and punished at any time without limitation.

''(2) An offense described in this paragraph is any offense as follows:

''(A) Absence without leave or missing movement in time of war.

''(B) Murder.

''(C) Rape.

''(D) A violation of section 881 of this title (article 81) that results in death to one or more of the victims.

''(E) Desertion or attempt to desert in time of war.

''(F) A violation of section 890 of this title (article 90) committed in time of war.

''(G) Attempted mutiny, mutiny, sedition, or failure to suppress or report a mutiny or sedition.

''(H) A violation of section 899 of this title (article 99).

''(I) A violation of section 900 of this title (article 100).

''(J) A violation of section 901 of this title (article 101).

''(K) A violation of section 902 of this title (article 102).

''(L) A violation of section 904 of this title (article 104).

''(M) A violation of section 906 of this title (article 106).

''(N) A violation of section 906a of this title (article 106a).

''(O) A violation of section 910 of this title (article 110) in which the person subject to this chapter willfully and wrongfully hazarded or suffered to be hazarded any vessel of the Armed Forces.

''(P) A violation of section 913 of this title (article 113) committed in time of war.''.

(I) PLEAS OF ACCUSED.—Section 845(b) of title 10, United States Code (article 45(b)), is amended—

(i) by striking the first sentence; and

(ii) by striking ''With respect to any other charge'' and inserting ''With respect to any charge''.

(J) DEPOSITIONS.—Section 849 of title 10, United States Code (article 49), is amended—

(i) in subsection (d), by striking ''in any case not capital''; and

(ii) by striking subsections (e) and (f).

(K) ADMISSIBILITY OF RECORDS OF COURTS OF INQUIRY.—Section 850 of title 10, United States Code (article 50), is amended—

(i) in subsection (a), by striking ''not capital and''; and

(ii) in subsection (b), by striking ''capital cases or''.

(L) NUMBER OF VOTES REQUIRED FOR CONVICTION AND SENTENCING BY COURT-MARTIAL.—Section 852 of title 10, United States Code (article 52), is amended—

(i) in subsection (a)—

(I) by striking paragraph (1);

(II) by redesignating paragraph (2) as subsection (a); and

(III) by striking ''any other offense'' and inserting ''any offense''; and

(ii) in subsection (b)—

(I) by striking paragraph (1); and

(II) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(M) RECORD OF TRIAL.—Section 854(c)(1)(A) of title 10, United States Code (article 54(c)(1)(A)), is amended by striking ''death,''.

(N) FORFEITURE OF PAY AND ALLOWANCES DURING CONFINEMENT.—Section 858b(a)(2)(A) of title 10, United States Code (article 58b(a)(2)(A)), is amended by striking ''or death''.

(O) WAIVER OR WITHDRAWAL OF APPEAL.—Section 861 of title 10, United States Code (article 61), is amended—

(i) in subsection (a), by striking ''except a case in which the sentence as approved under section 860(c) of this title (article 60(c)) includes death,''; and

(ii) in subsection (b), by striking ''Except in a case in which the sentence as approved under section 860(c) of this title (article 60(c)) includes death, the accused'' and inserting ''The accused''.

(P) REVIEW BY COURT OF CRIMINAL APPEALS.—Section 866(b) of title 10, United States Code (article 66(b)), is amended—

(i) in the matter preceding paragraph (1), by inserting ''in which'' after ''court-martial'';

(ii) in paragraph (1), by striking ''in which the sentence, as approved, extends to death,'' and inserting ''the sentence, as approved, extends to''; and

(iii) in paragraph (2), by striking ''except in the case of a sentence extending to death,''.

(Q) REVIEW BY COURT OF APPEALS FOR THE ARMED FORCES.—Section 867(a) of title 10, United States Code (article 67(a)), is amended—

(i) by striking paragraph (1); and

(ii) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(R) EXECUTION OF SENTENCE.—Section 871 of title 10, United States Code (article 71), is amended—

(i) by striking subsection (a);

(ii) by redesignating subsection (b) as subsection (a);

(iii) by striking subsection (c) and inserting the following:

''(b)(1) If a sentence extends to dismissal or a dishonorable or bad conduct discharge and if the right of the accused to appellate review is not waived, and an appeal is not withdrawn, under section 861 of this title (article 61), that part of the sentence extending to dismissal or a dishonorable or bad conduct discharge may not be executed until there is a final judgment as to the legality of the proceedings (and with respect to dismissal, approval under subsection (a)). A judgment as to legality of the proceedings is final in such cases when review is completed by a Court of Criminal Appeals and—

''(A) the time for the accused to file a petition for review by the Court of Appeals for the Armed Forces has expired and the accused has not filed a timely petition for such review and the case is not otherwise under review by that Court;

''(B) such a petition is rejected by the Court of Appeals for the Armed Forces; or

''(C) review is completed in accordance with the judgment of the Court of Appeals for the Armed Forces and—

''(i) a petition for a writ of certiorari is not filed within the time limits prescribed by the Supreme Court;

''(ii) such a petition is rejected by the Supreme Court; or

''(iii) review is otherwise completed in accordance with the judgment of the Supreme Court.

''(2) If a sentence extends to dismissal or a dishonorable or bad conduct discharge and if the right of the accused to appellate review is waived, or an appeal is withdrawn, under section 861 of this title (article 61), that part of the sentence extending to dismissal or a bad conduct or dishonorable discharge may not be executed until review of the case by a judge advocate (and any action on that review) under section 864 of this title (article 64) is completed. Any other part of a court-martial sentence may be ordered executed by the convening authority or other person acting on the case under section 860 of this title (article 60) when approved by him under that section.'';

(iv) by redesignating subsection (d) as subsection (c); and

(v) in subsection (c), as so redesignated, by striking '', except a sentence of death''.

(S) GENERAL ARTICLE.—Section 934 of title 10, United States Code (article 134), is amended by striking ''crimes and offenses not capital'' and inserting ''crimes and offenses''

(T) JURISDICTION OF MILITARY COMMISSIONS.—Section 948d(d) of title 10, United States Code, is amended by striking ''including the penalty of death'' and all that follows and inserting ''except death.''.

(U) NUMBER OF MEMBERS OF MILITARY COMMISSIONS.—Subsection (a) of section 948m of title 10, United States Code, is amended to read as follows:

''(a) NUMBER OF MEMBERS.—A military commission under this chapter shall have at least 5 members.''.

(V) NUMBER OF VOTES REQUIRED FOR SENTENCING BY MILITARY COMMISSION.—Section 949m of title 10, United States Code, is amended—

(i) in subsection (b)—

(I) by striking paragraph (1); and

(II) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively; and

(ii) by striking subsection (c).

(W) APPELLATE REFERRAL FOR MILITARY COMMISSIONS.—Section 950c of title 10, United States Code, is amended—

(i) in subsection (b)(1), by striking ''except a case in which the sentence as approved under section 950b of this title extends to death,''; and

(ii) in subsection (c), by striking ''Except in a case in which the sentence as approved under section 950b of this title extends to death, the accused'' and inserting ''The accused''.

(X) EXECUTION OF SENTENCE BY MILITARY COMMISSIONS.—

(i) IN GENERAL.—Section 950i of title 10, United States Code, is amended—

(I) in the section heading, by striking ''**; PROCEDURES FOR EXECUTION OF SENTENCE OF DEATH**'';

(II) by striking subsections (b) and (c);

(III) by redesignating subsection (d) as subsection (b); and

(IV) in subsection (b), as so redesignated, by striking '', except a sentence of death''.

(ii) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter VI of chapter 47A of title 10, United States Code, is amended by striking the item relating to section 950i and inserting the following new item:

''950i. Execution of sentence.''.

(d) CONFORMING AMENDMENTS.—

(1) REPEAL OF CRIMINAL PROCEDURES RELATING TO IMPOSITION OF DEATH SENTENCE.—

(A) IN GENERAL.—Chapter 228 of title 18, United States Code, is repealed.

(B) CLERICAL AMENDMENT.—The table of chapters for part II of title 18, United States Code, is amended by striking the item relating to chapter 228.

(2) OTHER PROVISIONS.—

(A) INTERCEPTION OF WIRE, ORAL, OR ELECTRONIC COMMUNICATIONS.—Section 2516(1)(a) of title 18, United States Code, is amended by striking ''by death or''.

(B) RELEASE AND DETENTION PENDING JUDICIAL PROCEEDINGS.—Chapter 207 of title 18, United States Code, is amended—

(i) in section 3142(f)(1)(B), by striking ''or death''; and

(ii) in section 3146(b)(1)(A)(i), by striking ''death, life imprisonment,'' and inserting ''life imprisonment''.

(C) VENUE IN CAPITAL CASES.—Chapter 221 of title 18, United States Code, is amended—

(i) by striking section 3235; and

(ii) in the table of sections, by striking the item relating to section 3235.

(D) PERIOD OF LIMITATIONS.—

(i) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by striking section 3281 and inserting the following:

''§ 3281. Offenses with no period of limitations

''An indictment may be found at any time without limitation for the following offenses:

''(1) A violation of section 274(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)(A)) resulting in the death of any person.

''(2) A violation of section 34 of this title.

''(3) A violation of section 36(b)(2)(A) of this title.

''(4) A violation of section 37(a) of this title that results in the death of any person.

''(5) A violation of section 229A(a)(2) of this title.

''(6) A violation of section 241, 242, 245(b), or 247(a) of this title that—

''(A) results in death; or

''(B) involved kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.

''(7) A violation of subsection (b) or (d) of section 351 of this title.

''(8) A violation of section 794(a) of this title.

''(9) A violation of subsection (d), (f), or (i) of section 844 of this title that results in the death of any person (including any public safety officer performing duties as a direct or proximate result of conduct prohibited by such subsection).

''(10) An offense punishable under subsection (c)(5)(B)(i) or (j)(1) of section 924 of this title.

''(11) An offense punishable under section 1091(b)(1) of this title.

''(12) A violation of section 1111 of this title that is murder in the first degree.

''(13) A violation of section 1118 of this title.

''(14) A violation of subsection (a) or (b) of section 1121 of this title.

''(15) A violation of section 1201(a) of this title that results in the death of any person.

''(16) A violation of section 1203(a) of this title that results in the death of any person.

''(17) An offense punishable under section 1512(a)(3) of this title that is murder (as that term is defined in section 1111 of this title).

''(18) An offense punishable under section 1716(j)(3) of this title.

''(19) A violation of subsection (b) or (d) of section 1751 of this title.

''(20) A violation of section 1958(a) of this title that results in death.

''(21) A violation of section 1959(a) of this title that is murder.

''(22) A violation of subsection (a) (except for a violation of paragraph (8), (9) or (10) of such subsection) or (b) of section 1992 of this title that results in the death of any person.

''(23) A violation of section 2113(e) of this title that results in death.

''(24) An offense punishable under section 2119(3) of this title.

''(25) An offense punishable under section 2245(a) of this title.

''(26) A violation of section 2251 of this title that results in the death of a person.

''(27) A violation of section 2280(a)(1) of this title that results in the death of any person.

''(28) A violation of section 2281(a)(1) of this title that results in the death of any person.

''(29) A violation of section 2282A(a) of this title that causes the death of any person.

''(30) A violation of section 2283(a) of this title that causes the death of any person.

''(31) An offense punishable under section 2291(d) of this title.

''(32) An offense punishable under section 2332(a)(1) of this title.

''(33) A violation of subsection (a) or (b) of section 2332a of this title that results in death.

''(34) An offense punishable under section 2332b(c)(1)(A) of this title.

''(35) A violation of section 2340A(a) of this title that results in the death of any person.

''(36) A violation of section 2381 of this title.

''(37) A violation of section 2441(a) of this title that results in the death of the victim.

''(38) A violation of section 408(e) of the Controlled Substances Act (21 U.S.C. 848(e)).

''(39) An offense punishable under subsection (a)(2)(B) or (b)(1)(B) of section 46502 of title 49.''

(ii) CLERICAL AMENDMENT.—The table of sections for chapter 213 of title 18, United States Code, is amended by striking the item relating to section 3281 and inserting the following:

''3281. Offenses with no period of limitations.''.

SEC. 3. PROHIBITION ON IMPOSITION OF DEATH SENTENCE.

(a) IN GENERAL.—Notwithstanding any other provision of law, no person may be sentenced to death or put to death on or after the date of enactment of this Act for any violation of Federal law.

(b) PERSONS SENTENCED BEFORE DATE OF ENACTMENT.—Notwithstanding any other provision of law, any person sentenced to death before the date of enactment of this Act for any violation of Federal law shall serve a sentence of life imprisonment without the possibility of parole.

By Mr. BIDEN (for himself, Mr. MCCONNELL, Mr. MENENDEZ, Mrs. MURRAY, and Mr. SPECTER):

S. 449. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to provide standards and procedures to guide both State and local law enforcement agencies and law enforcement officers during internal investigations, interrogation of law enforcement officers, and administrative disciplinary hearings, to ensure accountability of law enforcement officers, to guarantee the due process rights of law enforcement officers, and to require States to enact law enforcement discipline, accountability, and due process laws; to the Committee on the Judiciary.

Mr. BIDEN. Mr. President, I rise to introduce the State and Local Law Enforcement Discipline Accountability, and Due Process Act of 2007.

These are trying times for the men and women on our front lines who provide our domestic security and public safety—our Nation's law enforcement personnel. Indeed, they face one of the most difficult work environments imaginable—an average of 165 police officers are killed in the line of duty every year. Our Nation's law enforcement officers put themselves in harms way on a daily basis to ensure the safety of their fellow citizens and the domestic security of our Nation. Nevertheless, many times these brave officers do not receive basic rights if they become involved in internal police investigations or administrative hearings. According to the National Association of Police Organizations, ''[i]n roughly half of the states in this country, officers enjoy some legal protections against false accusations and abusive conduct, but hundreds of thousands of officers have very limited due

process rights and confront limitations on their exercise of other rights, such as the right to engage in political activities.'' Similarly, the Fraternal Order of Police notes that, ''[i]n a startling number of jurisdictions throughout this country, law enforcement officers have no procedural or administrative protections whatsoever; in fact, they can be, and frequently are, summarily dismissed from their jobs without explanation. Officers who lose their careers due to administrative or political expediency almost always find it impossible to find new employment in public safety. An officer's reputation, once tarnished by accusation, is almost impossible to restore.''

The legislation being introduced today, which is endorsed by the Fraternal Order of Police and of the National Association of Police Organizations, seeks to provide officers with certain basic protections in those jurisdictions where such workplace protections are not currently provided. First, this bill allows law enforcement officials to engage in political activities when they are off-duty. Second, it provides standards and procedures to guide State and local law enforcement agencies during internal investigations, interrogations, and administrative disciplinary hearings. Additionally, it calls upon States to develop and enforce these disciplinary procedures. The bill would preempt State laws which confer fewer rights than those provided for in the legislation, but it would not preempt any State or local laws that confer rights or protections that are equal to or exceed the rights and protections afforded in the bill. For example, my own State of Delaware has a law enforcement officers' bill of rights, and those procedures would not be impacted by the provisions of this bill.

This bill will also include important provisions that will enhance the ability of citizens to hold their local police departments accountable. The legislation includes provisions that will ensure citizen complaints against police officers are investigated and that citizens are informed of the outcome of these investigations. The bill balances the rights of police officers with the rights of citizens to raise valid concerns about the conduct of some of these officers. In addition, I have consulted with constitutional experts who have opined that the bill is consistent with Congress' powers under the Commerce Clause and that it does not run afoul of the Supreme Court's Tenth Amendment jurisprudence.

I would also like to note that I understand the objections that many management groups, including the International Association of Chiefs of Police's, have to this measure. I have discussed this with them, and I've pledged that their views will be heard and considered as this bill is debated in Congress. It is my view that we must bridge this gap. Without a meeting of the minds between police management and union officials, the enactment of a meaningful law enforcement officers' bill of rights will be difficult. Law enforcement officials are facing unprecedented challenges, and management and labor simply must work together on this issue and the numerous other issues facing the law enforcement community.

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

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

S. 449

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 ''State and Local Law Enforcement Discipline, Accountability, and Due Process Act of 2007''.

SEC. 2. FINDINGS AND DECLARATION OF PURPOSE AND POLICY.

(a) FINDINGS.—Congress finds that—

(1) the rights of law enforcement officers to engage in political activity or to refrain from engaging in political activity, except when on duty, or to run as candidates for public office, unless such service is found to be in conflict with their service as officers, are activities protected by the first amendment of the United States Constitution, as applied to the States through the 14th amendment of the United States Constitution, but these rights are often violated by the management of State and local law enforcement agencies;

(2) a significant lack of due process rights of law enforcement officers during internal investigations and disciplinary proceedings has resulted in a loss of confidence in these processes by many law enforcement officers, including those unfairly targeted for their labor organization activities or for their aggressive enforcement of the laws, demoralizing many rank and file officers in communities and States;

(3) unfair treatment of officers has potentially serious long-term consequences for law enforcement by potentially deterring or otherwise preventing officers from carrying out their duties and responsibilities effectively and fairly;

(4) the lack of labor-management cooperation in disciplinary matters and either the perception or the actuality that officers are not treated fairly detrimentally impacts the recruitment of and retention of effective officers, as potential officers and experienced officers seek other careers, which has serious implications and repercussions for officer morale, public safety, and labor-management relations and strife and can affect interstate and intrastate commerce, interfering with the normal flow of commerce;

(5) there are serious implications for the public safety of the citizens and residents of the United States which threatens the domestic tranquility of the United States because of a lack of statutory protections to ensure—

(A) the due process and political rights of law enforcement officers;

(B) fair and thorough internal investigations and interrogations of and disciplinary proceedings against law enforcement officers; and

(C) effective procedures for receipt, review, and investigation of complaints against officers, fair to both officers and complainants; and

(6) resolving these disputes and problems and preventing the disruption of vital police services is essential to the well-being of the United States and the domestic tranquility of the Nation.

(b) DECLARATION OF POLICY.—Congress declares that it is the purpose of this Act and the policy of the United States to—

(1) protect the due process and political rights of State and local law enforcement officers and ensure equality and fairness of treatment among such officers;

(2) provide continued police protection to the general public;

(3) provide for the general welfare and ensure domestic tranquility; and

(4) prevent any impediments to the free flow of commerce, under the rights guaranteed under the United States Constitution and Congress' authority thereunder.

SEC. 3. DISCIPLINE, ACCOUNTABILITY, AND DUE PROCESS OF OFFICERS.

(a) IN GENERAL.—Part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781 et seq.) is amended by adding at the end the following:

''SEC. 820. DISCIPLINE, ACCOUNTABILITY, AND DUE PROCESS OF STATE AND LOCAL LAW ENFORCEMENT OFFICERS.

''(a) DEFINITIONS.—In this section:

''(1) DISCIPLINARY ACTION.—The term 'disciplinary action' means any adverse personnel action, including suspension, reduction in pay, rank, or other employment benefit, dismissal, transfer, reassignment, unreasonable denial of secondary employment, or similar punitive action taken against a law enforcement officer.

''(2) DISCIPLINARY HEARING.—The term 'disciplinary hearing' means an administrative hearing initiated by a law enforcement agency against a law enforcement officer, based on an alleged violation of law, that, if proven, would subject the law enforcement officer to disciplinary action.

''(3) EMERGENCY SUSPENSION.—The term 'emergency suspension' means the temporary action by a law enforcement agency of relieving a law enforcement officer from the active performance of law enforcement duties without a reduction in pay or benefits when the law enforcement agency, or an official within that agency, determines that there is probable cause, based upon the conduct of the law enforcement officer, to believe that the law enforcement officer poses an immediate threat to the safety of that officer or others or the property of others.

''(4) INVESTIGATION.—The term 'investigation'—

''(A) means an action taken to determine whether a law enforcement officer violated a law by a public agency or a person employed by a public agency, acting alone or in cooperation with or at the direction of another agency, or a division or unit within another agency, regardless of a denial by such an agency that any such action is not an investigation; and

''(B) includes—

''(i) asking questions of any other law enforcement officer or non-law enforcement officer;

''(ii) conducting observations;

''(iii) reviewing and evaluating reports, records, or other documents; and

''(iv) examining physical evidence.

''(5) LAW ENFORCEMENT OFFICER.—The terms 'law enforcement officer' and 'officer' have the meaning given the term 'law enforcement officer' in section 1204, except the term does not include a law enforcement officer employed by the United States, or any department, agency, or instrumentality thereof.

''(6) PERSONNEL RECORD.—The term 'personnel record' means any document, whether in written or electronic form and irrespective of location, that has been or may be used in determining the qualifications of a

law enforcement officer for employment, promotion, transfer, additional compensation, termination or any other disciplinary action.

''(7) PUBLIC AGENCY AND LAW ENFORCEMENT AGENCY.—The terms 'public agency' and 'law enforcement agency' each have the meaning given the term 'public agency' in section 1204, except the terms do not include the United States, or any department, agency, or instrumentality thereof.

''(8) SUMMARY PUNISHMENT.—The term 'summary punishment' means punishment imposed—

''(A) for a violation of law that does not result in any disciplinary action; or

''(B) for a violation of law that has been negotiated and agreed upon by the law enforcement agency and the law enforcement officer, based upon a written waiver by the officer of the rights of that officer under subsection (i) and any other applicable law or constitutional provision, after consultation with the counsel or representative of that officer.

''(b) APPLICABILITY.—

''(1) IN GENERAL.—This section sets forth the due process rights, including procedures, that shall be afforded a law enforcement officer who is the subject of an investigation or disciplinary hearing.

''(2) NONAPPLICABILITY.—This section does not apply in the case of—

''(A) an investigation of specifically alleged conduct by a law enforcement officer that, if proven, would constitute a violation of a statute providing for criminal penalties; or

''(B) a nondisciplinary action taken in good faith on the basis of the employment related performance of a law enforcement officer.

''(c) POLITICAL ACTIVITY.—

''(1) RIGHT TO ENGAGE OR NOT TO ENGAGE IN POLITICAL ACTIVITY.—Except when on duty or acting in an official capacity, a law enforcement officer shall not be prohibited from engaging in political activity or be denied the right to refrain from engaging in political activity.

''(2) RIGHT TO RUN FOR ELECTIVE OFFICE.—A law enforcement officer shall not be—

''(A) prohibited from being a candidate for an elective office or from serving in such an elective office, solely because of the status of the officer as a law enforcement officer; or

''(B) required to resign or take an unpaid leave from employment with a law enforcement agency to be a candidate for an elective office or to serve in an elective office, unless such service is determined to be in conflict with or incompatible with service as a law enforcement officer.

''(3) ADVERSE PERSONNEL ACTION.—An action by a public agency against a law enforcement officer, including requiring the officer to take unpaid leave from employment, in violation of this subsection shall be considered an adverse personnel action within the meaning of subsection (a)(1).

''(d) EFFECTIVE PROCEDURES FOR RECEIPT, REVIEW, AND INVESTIGATION OF COMPLAINTS AGAINST LAW ENFORCEMENT OFFICERS.—

''(1) COMPLAINT PROCESS.—Not later than 1 year after the effective date of this section, each law enforcement agency shall adopt and comply with a written complaint procedure that—

''(A) authorizes persons from outside the law enforcement agency to submit written complaints about a law enforcement officer to—

''(i) the law enforcement agency employing the law enforcement officer; or

''(ii) any other law enforcement agency charged with investigating such complaints;

''(B) sets forth the procedures for the investigation and disposition of such complaints;

''(C) provides for public access to required forms and other information concerning the submission and disposition of written complaints; and

''(D) requires notification to the complainant in writing of the final disposition of the complaint and the reasons for such disposition.

''(2) INITIATION OF AN INVESTIGATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), an investigation based on a complaint from outside the law enforcement agency shall commence not later than 15 days after the receipt of the complaint by—

''(i) the law enforcement agency employing the law enforcement officer against whom the complaint has been made; or

''(ii) any other law enforcement agency charged with investigating such a complaint.

''(B) EXCEPTION.—Subparagraph (A) does not apply if—

''(i) the law enforcement agency determines from the face of the complaint that each allegation does not constitute a violation of law; or

''(ii) the complainant fails to comply substantially with the complaint procedure of the law enforcement agency established under this section.

''(3) COMPLAINANT OR VICTIM CONFLICT OF INTEREST.—The complainant or victim of the alleged violation of law giving rise to an investigation under this subsection may not conduct or supervise the investigation or serve as an investigator.

''(e) NOTICE OF INVESTIGATION.—

''(1) IN GENERAL.—Any law enforcement officer who is the subject of an investigation shall be notified of the investigation 24 hours before the commencement of questioning of such officer or to otherwise being required to provide information to an investigating agency.

''(2) CONTENTS OF NOTICE.—Notice given under paragraph (1) shall include—

''(A) the nature and scope of the investigation;

''(B) a description of any allegation contained in a written complaint;

''(C) a description of each violation of law alleged in the complaint for which suspicion exists that the officer may have engaged in conduct that may subject the officer to disciplinary action; and

''(D) the name, rank, and command of the officer or any other individual who will be conducting the investigation.

''(f) RIGHTS OF LAW ENFORCEMENT OFFICERS PRIOR TO AND DURING QUESTIONING INCIDENTAL TO AN INVESTIGATION.—If a law enforcement officer is subjected to questioning incidental to an investigation that may result in disciplinary action against the officer, the following minimum safeguards shall apply:

''(1) COUNSEL AND REPRESENTATION.—

''(A) IN GENERAL.—Any law enforcement officer under investigation shall be entitled to effective counsel by an attorney or representation by any other person who the officer chooses, such as an employee representative, or both, immediately before and during the entire period of any questioning session, unless the officer consents in writing to being questioned outside the presence of counsel or representative.

''(B) PRIVATE CONSULTATION.—During the course of any questioning session, the officer shall be afforded the opportunity to consult privately with counsel or a representative, if such consultation does not repeatedly and unnecessarily disrupt the questioning period.

''(C) UNAVAILABILITY OF COUNSEL.—If the counsel or representative of the law enforcement officer is not available within 24 hours of the time set for the commencement of any questioning of that officer, the investigating law enforcement agency shall grant a reasonable extension of time for the law enforcement officer to obtain counsel or representation.

''(2) REASONABLE HOURS AND TIME.—Any questioning of a law enforcement officer under investigation shall be conducted at a reasonable time when the officer is on duty, unless exigent circumstances compel more immediate questioning, or the officer agrees in writing to being questioned at a different time, subject to the requirements of subsections (e) and paragraph (1).

''(3) PLACE OF QUESTIONING.—Unless the officer consents in writing to being questioned elsewhere, any questioning of a law enforcement officer under investigation shall take place—

''(A) at the office of the individual conducting the investigation on behalf of the law enforcement agency employing the officer under investigation; or

''(B) the place at which the officer under investigation reports for duty.

''(4) IDENTIFICATION OF QUESTIONER.—Before the commencement of any questioning, a law enforcement officer under investigation shall be informed of—

''(A) the name, rank, and command of the officer or other individual who will conduct the questioning; and

''(B) the relationship between the individual conducting the questioning and the law enforcement agency employing the officer under investigation.

''(5) SINGLE QUESTIONER.—During any single period of questioning of a law enforcement officer under investigation, each question shall be asked by or through 1 individual.

''(6) REASONABLE TIME PERIOD.—Any questioning of a law enforcement officer under investigation shall be for a reasonable period of time and shall allow reasonable periods for the rest and personal necessities of the officer and the counsel or representative of the officer, if such person is present.

''(7) NO THREATS, FALSE STATEMENTS, OR PROMISES TO BE MADE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), no threat against, false or misleading statement to, harassment of, or promise of reward to a law enforcement officer under investigation shall be made to induce the officer to answer any question, give any statement, or otherwise provide information.

''(B) EXCEPTION.—The law enforcement agency employing a law enforcement officer under investigation may require the officer to make a statement relating to the investigation by explicitly threatening disciplinary action, including termination, only if—

''(i) the officer has received a written grant of use and derivative use immunity or transactional immunity by a person authorized to grant such immunity; and

''(ii) the statement given by the law enforcement officer under such an immunity may not be used in any subsequent criminal proceeding against that officer.

''(8) RECORDING.—

''(A) IN GENERAL.—All questioning of a law enforcement officer under an investigation shall be recorded in full, in writing or by electronic device, and a copy of the transcript shall be provided to the officer under investigation before any subsequent period of questioning or the filing of any charge against that officer.

''(B) SEPARATE RECORDING.—To ensure the accuracy of the recording, an officer may utilize a separate electronic recording device, and a copy of any such recording (or

the transcript) shall be provided to the public agency conducting the questioning, if that agency so requests.

''(9) USE OF HONESTY TESTING DEVICES PROHIBITED.—No law enforcement officer under investigation may be compelled to submit to the use of a lie detector, as defined in section 2 of the Employee Polygraph Protection Act of 1988 (29 U.S.C. 2001).

''(g) NOTICE OF INVESTIGATIVE FINDINGS AND DISCIPLINARY RECOMMENDATION AND OPPORTUNITY TO SUBMIT A WRITTEN RESPONSE.—

''(1) NOTICE.—Not later than 30 days after the conclusion of an investigation under this section, the person in charge of the investigation or the designee of that person shall notify the law enforcement officer who was the subject of the investigation, in writing, of the investigative findings and any recommendations for disciplinary action.

''(2) OPPORTUNITY TO SUBMIT WRITTEN RESPONSE.—

''(A) IN GENERAL.—Not later than 30 days after receipt of a notification under paragraph (1), and before the filing of any charge seeking the discipline of such officer or the commencement of any disciplinary proceeding under subsection (h), the law enforcement officer who was the subject of the investigation may submit a written response to the findings and recommendations included in the notification.

''(B) CONTENTS OF RESPONSE.—The response submitted under subparagraph (A) may include references to additional documents, physical objects, witnesses, or any other information that the law enforcement officer believes may provide exculpatory evidence.

''(h) DISCIPLINARY HEARINGS.—

''(1) NOTICE OF OPPORTUNITY FOR HEARING.—Except in a case of summary punishment or emergency suspension (subject to subsection (k)), before the imposition of any disciplinary action the law enforcement agency shall notify the officer that the officer is entitled to a due process hearing by an independent and impartial hearing officer or board.

''(2) REQUIREMENT OF DETERMINATION OF VIOLATION.—No disciplinary action may be taken against a law enforcement officer unless an independent and impartial hearing officer or board determines, after a hearing and in accordance with the requirements of this subsection, that the law enforcement officer committed a violation of law.

''(3) TIME LIMIT.—No disciplinary charge may be brought against a law enforcement officer unless—

''(A) the charge is filed not later than the earlier of—

''(i) 1 year after the date on which the law enforcement agency filing the charge had knowledge or reasonably should have had knowledge of an alleged violation of law; or

''(ii) 90 days after the commencement of an investigation; or

''(B) the requirements of this paragraph are waived in writing by the officer or the counsel or representative of the officer.

''(4) NOTICE OF HEARING.—Unless waived in writing by the officer or the counsel or representative of the officer, not later than 30 days after the filing of a disciplinary charge against a law enforcement officer, the law enforcement agency filing the charge shall provide written notification to the law enforcement officer who is the subject of the charge, of—

''(A) the date, time, and location of any disciplinary hearing, which shall be scheduled in cooperation with the law enforcement officer, or the counsel or representative of the officer, and which shall take place not earlier than 30 days and not later than 60 days after notification of the hearing is given to the law enforcement officer under investigation;

''(B) the name and mailing address of the independent and impartial hearing officer, or the names and mailing addresses of the independent and impartial hearing board members; and

''(C) the name, rank, command, and address of the law enforcement officer prosecuting the matter for the law enforcement agency, or the name, position, and mailing address of the person prosecuting the matter for a public agency, if the prosecutor is not a law enforcement officer.

''(5) ACCESS TO DOCUMENTARY EVIDENCE AND INVESTIGATIVE FILE.—Unless waived in writing by the law enforcement officer or the counsel or representative of that officer, not later than 15 days before a disciplinary hearing described in paragraph (4)(A), the law enforcement officer shall be provided with—

''(A) a copy of the complete file of the predisciplinary investigation; and

''(B) access to and, if so requested, copies of all documents, including transcripts, records, written statements, written reports, analyses, and electronically recorded information that—

''(i) contain exculpatory information;

''(ii) are intended to support any disciplinary action; or

''(iii) are to be introduced in the disciplinary hearing.

''(6) EXAMINATION OF PHYSICAL EVIDENCE.—Unless waived in writing by the law enforcement officer or the counsel or representative of that officer—

''(A) not later than 15 days before a disciplinary hearing, the prosecuting agency shall notify the law enforcement officer or the counsel or representative of that officer of all physical, non-documentary evidence; and

''(B) not later than 10 days before a disciplinary hearing, the prosecuting agency shall provide a reasonable date, time, place, and manner for the law enforcement officer or the counsel or representative of the law enforcement officer to examine the evidence described in subparagraph (A).

''(7) IDENTIFICATION OF WITNESSES.—Unless waived in writing by the law enforcement officer or the counsel or representative of the officer, not later than 15 days before a disciplinary hearing, the prosecuting agency shall notify the law enforcement officer or the counsel or representative of the officer, of the name and address of each witness for the law enforcement agency employing the law enforcement officer.

''(8) REPRESENTATION.—During a disciplinary hearing, the law enforcement officer who is the subject of the hearing shall be entitled to due process, including—

''(A) the right to be represented by counsel or a representative;

''(B) the right to confront and examine all witnesses against the officer; and

''(C) the right to call and examine witnesses on behalf of the officer.

''(9) HEARING BOARD AND PROCEDURE.—

''(A) IN GENERAL.—A State or local government agency, other than the law enforcement agency employing the officer who is subject of the disciplinary hearing, shall—

''(i) determine the composition of an independent and impartial disciplinary hearing board;

''(ii) appoint an independent and impartial hearing officer; and

''(iii) establish such procedures as may be necessary to comply with this section.

''(B) PEER REPRESENTATION ON DISCIPLINARY HEARING BOARD.—A disciplinary hearing board that includes employees of the law enforcement agency employing the law enforcement officer who is the subject of the hearing, shall include not less than 1 law enforcement officer of equal or lesser rank to the officer who is the subject of the hearing.

''(10) SUMMONSES AND SUBPOENAS.—

''(A) IN GENERAL.—The disciplinary hearing board or independent hearing officer—

''(i) shall have the authority to issue summonses or subpoenas, on behalf of—

''(I) the law enforcement agency employing the officer who is the subject of the hearing; or

''(II) the law enforcement officer who is the subject of the hearing; and

''(ii) upon written request of either the law enforcement agency or the officer, shall issue a summons or subpoena, as appropriate, to compel the appearance and testimony of a witness or the production of documentary evidence.

''(B) EFFECT OF FAILURE TO COMPLY WITH SUMMONS OR SUBPOENA.—With respect to any failure to comply with a summons or a subpoena issued under subparagraph (A)—

''(i) the disciplinary hearing officer or board shall petition a court of competent jurisdiction to issue an order compelling compliance; and

''(ii) subsequent failure to comply with such a court order issued pursuant to a petition under clause (i) shall—

''(I) be subject to contempt of a court proceedings according to the laws of the jurisdiction within which the disciplinary hearing is being conducted; and

''(II) result in the recess of the disciplinary hearing until the witness becomes available to testify and does testify or is held in contempt.

''(11) CLOSED HEARING.—A disciplinary hearing shall be closed to the public unless the law enforcement officer who is the subject of the hearing requests, in writing, that the hearing be open to specified individuals or to the general public.

''(12) RECORDING.—All aspects of a disciplinary hearing, including pre-hearing motions, shall be recorded by audio tape, video tape, or transcription.

''(13) SEQUESTRATION OF WITNESSES.—Either side in a disciplinary hearing may move for and be entitled to sequestration of witnesses.

''(14) TESTIMONY UNDER OATH.—The hearing officer or board shall administer an oath or affirmation to each witness, who shall testify subject to the laws of perjury of the State in which the disciplinary hearing is being conducted.

''(15) FINAL DECISION ON EACH CHARGE.—

''(A) IN GENERAL.—At the conclusion of the presentation of all the evidence and after oral or written argument, the hearing officer or board shall deliberate and render a written final decision on each charge.

''(B) FINAL DECISION ISOLATED TO CHARGE BROUGHT.—The hearing officer or board may not find that the law enforcement officer who is the subject of the hearing is liable for disciplinary action for any violation of law as to which the officer was not charged.

''(16) BURDEN OF PERSUASION AND STANDARD OF PROOF.—The burden of persuasion or standard of proof of the prosecuting agency shall be—

''(A) by clear and convincing evidence as to each charge alleging false statement or representation, fraud, dishonesty, deceit, moral turpitude, or criminal behavior on the part of the law enforcement officer who is the subject of the charge; and

''(B) by a preponderance of the evidence as to all other charges.

''(17) FACTORS OF JUST CAUSE TO BE CONSIDERED BY THE HEARING OFFICER OR BOARD.—A law enforcement officer who is the subject of a disciplinary hearing shall not be found guilty of any charge or subjected to any disciplinary action unless the disciplinary hearing board or independent hearing officer finds that—

''(A) the officer who is the subject of the charge could reasonably be expected to have

had knowledge of the probable consequences of the alleged conduct set forth in the charge against the officer;

''(B) the rule, regulation, order, or procedure that the officer who is the subject of the charge allegedly violated is reasonable;

''(C) the charging party, before filing the charge, made a reasonable, fair, and objective effort to discover whether the officer did in fact violate the rule, regulation, order, or procedure as charged;

''(D) the charging party did not conduct the investigation arbitrarily or unfairly, or in a discriminatory manner, against the officer who is the subject of the charge, and the charge was brought in good faith; and

''(E) the proposed disciplinary action reasonably relates to the seriousness of the alleged violation and to the record of service of the officer who is the subject of the charge.

''(18) NO COMMISSION OF A VIOLATION.—If the officer who is the subject of the disciplinary hearing is found not to have committed the alleged violation—

''(A) the matter is concluded;

''(B) no disciplinary action may be taken against the officer;

''(C) the personnel record of that officer shall not contain any reference to the charge for which the officer was found not guilty; and

''(D) any pay and benefits lost or deferred during the pendency of the disposition of the charge shall be restored to the officer as though no charge had ever been filed against the officer, including salary or regular pay, vacation, holidays, longevity pay, education incentive pay, shift differential, uniform allowance, lost overtime, or other premium pay opportunities, and lost promotional opportunities.

''(19) COMMISSION OF A VIOLATION.—

''(A) IN GENERAL.—If the officer who is the subject of the charge is found to have committed the alleged violation, the hearing officer or board shall make a written recommendation of a penalty to the law enforcement agency employing the officer or any other governmental entity that has final disciplinary authority, as provided by applicable State or local law.

''(B) PENALTY.—The employing agency or other governmental entity may not impose a penalty greater than the penalty recommended by the hearing officer or board.

''(20) APPEAL.—Any officer who has been found to have committed an alleged violation may appeal from a final decision of a hearing officer or hearing board to a court of competent jurisdiction or to an independent neutral arbitrator to the extent available in any other administrative proceeding under applicable State or local law, or a collective bargaining agreement.

''(i) WAIVER OF RIGHTS.—

''(1) IN GENERAL.—An officer who is notified that the officer is under investigation or is the subject of a charge may, after such notification, waive any right or procedure guaranteed by this section.

''(2) WRITTEN WAIVER.—A written waiver under this subsection shall be—

''(A) in writing; and

''(B) signed by—

''(i) the officer, who shall have consulted with counsel or a representative before signing any such waiver; or

''(ii) the counsel or representative of the officer, if expressly authorized by subsection (h).

''(j) SUMMARY PUNISHMENT.—Nothing in this section shall preclude a public agency from imposing summary punishment.

''(k) EMERGENCY SUSPENSION.—Nothing in this section may be construed to preclude a law enforcement agency from imposing an emergency suspension on a law enforcement officer, except that any such suspension shall—

''(1) be followed by a hearing in accordance with the requirements of subsection (h); and

''(2) not deprive the affected officer of any pay or benefit.

''(l) RETALIATION FOR EXERCISING RIGHTS.—There shall be no imposition of, or threat of, disciplinary action or other penalty against a law enforcement officer for the exercise of any right provided to the officer under this section.

''(m) OTHER REMEDIES NOT IMPAIRED.—Nothing in this section may be construed to impair any other right or remedy that a law enforcement officer may have under any constitution, statute, ordinance, order, rule, regulation, procedure, written policy, collective bargaining agreement, or any other source.

''(n) DECLARATORY OR INJUNCTIVE RELIEF.—A law enforcement officer who is aggrieved by a violation of, or is otherwise denied any right afforded by, the Constitution of the United States, a State constitution, this section, or any administrative rule or regulation promulgated pursuant thereto, may file suit in any Federal or State court of competent jurisdiction for declaratory or injunctive relief to prohibit the law enforcement agency from violating or otherwise denying such right, and such court shall have jurisdiction, for cause shown, to restrain such a violation or denial.

''(o) PROTECTION OF LAW ENFORCEMENT OFFICER PERSONNEL FILES.—

''(1) RESTRICTIONS ON ADVERSE MATERIAL MAINTAINED IN OFFICERS' PERSONNEL RECORDS.—

''(A) IN GENERAL.—Unless the officer has had an opportunity to review and comment, in writing, on any adverse material generated after the effective date of the State and Local Law Enforcement Discipline, Accountability, and Due Process Act of 2007 to be included in a personnel record relating to the officer, no law enforcement agency or other governmental entity may—

''(i) include the adverse material in that personnel record; or

''(ii) possess or maintain control over the adverse material in any form as a personnel record within the law enforcement agency or elsewhere in the control of the employing governmental entity.

''(B) RESPONSIVE MATERIAL.—Any responsive material provided by an officer to adverse material included in a personnel record pertaining to the officer shall be—

''(i) attached to the adverse material; and

''(ii) released to any person or entity to whom the adverse material is released in accordance with law and at the same time as the adverse material is released.

''(2) RIGHT TO INSPECTION OF, AND RESTRICTIONS ON ACCESS TO INFORMATION IN, THE OFFICER'S OWN PERSONNEL RECORDS.—

''(A) IN GENERAL.—Subject to subparagraph (B), a law enforcement officer shall have the right to inspect all of the personnel records of the officer not less than annually.

''(B) RESTRICTIONS.—A law enforcement officer shall not have access to information in the personnel records of the officer if the information—

''(i) relates to the investigation of alleged conduct that, if proven, would constitute or have constituted a definite violation of a statute providing for criminal penalties, but as to which no formal charge was brought;

''(ii) contains letters of reference for the officer;

''(iii) contains any portion of a test document other than the results;

''(iv) is of a personal nature about another officer, and if disclosure of that information in non-redacted form would constitute a clearly unwarranted intrusion into the privacy rights of that other officer; or

''(v) is relevant to any pending claim brought by or on behalf of the officer against the employing agency of that officer that may be discovered in any judicial or administrative proceeding between the officer and the employer of that officer.

''(p) STATES' RIGHTS.—

''(1) IN GENERAL.—Nothing in this section may be construed—

''(A) to preempt any State or local law, or any provision of a State or local law, in effect on the date of enactment of the State and Local Law Enforcement Discipline, Accountability, and Due Process Act of 2007, that confers a right or a protection that equals or exceeds the right or protection afforded by this section; or

''(B) to prohibit the enactment of any State or local law that confers a right or protection that equals or exceeds a right or protection afforded by this section.

''(2) STATE OR LOCAL LAWS PREEMPTED.—A State or local law, or any provision of a State or local law, that confers fewer rights or provides less protection for a law enforcement officer than any provision in this section shall be preempted by this section.

''(q) COLLECTIVE BARGAINING AGREEMENTS.—Nothing in this section may be construed to—

''(1) preempt any provision in a mutually agreed-upon collective bargaining agreement, in effect on the date of enactment of the State and Local Law Enforcement Discipline, Accountability, and Due Process Act of 2007, that provides for substantially the same or a greater right or protection afforded under this section; or

''(2) prohibit the negotiation of any additional right or protection for an officer who is subject to any collective bargaining agreement.''.

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after the item relating to section 819 the following:

''Sec. 820. Discipline, accountability, and due process of State and local law enforcement officers.''.

SEC. 4. PROHIBITION OF FEDERAL CONTROL OVER STATE AND LOCAL CRIMINAL JUSTICE AGENCIES.

Nothing in this Act or the amendments made by this Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control of any police force or any criminal justice agency of any State or any political subdivision thereof.

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall take effect with respect to each State on the earlier of—

(1) 2 years after the date of enactment of this Act; or

(2) the conclusion of the second legislative session of the State that begins on or after the date of enactment of this Act.

By Mr. AKAKA (for himself, Mr. COCHRAN, Mr. DODD, Mr. FEINGOLD, and Mr. DURBIN):

S. 451. A bill to establish a National Foreign language Coordination Council; to the Committee on Health, Education, Labor, and Pensions.

Mr. AKAKA. Mr. President, I am pleased to reintroduce the National Foreign Language Coordination Act with my colleagues Senators THAD COCHRAN, CHRISTOPHER DODD, and RUSSELL FEINGOLD. We are joined by

Representative BRIAN BAIRD, who is offering a companion bill in the House of Representatives today as well.

The legislation we introduce today would implement a key recommendation of the 2004 Department of Defense, DOD, National Language Conference to establish a National Foreign Language Coordination Council, chaired by a National Language Director. An integrated foreign language strategy and sustained leadership within the Federal Government is needed to address the lack of foreign language proficient speakers in government and in business. Without such a coordinated strategy, I fear that the country's national and economic security will be at greater risk.

The communications failures of 9/11 clearly demonstrate that we can no longer ignore the consequence of our citizens being unable to converse fluently in languages other than English. The fact that only 9.3 percent of all Americans speak both their native languages and another language fluently, compared with 56 percent of people in the European Union is troubling. The Iraq Study Group reported last month that of the 1,000 American embassy employees in Baghdad, only 33 speak Arabic, and just 6 of them are fluent in this critical language. The shortfall of skilled linguists prompted the Iraq Study Group to recommend that ''The Secretary of State, the Secretary of Defense, and the Director of National Intelligence should accord the highest possible priority to professional language proficiency and cultural training, in general and specifically for U.S. officers and personnel about to be assigned to Iraq.''

The Federal Government has an essential role to play by collaborating with educators, State and local governments, foreign language associations, and the private sector to increase the number of Americans who speak and understand foreign languages. A National Foreign Language Coordination Council brings these diverse interests together to shape a much needed, comprehensive approach. Just as I have advocated the need for deputy secretaries for management at the Departments of Defense and Homeland Security to direct and sustain management leadership, I envision a National Language Director to be responsible for maintaining and leading a cooperative effort to strengthen our foreign language capabilities.

Our Nation's security is at risk without a sufficient number of foreign language proficient individuals. Counterterrorism intelligence will go untranslated and opportunities will be missed. Equally important is preserving the economic competitiveness of the United States. Globalization means that Americans must compete for jobs in a marketplace no longer confined to the boundaries of the United States. In short, both the security and economic vitality of the United States are tied to improving foreign language education. However, according to the Committee on Economic Development, many of our schools do not have foreign language programs that address the educational challenges of the 21st century. Many American students lack sufficient knowledge of other countries, languages, and cultures to compete effectively in the global marketplace.

Specifically, our bill ensures that the key recommendations of the DOD National Language Conference will be implemented by: Developing policies and programs that build the Nation's language and cultural understanding capability; engaging Federal, State, and local agencies and the private sector in solutions; developing language and cultural competency across public and private sectors; developing language skills in a wide range of critical languages; strengthening our education system, programs, and tools in foreign languages and cultures; and integrating language training into career fields and increase the number of language professionals.

Last week, the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, which I chair, held a hearing on the Federal Government's language strategy. Dr. Diane Birckbichler, director of the Foreign Language Center and chair of the Departments of French and Italian at Ohio State University, testified that ''if there is a national language strategy, it isn't very well known.'' She further recommended the development of a national language policy to create a language-ready workforce for the future.

To strengthen the role of the United States in the world, our country must ensure that there is a sufficient number of individuals who are proficient in languages other than their native languages. Increasing foreign language skills enhances national security, just as increasing foreign language skills enhances the ability of Americans to compete on a more global playing field.

I ask my colleagues to support this legislation and 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. 451

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

SECTION 1. ESTABLISHMENT OF NATIONAL FOREIGN LANGUAGE COORDINATION COUNCIL.

(a) SHORT TITLE.—This Act may be cited as the ''National Foreign Language Coordination Act of 2007''.

(b) ESTABLISHMENT.—There is established in the Executive Office of the President a National Foreign Language Coordination Council (in this section referred to as the ''Council'').

(c) MEMBERSHIP.—The Council shall consist of the following members or their designees:

(1) The National Language Director, who shall serve as the chairperson of the Council.

(2) The Secretary of Education.

(3) The Secretary of Defense.

(4) The Secretary of State.

(5) The Secretary of Homeland Security.

(6) The Attorney General.

(7) The Director of National Intelligence.

(8) The Secretary of Labor.

(9) The Director of the Office of Personnel Management.

(10) The Director of the Office of Management and Budget.

(11) The Secretary of Commerce.

(12) The Secretary of Health and Human Services.

(13) The Secretary of the Treasury.

(14) The Secretary of Housing and Urban Development.

(15) The Secretary of Agriculture.

(16) The Chairman and President of the Export-Import Bank of the United States.

(17) The heads of such other Federal agencies as the Council considers appropriate.

(d) RESPONSIBILITIES.—

(1) IN GENERAL.—The Council shall be charged with—

(A) overseeing, coordinating, and implementing the National Security Language Initiative;

(B) developing a national foreign language strategy, building upon the efforts of the National Security Language Initiative, within 18 months after the date of the enactment of this section, in consultation with—

(i) State and local government agencies;

(ii) academic sector institutions;

(iii) foreign language related interest groups;

(iv) business associations;

(v) industry;

(vi) heritage associations; and

(vii) other relevant stakeholders;

(C) conducting a survey of the status of Federal agency foreign language and area expertise and agency needs for such expertise; and

(D) monitoring the implementation of such strategy through—

(i) application of current and recently enacted laws; and

(ii) the promulgation and enforcement of rules and regulations.

(2) STRATEGY CONTENT.—The strategy developed under paragraph (1) shall include—

(A) recommendations for amendments to title 5, United States Code, in order to improve the ability of the Federal Government to recruit and retain individuals with foreign language proficiency and provide foreign language training for Federal employees;

(B) the long term goals, anticipated effect, and needs of the National Security Language Initiative;

(C) identification of crucial priorities across all sectors;

(D) identification and evaluation of Federal foreign language programs and activities, including—

(i) any duplicative or overlapping programs that may impede efficiency;

(ii) recommendations on coordination;

(iii) program enhancements; and

(iv) allocation of resources so as to maximize use of resources;

(E) needed national policies and corresponding legislative and regulatory actions in support of, and allocation of designated resources to, promising programs and initiatives at all levels (Federal, State, and local), especially in the less commonly taught languages that are seen as critical for national security and global competitiveness during the next 20 to 50 years;

(F) effective ways to increase public awareness of the need for foreign language skills and career paths in all sectors that can employ those skills, with the objective of increasing support for foreign language study among—

(i) Federal, State, and local leaders;
(ii) students;
(iii) parents;
(iv) elementary, secondary, and postsecondary educational institutions; and
(v) employers;
(G) recommendations for incentives for related educational programs, including foreign language teacher training;
(H) coordination of cross-sector efforts, including public-private partnerships;
(I) coordination initiatives to develop a strategic posture for language research and recommendations for funding for applied foreign language research into issues of national concern;
(J) recommendations for assistance for—
(i) the development of foreign language achievement standards; and
(ii) corresponding assessments for the elementary, secondary, and postsecondary education levels, including the National Assessment of Educational Progress in foreign languages;
(K) recommendations for development of—
(i) language skill-level certification standards;
(ii) frameworks for pre-service and professional development study for those who teach foreign language;
(iii) suggested graduation criteria for foreign language studies and appropriate non-language studies, such as—
(I) international business;
(II) national security;
(III) public administration;
(IV) health care;
(V) engineering;
(VI) law;
(VII) journalism; and
(VIII) sciences;
(L) identification of and means for replicating best practices at all levels and in all sectors, including best practices from the international community; and
(M) recommendations for overcoming barriers in foreign language proficiency.
(3) NATIONAL SECURITY LANGUAGE INITIATIVE.—The term ''National Security Language Initiative'' means the comprehensive national plan of the President announced on January 5, 2006, and under the direction of the Secretaries of State, Education, and Defense and the Director of National Intelligence to expand foreign language education for national security purposes in the United States.
(e) SUBMISSION OF STRATEGY TO PRESIDENT AND CONGRESS.—Not later than 18 months after the date of enactment of this section, the Council shall prepare and transmit to the President and the relevant committees of Congress the strategy required under subsection (d).
(f) MEETINGS.—The Council may hold such meetings, and sit and act at such times and places, as the Council considers appropriate, but shall meet in formal session at least 2 times a year. State and local government agencies and other organizations (such as academic sector institutions, foreign language-related interest groups, business associations, industry, and heritage community organizations) shall be invited, as appropriate, to public meetings of the Council at least once a year.
(g) STAFF.—
(1) IN GENERAL.—The Director may—
(A) appoint, without regard to the provisions of title 5, United States Code, governing the competitive service, such personnel as the Director considers necessary; and
(B) compensate such personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title.
(2) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the Council, any Federal Government employee may be detailed to the Council without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.
(3) EXPERTS AND CONSULTANTS.—With the approval of the Council, the Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.
(4) TRAVEL EXPENSES.—Council members and staff shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Council.
(5) SECURITY CLEARANCE.—
(A) IN GENERAL.—Subject to subparagraph (B), the appropriate Federal agencies or departments shall cooperate with the Council in expeditiously providing to the Council members and staff appropriate security clearances to the extent possible pursuant to existing procedures and requirements.
(B) EXCEPTION.—No person shall be provided with access to classified information under this section without the appropriate required security clearance access.
(6) COMPENSATION.—The rate of pay for any employee of the Council (including the Director) may not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(h) POWERS.—
(1) DELEGATION.—Any member or employee of the Council may, if authorized by the Council, take any action that the Council is authorized to take in this section.
(2) INFORMATION.—
(A) COUNCIL AUTHORITY TO SECURE.—The Council may secure directly from any Federal agency such information, consistent with Federal privacy laws, including The Family Educational Rights and Privacy Act (20 U.S.C. 1232g) and Department of Education's General Education Provisions Act (20 U.S.C. 1232(h)), the Council considers necessary to carry out its responsibilities.
(B) REQUIREMENT TO FURNISH REQUESTED INFORMATION.—Upon request of the Director, the head of such agency shall furnish such information to the Council.
(3) DONATIONS.—The Council may accept, use, and dispose of gifts or donations of services or property.
(4) MAIL.—The Council may use the United States mail in the same manner and under the same conditions as other Federal agencies.

(i) CONFERENCES, NEWSLETTER, AND WEBSITE.—In carrying out this section, the Council—
(1) may arrange Federal, regional, State, and local conferences for the purpose of developing and coordinating effective programs and activities to improve foreign language education;
(2) may publish a newsletter concerning Federal, State, and local programs that are effectively meeting the foreign language needs of the nation; and
(3) shall create and maintain a website containing information on the Council and its activities, best practices on language education, and other relevant information.

(j) ANNUAL REPORT.—
(1) REQUIREMENT.—Not later than 90 days after the date of the enactment of this Act, and annually thereafter, the Council shall prepare and transmit to the President and the relevant committees of Congress a report that describes—
(A) the activities of the Council;
(B) the efforts of the Council to improve foreign language education and training; and
(C) impediments to the use of a National Foreign Language program, including any statutory and regulatory restrictions.
(2) RELEVANT COMMITTEES.—For purposes of paragraph (1), the relevant committees of Congress include—
(A) in the House of Representatives—
(i) the Committee on Appropriations;
(ii) the Committee on Armed Services;
(iii) the Committee on Education and Labor;
(iv) the Committee on Oversight and Government Reform;
(v) the Committee on Small Business;
(vi) the Committee on Foreign Affairs; and
(vii) the Permanent Select Committee on Intelligence;
(B) in the Senate—
(i) the Committee on Appropriations;
(ii) the Committee on Armed Services;
(iii) the Committee on Health, Education, Labor, and Pensions;
(iv) the Committee on Homeland Security and Governmental Affairs;
(v) the Committee on Foreign Relations; and
(vi) the Select Committee on Intelligence.

(k) ESTABLISHMENT OF A NATIONAL LANGUAGE DIRECTOR.—
(1) IN GENERAL.—There is established a National Language Director who shall be appointed by the President. The National Language Director shall be a nationally recognized individual with credentials and abilities across the sectors to be involved with creating and implementing long-term solutions to achieving national foreign language and cultural competency.
(2) RESPONSIBILITIES.—The National Language Director shall—
(A) develop and monitor the implementation of a national foreign language strategy, built upon the efforts of the National Security Language Initiative, across all sectors;
(B) establish formal relationships among the major stakeholders in meeting the needs of the Nation for improved capabilities in foreign languages and cultural understanding, including Federal, State, and local government agencies, academia, industry, labor, and heritage communities; and
(C) coordinate and lead a public information campaign that raises awareness of public and private sector careers requiring foreign language skills and cultural understanding, with the objective of increasing interest in and support for the study of foreign languages among national leaders, the business community, local officials, parents, and individuals.

(l) ENCOURAGEMENT OF STATE INVOLVEMENT.—
(1) STATE CONTACT PERSONS.—The Council shall consult with each State to provide for the designation by each State of an individual to serve as a State contact person for the purpose of receiving and disseminating information and communications received from the Council.
(2) STATE INTERAGENCY COUNCILS AND LEAD AGENCIES.—Each State is encouraged to establish a State interagency council on foreign language coordination or designate a lead agency for the State for the purpose of assuming primary responsibility for coordinating and interacting with the Council and State and local government agencies as necessary.

(m) CONGRESSIONAL NOTIFICATION.—The Council shall provide to Congress such information as may be requested by Congress, through reports, briefings, and other appropriate means.

(n) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as necessary to carry out this section.

By Mr. OBAMA (for himself, Mr. SCHUMER, Mr. LEAHY, Mr. CARDIN, Mr. FEINGOLD, Mr. KERRY, Mrs. FEINSTEIN, Mrs. CLINTON, Mrs. BOXER, and Mr. KENNEDY):

S. 453. A bill to prohibit deceptive practices in Federal elections; to the Committee on the Judiciary.

Mr. OBAMA. Mr. President, I am pleased to introduce a bill today that seeks to address the all-too-common efforts to deceive voters in order to keep them away from the polls.

It's hard to imagine that we even need a bill like this. But, unfortunately, there are people who will stop at nothing to try to deceive voters and keep them away from the polls. What's worse, these practices often target and exploit vulnerable populations, such as minorities, the disabled, or the poor.

We saw countless examples in this past election. Some of us remember the thousands of Latino voters in Orange County, California, who received letters warning them in Spanish that, ''if you are an immigrant, voting in a federal election is a crime that can result in incarceration.''

Or the voters in Maryland who received a ''democratic sample ballot'' featuring a Republican candidate for Governor and a Republican candidate for U.S. Senator.

Or the voters in Virginia who received calls from a so-called ''Virginia Elections Commission'' informing them—falsely—that they were ineligible to vote.

Or the voters who were told that they couldn't vote if they had family members who had been convicted of a crime.

Of course, these so-called warnings have no basis in fact, and are made with only one goal in mind—to keep Americans away from the polls. We see these problems year after year and election and after election, and my hope is that this bill will finally stop these practices in time for the next election.

That is why I am reintroducing the Deceptive Practices and Voter Intimidation Prevention Act. It's a bill that makes voter intimidation and deception punishable by law, and it contains strong penalties so that people who commit these crimes suffer more than just a slap on the wrist. The bill also seeks to address the real harm of these crimes—people who are prevented from voting by misinformation—by establishing a process for reaching out to these misinformed voters with accurate information so they can cast their votes in time.

Senator SCHUMER has joined me in introducing this legislation, and we are joined by our colleagues, Senator PATRICK LEAHY, Chairman of the Judiciary Committee, and Senators CARDIN, FEINGOLD, KERRY, FEINSTEIN and CLINTON as original co-sponsors to this bill.

There are some issues in this country that are inherently difficult and political. Making sure that every American can cast a ballot shouldn't be one of them. There is no place for politics in this debate—no room for those who feel that they can gain a partisan advantage by keeping people away from the polls. It's time to get this done in a bipartisan fashion, and I believe this bill can make it happen.

I ask unanimous consent that a New York Times editorial from January 31, 2007, be printed in the RECORD.

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

[From the New York Times, Jan. 31, 2007]

HONESTY IN ELECTIONS

On Election Day last fall in Maryland, fliers were handed out in black neighborhoods with the heading ''Democratic Sample Ballot'' and photos of black Democratic leaders—and boxes checked off beside the names of the Republican candidates for senator and governor. They were a blatant attempt to fool black voters into thinking the Republican candidates were endorsed by black Democrats. In Orange County, Calif., 14,000 Latino voters got letters in Spanish saying it was a crime for immigrants to vote in a federal election. It didn't say that immigrants who are citizens have the right to vote.

Dirty tricks like these turn up every election season, in large part because they are so rarely punished. But two Democratic senators, Barack Obama of Illinois and Charles Schumer of New York, are introducing a bill today that would make deceiving or intimidating voters a federal crime with substantial penalties.

The bill aims at some of the most commonly used deceptive political tactics. It makes it a crime to knowingly tell voters the wrong day for an election. There have been numerous reports of organized efforts to use telephones, leaflets or posters to tell voters, especially in minority areas, not to vote on Election Day because voting has been postponed.

The bill would also criminalize making false claims to voters about who has endorsed a candidate, or wrongly telling people—like immigrants who are registered voters in Orange County—that they cannot vote.

Along with defining these crimes and providing penalties of up to five years' imprisonment, the bill would require the Justice Department to counteract deceptive election information that has been put out, and to report to Congress after each election on what deceptive practices occurred and what the Justice Department did about them.

The bill would also allow individuals to go to court to stop deceptive practices while they are happening. That is important, given how uninterested the current Justice Department has proved to be in cracking down on election season dirty tricks.

The bill is careful to avoid infringing on First Amendment rights, and that is the right course. But in steering clear of regulating speech, it is not clear how effective the measure would be in addressing one of the worst dirty tricks of last fall's election: a particular kind of deceptive ''robocall'' that was used against Democratic Congressional candidates. These calls, paid for by the Republicans, sounded as if they had come from the Democrat; when a recipient hung up, the call was repeated over and over. The intent was clearly to annoy the recipients so they would not vote for the Democrat.

While there are already laws that can be used against this sort of deceptive telephone harassment, a more specific bill aimed directly at these calls is needed. But the bill being introduced today is an important step toward making elections more honest and fair. There is no reason it should not be passed by Congress unanimously.

Mr. SCHUMER. Mr. President, I rise today to join with Senator OBAMA in introducing landmark legislation to protect the most sacred right of our democracy: the right to vote. The Obama-Schumer Deceptive Practices and Voter Intimidation Prevention Act of 2007 will end the deceptive practices that have become far too common in recent elections.

At the outset, I want to commend my colleague from Illinois, Senator OBAMA, for his leadership on this important issue. It has been a great pleasure to work with him to draft this bill. I am also proud that we are joined by Senators LEAHY, CARDIN, FEINGOLD, KERRY, FEINSTEIN, and CLINTON as original cosponsors of this legislation.

We all know that there is an urgent need for this legislation. The right to vote is the wellspring of our democracy. Yet Americans have been profoundly shocked and disgusted in recent elections to see so many cynical attempts to lie to voters in order to keep them from casting their ballots.

Let me give just a few examples. In last year's mid-term election, letters in Spanish were sent to voters in Orange County, CA, stating that it is a crime for an immigrant to vote. In fact, immigrants who are naturalized citizens have the right to vote just as any other American citizen does.

In 2006, as well, fliers were handed out on election day in Maryland that gave the impression that top Republican candidates for office were Democratic candidates and were endorsed by prominent African Americans. These fliers were a clear and deliberate attempt to mislead voters.

In Virginia, registered voters received recorded calls that falsely stated that the recipient of the call was registered in another State and would face criminal charges if they came to the polls.

These dirty tricks are not new. In 2002, fliers were distributed in public housing complexes in Louisiana, telling people that they could cast their votes 3 days after election day if the weather was bad.

These schemes insult the intelligence of those they target, and they insult our democracy. Yet they actually seem to be growing more common. The shameful reality is that today, Federal law does not prohibit wrongdoers from spreading these lies.

It is high time for Congress to do something about this disgraceful state of affairs. The Obama-Schumer bill creates a new offense of voter deception. Under our legislation, anyone who intentionally lies to voters about certain key information will now face both civil penalties and criminal punishment of up to 5 years in prison or a $100,000 fine.

The Obama-Schumer bill covers the facts that are most critical for reaching the polls—facts like where, when,

and how you can vote; whether you are eligible to vote; or whether an organization has actually endorsed a candidate. When voters are being misled about these core facts, the right to vote is nothing more than a hollow promise. It is a real threat to the right to vote when criminal elements are deliberately lying about something as basic—yet as important—as the date of the election. These types of lies are the poll taxes of today. They are being used to build a barrier around polling places and to disenfranchise voters in the most cynical and destructive way.

Even when misinformation campaigns are not successful, because voters are too smart and too determined to reach the polls, these deceptive practices make a mockery out of the great tradition of American democracy. These despicable attempts have gone unpunished for far too long. The Obama-Schumer bill provides strong penalties to deter and punish the offense of voter deception.

The Obama-Schumer bill will also increase the maximum penalty for voter intimidation from 1 year to 5 years in prison. Someone who tries to keep voters away from the polls with threats should not be released with a slap on the wrist, and our bill will create real penalties for this crime.

Finally, our legislation also ensures that lies do not go unanswered and pass for truth. Under the Obama-Schumer bill, the Department of Justice will be responsible for getting the correct information out to voters so that they can get to the polls and cast their vote without undue confusion.

As a check on whether elections are being tainted by these practices, after each election, the Attorney General will have to report to Congress about allegations of voter deception and how they were handled. We want to make sure that the Department of Justice uses the new tools that would be provided under this bill. The Attorney General's reports will give us a foundation for vigorous oversight.

Let me also be clear about what this legislation does not do. Senator OBAMA and I have taken great care to craft a bill that will not run afoul of the first amendment or prevent Americans from expressing their political opinions. Our bill strikes a balance between the need for political debate and the fundamental right to vote. It is narrowly tailored: it applies only to activities within 60 days prior to an election, and it covers only the key facts that voters need to reach the polls and cast their votes without interference. This bill will not limit legitimate debate, and it will not punish honest mistakes. It is clear from the dirty tricks that America has witnessed in recent elections that the Congress has a compelling interest in protecting the right to vote by regulating false speech that disenfranchises voters. We have a responsibility to act on that interest for the sake of all Americans.

The Obama-Schumer Deceptive Practices and Voter Intimidation Prevention Act of 2007 will finally criminalize efforts to keep voters away from the polls with deliberate lies. I hope and trust that the Congress will take up our bill and pass it without delay.

Mr. LEAHY. Mr. President, today, I join Senators OBAMA, SCHUMER, CARDIN, FEINSTEIN, FEINGOLD, CLINTON, and KERRY to introduce the Deceptive Practices and Voter Intimidation Prevention Act of 2007, a measure that would create new protections and expand existing protections against the use of deceptive practices in elections.

There are few things as critical to the fabric of our Nation, and to American citizenship, as voting. The right to vote and to have your vote count is a foundational right, like our first amendment rights, because it secures the effectiveness of other protections. The legitimacy of our government is dependent on the access all Americans have to the political process.

We saw last year in nearly 20 hearings in the House and Senate on the reauthorization of the Voting Rights Act that there is a continuing need for the vital voting rights protections that landmark civil rights law provides for all Americans. But our need to protect the effective access of voters to the political process does not stop with those vital protections against discrimination. I am concerned about increasing efforts on behalf of some candidates and political parties to interfere with recent elections and undermine the participation of many voters. So today we take another step toward protecting the exercise of the effective exercise of voting rights by ensuring that the access to vote is not undermined by those who would take away that access through deceit and false information.

The Deceptive Practices and Voter Intimidation Prevention Act of 2007 would provide additional tools and criminal penalties to help combat the kinds of practices used during the 2006 midterms in places like Maryland and Virginia. In Maryland, Republican leaders admitted to distributing misleading flyers in African-American communities on election day suggesting that prominent African-American Democrats supported Republican candidates. In Virginia, the FBI has investigated calls received by many voters in heavily Democratic precincts directing them to the wrong polling sites, giving incorrect information about their eligibility to vote, or encouraging them not to vote on election day. I supported a similar bill, S. 1975, in the last Congress, and I hope that we can move forward in this Congress.

Regrettably, the problems leading up to and on election day last year were not limited to a few isolated incidents. In the ninth precinct in Tucson, AZ, an area with a heavy percentage of Latino voters, it has been reported that three vigilantes armed with a clipboard, a video camera, and a visible firearm stopped only Latino voters as they entered and exited the polls on election day, issuing implied and overt threats. In Orange County, CA, Republican congressional candidate Tan Nguyen admitted that his campaign staffer sent letters to 73,000 households, spreading misinformation about voting requirements apparently designed to suppress Latino voter turnout.

In letters to the Attorney General and other officials at the Justice Department and in oversight hearings last November and 2 weeks ago, we have asked the Justice Department for more information about what it has been doing to investigate and combat these practices. In the information we have obtained so far, it is apparent that the Justice Department has not done enough and additional tools are needed.

The Deceptive Practices and Voter Intimidation Prevention Act of 2007 would expand the conduct currently prohibited by law to include the dissemination of false information within 60 days of an election about the time, place, and manner of the election, the qualifications for voter eligibility, or the sponsor of public communications about an election. In addition, it would provide new means of enforcing these prohibitions and combating such dissemination: it creates a private right of action for persons aggrieved by the dissemination of such false information; it provides criminal penalties for such false dissemination of up to 5 years and $100,000; and it provides that any person may report such false dissemination to the Attorney General, and if it is determined that such information is false or deliberately misleading, the Justice Department would be required to take action to provide corrective information. In addition, this bill provides an additional tool for effective oversight by requiring the Attorney General to report to Congress on allegations of the dissemination of false information within 90 days of an election.

By passing this bill and enacting it into law, we can continue our march towards a more inclusive democracy for all Americans.

Mr. KENNEDY. Mr. President, it's a privilege to join Senator OBAMA and our other colleagues in sponsoring the Deceptive Practices and Voter Intimidation Prevention Act, because it addresses an essential aspect of voting rights. For too long, we've ignored the festering problem of deceptive practices intended to intimidate and deceive voters in our national elections and suppress the vote of certain minority groups for partisan gain. The problem is a continuing threat to our democracy, and it's up to our new Congress to outlaw such practices, and I commend the Senator from Illinois for his leadership on this basic challenge.

In doing so, we must be vigilant to ensure that the bill does not erode the important division of responsibility in the Department of Justice between civil rights enforcement by the Civil Rights Division and the efforts by the Criminal Division to combat voter fraud. That division of responsibility is essential to convincing voters, particularly those in poor or minority communities to have the trust necessary to work with the Civil Rights Division and to inform it of possible civil rights violations. The bill should clearly provide that, as traditionally has been the case, the Voting Section of the Civil Rights Division may not investigate matters of voter fraud, although it

may provide technical advice and assistance to other parts of the Department in carrying out the requirements of this legislation.

We also need to guarantee that additional resources are appropriated to carry out the bill's requirements, so that resources will not be diverted from other important law enforcement activities of the Department.

In addition, we must ensure that the bill's civil and criminal provisions are not misused to erode voter participation even further, particularly among poor and minority voters by wrongly targeting voter registration activities or chilling legitimate get-out-the-vote efforts by organizations serving the public interest.

I look forward very much to working with my colleagues to deal with these specific issues, and to enact this important new measure as part of our fundamental responsibility to protect the most basic right in our democracy, the right to vote.

By Ms. COLLINS:

S. 454. A bill to provide an increase in funding for Federal Pell Grants, to amend the Internal Revenue Code of 1986 in order to expand the deduction for interest paid on student loans, raise the contribution limits for Coverdell Education Savings Accounts, and make the exclusion for employer provided educational assistance permanent, and for other purposes; to the Committee on Finance.

Ms. COLLINS. Mr. President, I rise today to introduce the Improving Access to Higher Education Act. This legislation would provide an increase in the maximum Pell grant award to $5,100, as well as additional benefits to help make higher education more accessible and affordable.

Our system of higher education is, in many ways, the envy of the world, but its benefits have not been equally available. Unfortunately, family income still largely determines whether students will pursue higher education. Students from families with incomes above $75,000 are more than twice as likely to attend college as students from families with incomes of less than $25,000.

To help remedy these inequities, the Federal Government has committed itself to a need-based system of student financial aid designed to help remove the economic barriers to higher education. Central to this effort over the past 30 years has been the Pell grant program.

The Pell Grant Program is the largest source of Federal grant aid and the cornerstone of our Federal need-based aid system. In 2006, the Pell program provided approximately $13 billion in grant aid to more than 5.3 million students. Students with the greatest need receive the maximum Pell award, which is currently set at $4,050. And Pell grants are truly targeted to the neediest of students—Pell recipients have a median family income of only $15,200.

Because of the central role of the Pell Grant Program, I am deeply concerned by the significant erosion in the purchasing power of the Pell grant that has occurred in recent years. In 1975, the maximum Pell grant represented approximately 80 percent of the costs of attending a public, 4-year institution. Today, it covers only 33 percent of these costs.

When lower levels of grant aid are available, students are forced to make up the difference by taking on larger and larger amounts of debt to finance their education. Earlier this month, I met with two students from the University of Southern Maine who told me that students graduating from 4-year institutions in Maine leave with an average debt of $20,239. As startling as this figure may be, it underestimates the true indebtedness of students, since it does not take into account credit card debt or private loans that students use to help finance their education.

The decline in the value of grant aid and the growing reliance on loans have particularly negative consequences for low-income students. In fact, the staggering amount of debt required to finance higher education may force some low-income students to abandon their plans to attend college altogether.

As explained in a recent report by the Educational Policy Institute, ''Grants for Students: What they do, Why they work,'' people from lower-income backgrounds often place a higher value on having money to meet pressing current needs, and accordingly, are less likely to make investments where the financial return comes only in the long term. According to the report, ''[L]ong term poverty encourages short-term thinking and those who experience it tend to identify very strongly with the expression 'one in the hand is worth two in the bush.' '' This is just one reason why the availability of loans does not solve the college access problem for low-income students, and why grant aid is so crucial.

That is why today I am introducing legislation that will raise the maximum Pell grant award to $5,100, an increase of more tha $1,000 in a single year. While I recognize that this represents a significant increase in a single year, this increase is long overdue. The maximum grant award has been essentially level-funded since Fiscal Year 2002. If we do not act soon Fiscal Year 2007 will become the fifth year in a row that the Pell maximum award has been level-funded.

By raising the maximum award to $5,100, my home state of Maine will receive approximately $60 million in Pell grant funding, an increase of over $15 million from current levels. This level of funding would provide Pell grants to more than 20,000 Maine students.

I recently met with Andrew Bossie, a first-generation college student from my hometown of Caribou, about the importance of Pell grants. Andrew is currently a student at the University of Southern Maine and will graduate this spring, in large part, because of the help of Pell grants. As Andrew told me, ''Without Pell grants, there is no doubt that I would not have been able to attend college. Although the current Pell grant award is a huge help, I still feel the stress of sometimes having to decide between a badly-needed new pair of shoes and making my tuition payments.'' Andrew is thriving academically—he is on the Dean's list—and he is also the student body president and is active as a community volunteer.

Increasing the maximum Pell award by $1,050 is going to make a real difference for Andrew and other students in their ability to pursue their college dreams. While I recognize that an increase to $5,100 in a single year is an ambitious goal, it is a worthy one for a nation that understands the opportunities that a college education brings.

My legislation also amends the Higher Education Act to raise the minimum Pell award to $500, up from the current minimum of $400. The minimum award level has not been increased in over 10 years. I believe we should ensure that every student who qualifies for a Pell receives at least $500.

In addition to our efforts on behalf of Pell grants, there are other important steps we can take to put higher education in the reach of more families. Ten years ago, in my first year as a Senator, I introduced S. 930, the ''College Affordability and Access Act,'' which contained three provisions designed to expand access to higher education, and reduce its cost. These three provisions were enacted into law, in amended form, as part of the Taxpayer Relief Act of 1997.

The proposal I am submitting today builds upon each of those three provisions. First, in recognition of the increased cost of higher education, my proposal calls for an increase in the tax deduction available for interest paid on higher education loans. Second, my proposal calls for a similar increase in the contribution limit for tax-free Coverdell Education Savings Accounts. Third, the bill would make permanent the current tax-free treatment of employer-provided educational assistance programs.

The value of the tax relief we provided 10 years ago has not kept pace with the rising cost of higher education. According to data from the College Board, 4-year private colleges now charge $30,000 per year for tuition, fees, room, and board. Even after taking inflation into account, this represents an increase of more than $6,000 since the 1996–1997 school year. Perhaps even more troubling, the College Board reports that the rate of increase has actually been sharper at public 4-year institutions than their private counterparts. Ten years ago, students attending any of America's excellent public universities would have paid, on average, just over $9,000 to cover tuition, fees, room, and board. Today, these

students can expect to pay nearly $12,800—an increase of 38 percent after taking inflation into account.

By contrast, the student loan interest deduction we provided as part of the Taxpayer Relief Act of 1997 remains at $2,500. It is time that we raise this cap to $3,750, a 50-percent increase. Doing so is a step toward recognizing that investments in higher education are essential to the health of our economy in an increasingly global, competitive marketplace.

I also believe it is necessary to increase the contribution limits for Coverdell Education Savings Accounts. Under current law, taxpayers may make contributions of up to $2,000 per year to these tax-free higher education accounts. In light of the inflation in college costs that I have already described, I believe this contribution limit ought to be increased to $3,000 per year.

Finally, my proposal would also extend current education benefits provided to employees through their employers. Under current law, a taxpayer may receive, tax free, up to $5,250 in education benefits through their employers each year. This provision helps both companies and their employees. Companies that provide this benefit get a workforce that is current with the latest methods and technologies in the field, while their employees get the training they need to advance through the ranks. Unfortunately, this provision expires on December 31, 2010. I propose that it be made permanent.

Now is the time for us to make a commitment to raising the Pell maximum award to $5,100, and to providing additional relief to families struggling to afford higher education. Investing in higher education is crucial to our economic future and competitiveness in the global economy, and my legislation represents a sound investment towards making the dream of a college education a reality for more Americans. I hope my colleagues will join me in supporting this legislation.

By Mr. KERRY:

S. 455. A bill to amend the Internal Revenue Code of 1986 to provide tax relief to active duty military personnel and employers who assist them, and for other purposes; to the Committee on Finance.

Mr. KERRY. Mr. President, today Senator SMITH and I are introducing the Active Duty Military Tax Relief Act of 2007. This legislation will help those who are valiantly serving their country and the families that they leave behind.

The best definition of patriotism is keeping faith with those who wear the uniform of our country. That means giving our troops the resources they need to keep them safe while they are protecting us. And it means supporting our troops at home as well as abroad.

Currently, there are over 132,000 military personnel serving in Iraq and more are on the way. There are approximately 22,100 U.S. servicemembers in Afghanistan. Many of these men and women are reservists and have been called to activity duty, frequently for multiple tours. Often they own, or are employed, by a small business and their activation results in hardship for the business.

Small businesses with less than 100 employees employ about 18 percent of all reservists who hold civilian jobs. Most large businesses have the resources to provide supplemental income to reservist employees called up and to replace them with temporary employees. I applaud the businesses that have been able to pay supplemental income to their reservists, but it is not easy for small businesses to do the same.

Earlier today, the Small Business and Entrepreneurship Committee held a hearing on veterans' small business issues. A majority of our veterans returning from Iraq and Afghanistan are Reserve and National Guard members—35 percent of whom are either self-employed or own or are employed by a small business.

We heard some disturbing statistics about the impact and unintended consequences the callup of reservists is having on small businesses. According to a January 2007 survey conducted by Workforce Management, 54 percent of the businesses surveyed responded that they would not hire a citizen soldier if they knew that they could be called up for an indeterminate amount of time. I am concerned that long callups have made it hard for small businesses to be supportive of civilian soldiers.

The Active Duty Military Tax Relief Act of 2007 provides a tax credit to small businesses with fewer than 100 employees and the self-employed to help with the cost of paying the salary of their reservist employees when they are called to active duty. This legislation also provides an additional tax credit to help offset the cost of hiring temporary employees to fill vacancies left by the servicemembers.

Many reservists who own their own business return from duty to find that their business is floundering. These tax credits will help reservists who own their own businesses to hire temporary employees for the duration of their tour as well as to assist small businesses deal with the impact of having an essential employee called up for active duty.

In addition to helping small businesses, the Active Duty Military Tax Relief of 2007 addresses concerns related to differential military pay, income tax withholding, and retirement plan participation. These provisions will make it easier for employers who would like to pay their employees supplemental income, above their military pay, and make pension contributions. Our legislation would make differential military pay subject to Federal income tax withholding. In addition, with respect to the retirement plan rules, the bill provides that a person receiving differential military pay would be treated as an employee of the employer making the payment and allows the differential military pay to be treated as compensation.

This bill also attempts to mitigate the financial strains placed on our military families while the family member is deployed. To help ease some of this burden, the Active Duty Military Tax Relief Act of 2007 would increase the standard deduction for active duty military personnel by $1,000 for 2007 and 2008. In addition, this legislation would make permanent the existing provision which allows taxpayers to include combat pay as earned income for purposes of the earned income tax credit (EITC). Without this provision some military families would no longer be eligible to receive the EITC because combat pay is currently not taxable.

Last Congress, Senator SMITH and I introduced the Fallen Heroes Family Savings Act, which we have incorporated into the Active Duty Military Tax Relief Act. This provision provides tax relief for the death gratuity payment that is given to families that have lost a loved one in combat. This payment is currently $100,000.

Our current tax laws do not allow the recipients of this payment to use it to make contributions to tax-preferred saving accounts that help with saving for retirement, health care, or the costs of education. Our legislation would allow military death gratuities to be contributed to certain tax-preferred accounts. These contributions would be treated as qualified rollovers. The contribution limits of these accounts will not be applied to these contributions.

Our service men and women need to know that we are honoring their valor by taking care of those they leave behind. Helping ease the tax burden on the death gratuity will enable military families to save more for retirement, education, and health care by allowing them to put the payment in an account in which the earnings will accumulate tax-free.

These changes to our tax laws will help our military families with some of their financial burdens. It cannot repay the sacrifices they have made for us, but it is a small way we can support our troops and their families at home as well as abroad.

The National Military Family Association, the Reserve Officers Association, and The Military Coalition (a consortium of veterans and military organizations representing more than 5.5 million members plus their families and survivors) support this legislation.

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

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

S. 455

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 ''Active Duty Military Tax Relief Act of 2007''.

SEC. 2. CREDIT FOR INCOME DIFFERENTIAL FOR EMPLOYMENT OF ACTIVATED MILITARY RESERVIST AND REPLACEMENT PERSONNEL.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

''SEC. 30C. EMPLOYER WAGE CREDIT FOR ACTIVATED MILITARY RESERVISTS.

''(a) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

''(1) in the case of an eligible small business employer, the employment credit with respect to all qualified employees and qualified replacement employees of the taxpayer, plus

''(2) the self-employment credit of a qualified self-employed taxpayer.

''(b) EMPLOYMENT CREDIT.—For purposes of this section—

''(1) QUALIFIED EMPLOYEES.—

''(A) IN GENERAL.—The employment credit with respect to a qualified employee of the taxpayer for any taxable year is equal to 40 percent of so much of the excess (if any) paid by the taxpayer to such qualified employee of—

''(i) the qualified employee's average daily qualified compensation for the taxable year, over

''(ii) the average daily military pay and allowances received by the qualified employee during the taxable year while participating in qualified reserve component duty to the exclusion of the qualified employee's normal employment duties,

for the aggregate number of days the qualified employee participates in qualified reserve component duty during the taxable year (including time spent in a travel status) as does not exceed $25,000. The employment credit, with respect to all qualified employees, is equal to the sum of the employment credits for each qualified employee under this subsection.

''(B) AVERAGE DAILY QUALIFIED COMPENSATION AND AVERAGE DAILY MILITARY PAY AND ALLOWANCES.—As used with respect to a qualified employee—

''(i) the term 'average daily qualified compensation' means the qualified compensation of the qualified employee for the taxable year divided by 365, and

''(ii) the term 'average daily military pay and allowances' means—

''(I) the amount paid to the qualified employee during the taxable year as military pay and allowances on account of the qualified employee's participation in qualified reserve component duty, divided by

''(II) the total number of days the qualified employee participates in qualified reserve component duty, including time spent in travel status.

''(C) QUALIFIED COMPENSATION.—When used with respect to the compensation paid to a qualified employee for any period during which the qualified employee participates in qualified reserve component duty, the term 'qualified compensation' means—

''(i) compensation which is normally contingent on the qualified employee's presence for work and which would be deductible from the taxpayer's gross income under section 162(a)(1) if the qualified employee were present and receiving such compensation,

''(ii) compensation which is not characterized by the taxpayer as vacation or holiday pay, or as sick leave or pay, or as any other form of pay for a nonspecific leave of absence, and with respect to which the number of days the qualified employee participates in qualified reserve component duty does not result in any reduction in the amount of vacation time, sick leave, or other nonspecific leave previously credited to or earned by the qualified employee, and

''(iii) group health plan costs (if any) with respect to the qualified employee.

''(D) QUALIFIED EMPLOYEE.—The term 'qualified employee' means a person who—

''(i) has been an employee of the taxpayer for the 91-day period immediately preceding the period during which the employee participates in qualified reserve component duty, and

''(ii) is a member of the Ready Reserve of a reserve component of an Armed Force of the United States as defined in sections 10142 and 10101 of title 10, United States Code.

''(2) QUALIFIED REPLACEMENT EMPLOYEES.—

''(A) IN GENERAL.—The employment credit with respect to a qualified replacement employee of the taxpayer for any taxable year is equal to 40 percent of so much of the individual's qualified compensation attributable to service rendered as a qualified replacement employee as does not exceed $15,000. The employment credit, with respect to all qualified replacement employees, is equal to the sum of the employment credits for each qualified replacement employee under this subsection.

''(B) QUALIFIED COMPENSATION.—When used with respect to the compensation paid to a qualified replacement employee, the term 'qualified compensation' means—

''(i) compensation which is normally contingent on the qualified replacement employee's presence for work and which is deductible from the taxpayer's gross income under section 162(a)(1),

''(ii) compensation which is not characterized by the taxpayer as vacation or holiday pay, or as sick leave or pay, or as any other form of pay for a nonspecific leave of absence, and

''(iii) group health plan costs (if any) with respect to the qualified replacement employee.

''(C) QUALIFIED REPLACEMENT EMPLOYEE.—The term 'qualified replacement employee' means an individual who is hired to replace a qualified employee or a qualified self-employed taxpayer, but only with respect to the period during which such employee or taxpayer participates in qualified reserve component duty, including time spent in travel status, and, in the case of a qualified employee, is receiving qualified compensation (as defined in paragraph (1)(C)) for which an employment credit is allowed as determined under paragraph (1).

''(c) SELF-EMPLOYMENT CREDIT.—For purposes of this section—

''(1) IN GENERAL.—The self-employment credit of a qualified self-employed taxpayer for any taxable year is equal to 40 percent of so much of the excess (if any) of—

''(A) the qualified self-employed taxpayer's average daily qualified compensation for the taxable year, over

''(B) the average daily military pay and allowances received by the taxpayer during the taxable year while participating in qualified reserve component duty to the exclusion of the taxpayer's normal self-employment duties,

for the aggregate number of days the taxpayer participates in qualified reserve component duty during the taxable year (including time spent in a travel status) as does not exceed $25,000.

''(2) AVERAGE DAILY QUALIFIED COMPENSATION AND AVERAGE DAILY MILITARY PAY AND ALLOWANCES.—As used with respect to a qualified self-employed taxpayer—

''(A) the term 'average daily qualified compensation' means the qualified compensation of the qualified self-employed taxpayer for the taxable year divided by 365 days, and

''(B) the term 'average daily military pay and allowances' means—

''(i) the amount paid to the taxpayer during the taxable year as military pay and allowances on account of the taxpayer's participation in qualified reserve component duty, divided by

''(ii) the total number of days the taxpayer participates in qualified reserve component duty, including time spent in travel status.

''(3) QUALIFIED COMPENSATION.—When used with respect to the compensation paid to a qualified self-employed taxpayer for any period during which the qualified self-employed taxpayer participates in qualified reserve component duty, the term 'qualified compensation' means—

''(A) the self-employment income (as defined in section 1402(b) of the taxpayer which is normally contingent on the taxpayer's presence for work,

''(B) compensation which is not characterized by the taxpayer as vacation or holiday pay, or as sick leave or pay, or as any other form of pay for a nonspecific leave of absence, and

''(C) the amount paid for insurance which constitutes medical care for the taxpayer for such year (within the meaning of section 162(l)).

''(4) QUALIFIED SELF-EMPLOYED TAXPAYER.—The term 'qualified self-employed taxpayer' means a taxpayer who—

''(A) has net earnings from self-employment (as defined in section 1402(a)) for the taxable year, and

''(B) is a member of the Ready Reserve of a reserve component of an Armed Force of the United States.

''(d) COORDINATION WITH OTHER CREDITS.—The amount of credit otherwise allowable under this chapter with respect to compensation paid to any employee shall be reduced by the credit allowed by this section with respect to such employee.

''(e) LIMITATIONS.—

''(1) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(A) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

''(B) the tentative minimum tax for the taxable year.

''(2) DISALLOWANCE FOR FAILURE TO COMPLY WITH EMPLOYMENT OR REEMPLOYMENT RIGHTS OF MEMBERS OF THE RESERVE COMPONENTS OF THE ARMED FORCES OF THE UNITED STATES.—No credit shall be allowed under subsection (a) to a taxpayer for—

''(A) any taxable year, beginning after the date of the enactment of this section, in which the taxpayer is under a final order, judgment, or other process issued or required by a district court of the United States under section 4323 of title 38 of the United States Code with respect to a violation of chapter 43 of such title, and

''(B) the 2 succeeding taxable years.

''(3) DISALLOWANCE WITH RESPECT TO PERSONS ORDERED TO ACTIVE DUTY FOR TRAINING.—No credit shall be allowed under subsection (a) to a taxpayer with respect to any period by taking into account any person who is called or ordered to active duty for any of the following types of duty:

''(A) Active duty for training under any provision of title 10, United States Code.

''(B) Training at encampments, maneuvers, outdoor target practice, or other exercises under chapter 5 of title 32, United States Code.

''(C) Full-time National Guard duty, as defined in section 101(d)(5) of title 10, United States Code.

''(f) GENERAL DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) ELIGIBLE SMALL BUSINESS EMPLOYER.—

''(A) IN GENERAL.—The term 'eligible small business employer' means, with respect to any taxable year, any employer which—

''(i) employed an average of 100 or fewer employees on business days during such taxable year, and

''(ii) under a written plan of the employer, provides the excess amount described in subsection (b)(1)(A) to every qualified employee of the employer.

''(B) CONTROLLED GROUPS.—For purposes of subparagraph (A), all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer.

''(2) MILITARY PAY AND ALLOWANCES.—The term 'military pay' means pay as that term is defined in section 101(21) of title 37, United States Code, and the term 'allowances' means the allowances payable to a member of the Armed Forces of the United States under chapter 7 of that title.

''(3) QUALIFIED RESERVE COMPONENT DUTY.—The term 'qualified reserve component duty' includes only active duty performed, as designated in the reservist's military orders, in support of a contingency operation as defined in section 101(a)(13) of title 10, United States Code.

''(4) CARRYBACK AND CARRYFORWARD ALLOWED.—

''(A) IN GENERAL.—If the credit allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (f)(1) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be a credit carryback to the taxable year preceding the unused credit year and a credit carryforward to each of the 20 taxable years following the unused credit year.

''(B) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).

''(5) CERTAIN RULES TO APPLY.—Rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply.''.

(b) NO DEDUCTION FOR COMPENSATION TAKEN INTO ACCOUNT FOR CREDIT.—Section 280C(a) of the Internal Revenue Code of 1986 (relating to rule for employment credits) is amended—

(1) by inserting ''or compensation'' after ''salaries'', and

(2) by inserting ''30C,'' before ''45A(a),''.

(c) CONFORMING AMENDMENT.—Section 55(c)(2) of the Internal Revenue Code of 1986 is amended by inserting ''30C(e)(1),'' after ''30(b)(3),''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end of 30A the following new item:

''Sec. 30C. Employer wage credit for activated military reservists.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid in taxable years beginning after December 31, 2006.

SEC. 3. DIFFERENTIAL WAGE PAYMENTS.

(a) INCOME TAX WITHHOLDING ON DIFFERENTIAL WAGE PAYMENTS.—

(1) IN GENERAL.—Section 3401 of the Internal Revenue Code of 1986 (relating to definitions) is amended by adding at the end the following new subsection:

''(h) DIFFERENTIAL WAGE PAYMENTS TO ACTIVE DUTY MEMBERS OF THE UNIFORMED SERVICES.—

''(1) IN GENERAL.—For purposes of subsection (a), any differential wage payment shall be treated as a payment of wages by the employer to the employee.

''(2) DIFFERENTIAL WAGE PAYMENT.—For purposes of paragraph (1), the term 'differential wage payment' means any payment which—

''(A) is made by an employer to an individual with respect to any period during which the individual is performing service in the uniformed services while on active duty for a period of more than 30 days, and

''(B) represents all or a portion of the wages the individual would have received from the employer if the individual were performing service for the employer.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to remuneration paid after December 31, 2007.

(b) TREATMENT OF DIFFERENTIAL WAGE PAYMENTS FOR RETIREMENT PLAN PURPOSES.—

(1) PENSION PLANS.—

(A) IN GENERAL.—Section 414(u) of the Internal Revenue Code of 1986 (relating to special rules relating to veterans' reemployment rights under USERRA) is amended by adding at the end the following new paragraph:

''(11) TREATMENT OF DIFFERENTIAL WAGE PAYMENTS.—

''(A) IN GENERAL.—Except as provided in this paragraph, for purposes of applying this title to a retirement plan to which this subsection applies—

''(i) an individual receiving a differential wage payment shall be treated as an employee of the employer making the payment,

''(ii) the differential wage payment shall be treated as compensation, and

''(iii) the plan shall not be treated as failing to meet the requirements of any provision described in paragraph (1)(C) by reason of any contribution or benefit which is based on the differential wage payment.

''(B) SPECIAL RULE FOR DISTRIBUTIONS.—

''(i) IN GENERAL.—Notwithstanding subparagraph (A)(i), for purposes of section 401(k)(2)(B)(i)(I), 403(b)(7)(A)(ii), 403(b)(11)(A), or 457(d)(1)(A)(ii), an individual shall be treated as having been severed from employment during any period the individual is performing service in the uniformed services described in section 3401(h)(2)(A).

''(ii) LIMITATION.—If an individual elects to receive a distribution by reason of clause (i), the plan shall provide that the individual may not make an elective deferral or employee contribution during the 6-month period beginning on the date of the distribution.

''(C) NONDISCRIMINATION REQUIREMENT.—Subparagraph (A)(iii) shall apply only if all employees of an employer (as determined under subsections (b), (c), (m), and (o)) performing service in the uniformed services described in section 3401(h)(2)(A) are entitled to receive differential wage payments on reasonably equivalent terms and, if eligible to participate in a retirement plan maintained by the employer, to make contributions based on the payments on reasonably equivalent terms. For purposes of applying this subparagraph, the provisions of paragraphs (3), (4), and (5), of section 410(b) shall apply.

''(D) DIFFERENTIAL WAGE PAYMENT.—For purposes of this paragraph, the term 'differential wage payment' has the meaning given such term by section 3401(h)(2).''.

(B) CONFORMING AMENDMENT.—The heading for section 414(u) of such Code is amended by inserting ''AND TO DIFFERENTIAL WAGE PAYMENTS TO MEMBERS ON ACTIVE DUTY'' after ''USERRA''.

(2) DIFFERENTIAL WAGE PAYMENTS TREATED AS COMPENSATION FOR INDIVIDUAL RETIREMENT PLANS.—Section 219(f)(1) of the Internal Revenue Code of 1986 (defining compensation) is amended by adding at the end the following new sentence: ''The term 'compensation' includes any differential wage payment (as defined in section 3401(h)(2)).''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to years beginning after December 31, 2007.

(c) PROVISIONS RELATING TO PLAN AMENDMENTS.—

(1) IN GENERAL.—If this subsection applies to any plan or annuity contract amendment—

(A) such plan or contract shall be treated as being operated in accordance with the terms of the plan or contract during the period described in paragraph (2)(B)(i), and

(B) except as provided by the Secretary of the Treasury, such plan shall not fail to meet the requirements of the Internal Revenue Code of 1986 or the Employee Retirement Income Security Act of 1974 by reason of such amendment.

(2) AMENDMENTS TO WHICH SECTION APPLIES.—

(A) IN GENERAL.—This subsection shall apply to any amendment to any plan or annuity contract which is made—

(i) pursuant to any amendment made by this section, and

(ii) on or before the last day of the first plan year beginning on or after January 1, 2009.

(B) CONDITIONS.—This subsection shall not apply to any plan or annuity contract amendment unless—

(i) during the period beginning on the date the amendment described in subparagraph (A)(i) takes effect and ending on the date described in subparagraph (A)(ii) (or, if earlier, the date the plan or contract amendment is adopted), the plan or contract is operated as if such plan or contract amendment were in effect, and

(ii) such plan or contract amendment applies retroactively for such period.

SEC. 4. CONTRIBUTIONS OF MILITARY DEATH GRATUITIES TO CERTAIN TAX-FAVORED ACCOUNTS.

(a) ROTH IRAS.—

(1) PROVISION IN EFFECT BEFORE PENSION PROTECTION ACT.—Subsection (e) of section 408A of the Internal Revenue Code of 1986 (relating to qualified rollover contribution), as in effect before the amendments made by section 824 of the Pension Protection Act of 2006, is amended to read as follows:

''(e) QUALIFIED ROLLOVER CONTRIBUTION.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified rollover contribution' means a rollover contribution to a Roth IRA from another such account, or from an individual retirement plan, but only if such rollover contribution meets the requirements of section 408(d)(3). Such term includes a rollover contribution described in section 402A(c)(3)(A). For purposes of section 408(d)(3)(B), there shall be disregarded any qualified rollover contribution from an individual retirement plan (other than a Roth IRA) to a Roth IRA.

''(2) MILITARY DEATH GRATUITY.—

''(A) IN GENERAL.—The term 'qualified rollover contribution' includes a contribution to a Roth IRA maintained for the benefit of an individual to the extent that such contribution does not exceed the amount received by such individual under section 1477 of title 10, United States Code, or under section 1967 of title 38 of such Code, if such contribution is made not later than 1 year after the day on which such individual receives such amount.

''(B) ANNUAL LIMIT ON NUMBER OF ROLLOVERS NOT TO APPLY.—Section 408(d)(3)(B) shall not apply with respect to amounts treated as a rollover by the subparagraph (A).

''(C) APPLICATION OF SECTION 72.—For purposes of applying section 72 in the case of a distribution which is not a qualified distribution, the amount treated as a rollover by reason of subparagraph (A) shall be treated as investment in the contract.''.

(2) PROVISION IN EFFECT AFTER PENSION PROTECTION ACT.—Subsection (e) of section 408A, as in effect after the amendments made by section 824 of the Pension Protection Act of 2006, is amended to read as follows:

''(e) QUALIFIED ROLLOVER CONTRIBUTION.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified rollover contribution' means a rollover contribution—

''(A) to a Roth IRA from another such account,

''(B) from an eligible retirement plan, but only if—

''(i) in the case of an individual retirement plan, such rollover contribution meets the requirements of section 408(d)(3), and

''(ii) in the case of any eligible retirement plan (as defined in section 402(c)(8)(B) other than clauses (i) and (ii) thereof), such rollover contribution meets the requirements of section 402(c), 403(b)(8), or 457(e)(16), as applicable.

For purposes of section 408(d)(3)(B), there shall be disregarded any qualified rollover contribution from an individual retirement plan (other than a Roth IRA) to a Roth IRA.

''(2) MILITARY DEATH GRATUITY.—

''(A) IN GENERAL.—The term 'qualified rollover contribution' includes a contribution to a Roth IRA maintained for the benefit of an individual to the extent that such contribution does not exceed the amount received by such individual under section 1477 of title 10, United States Code, or under section 1967 of title 38 of such Code, if such contribution is made not later than 1 year after the day on which such individual receives such amount.

''(B) ANNUAL LIMIT ON NUMBER OF ROLLOVERS NOT TO APPLY.—Section 408(d)(3)(B) shall not apply with respect to amounts treated as a rollover by the subparagraph (A).

''(C) APPLICATION OF SECTION 72.—For purposes of applying section 72 in the case of a distribution which is not a qualified distribution, the amount treated as a rollover by reason of subparagraph (A) shall be treated as investment in the contract.''.

(b) HEALTH SAVINGS ACCOUNTS AND ARCHER MSAS.—Sections 220(f)(5) and 223(f)(5) of the Internal Revenue Code of 1986 are each amended by adding at the end the following flush sentence:

''For purposes of subparagraphs (A) and (B), rules similar to the rules of section 408A(e)(2) (relating to rollover treatment for contributions of military death gratuity) shall apply.''.

(c) EDUCATION SAVINGS ACCOUNTS.—Section 530(d)(5) of the Internal Revenue Code of 1986 is amended by adding at the end the following new sentence: ''For purposes of this paragraph, rules similar to the rules of section 408A(e)(2) (relating to rollover treatment for contributions of military death gratuity) shall apply.''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided by paragraphs (2) and (3), the amendments made by this section shall apply with respect to deaths from injuries occurring on or after the date of the enactment of this Act.

(2) APPLICATION OF AMENDMENTS TO DEATHS FROM INJURIES OCCURRING ON OR AFTER OCTOBER 7, 2001, AND BEFORE ENACTMENT.—The amendments made by this section shall apply to any contribution made pursuant to section 408A(e)(2), 220(f)(5), 223(f)(5), or 530(d)(5) of the Internal Revenue Code of 1986, as amended by this Act, with respect to amounts received under section 1477 of title 10, United States Code, or under section 1967 of title 38 of such Code, for deaths from injuries occurring on or after October 7, 2001, and before the date of the enactment of this Act if such contribution is made not later than 1 year after the date of the enactment of this Act.

(3) PENSION PROTECTION ACT CHANGES.—Section 408A(e)(1) of the Internal Revenue Code of 1986 (as in effect after the amendments made by subsection (a)(2)) shall apply to taxable years beginning after December 31, 2007.

SEC. 5. TEMPORARY INCREASE IN STANDARD DEDUCTION FOR ACTIVE DUTY MILITARY PERSONNEL.

(a) IN GENERAL.—Paragraph (3) of section 63(c) of the Internal Revenue Code of 1986 (defining additional standard deduction for the aged and blind) is amended to read as follows:

''(3) ADDITIONAL STANDARD DEDUCTION.—For the purposes of paragraph (1), the additional standard deduction is the sum of—

''(A) the sum of each additional amount to which the taxpayer is entitled under subsection (f), plus

''(B) in the case of a taxable year beginning in 2007 or 2008, an additional amount of $1,000 for an individual for such taxable year if the individual who at any time during such taxable year is performing service in the uniformed services while on active duty for a period of more than 30 days.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 3402(m)(3) of the the Internal Revenue Code of 1986 is amended by striking ''for the aged and blind''.

(2) Section 6012(a)(1)(B) of such Code is amended by adding at the end the following new sentence: ''The preceding sentence shall be applied without regard to section 63(c)(3)(B) and each of the amounts specified in subparagraph (A) shall be increased by the portion of any additional standard deduction to which the individual is entitled by reason of section 63(c)(3)(B).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

SEC. 6. PERMANENT EXTENSION OF ELECTION TO INCLUDE COMBAT PAY AS EARNED INCOME FOR PURPOSES OF EARNED INCOME CREDIT.

(a) IN GENERAL.—Section 32(c)(2)(B)(vi) of the Internal Revenue Code of 1986, as amended by section 106 of division A of the Tax Relief and Health Care Act of 2006, is amended to read as follows:

''(vi) a taxpayer may elect to treat amounts excluded from gross income by means of section 112 as earned income.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

By Mrs. FEINSTEIN (for herself, Mr. HATCH, Mr. SCHUMER, Mr. SPECTER, Mr. BIDEN, Mr. KYL, Mr. STEVENS, Ms. CANTWELL, Mr. COLEMAN, Ms. MIKULSKI, Mr. BAUCUS, Mr. PRYOR, Mr. SALAZAR, Mrs. MURRAY, Mr. BROWN, Mrs. CLINTON, Mrs. DOLE, Mr. CORNYN, Mr. KOHL, and Mr. CASEY):

S. 456. A bill to increase and enhance law enforcement resources committed to investigation and prosecution of violent gangs, to deter and punish violent gang crime, to protect law-abiding citizens and communities from violent criminals, to revise and enhance criminal penalties for violent crimes, to expand and improve gang prevention programs, and for other purposes; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I am pleased to join Senator HATCH and a bipartisan group of at least 15 original cosponsors in introducing comprehensive antiaging legislation—the Gang Abatement and Prevention Act of 2007.

This bill will provide a comprehensive approach to gang violence by: helping those on the front lines of enforcement, by adopting new criminal laws and tougher penalties against those who commit gang-related and other violent acts; authorizing hundreds of millions of dollars for gang-related investigations and prosecutions, and new funds for witness protection; and identifying successful community programs, and investing significant resources in schools and civic and religious organizations to prevent teenagers and other young people from joining gangs in the first place.

On January 10 of this year, officials in Van Nuys, CA, reported that two teenage boys were shot in a reported gang-related shooting.

A few weeks earlier, on December 29, Visalia, CA, law enforcement officials reported two separate shootings and the wounding of two minors.

On December 24, San Diego officials noted how a 16 year old was shot in the leg in gang violence.

On December 22, a 9-year-old girl in Los Angeles was just washing dishes with her mom inside her home—until gang members exchanged fire across the street, and a bullet tore through the front wall of her house and struck her in the head.

And that came 5 days after Cheryl Green, a 14-year-old black girl who was talking to friends, was shot and killed by two Hispanic gang members.

The New York Times just reported on the Cheryl Green shooting, but unfortunately, I see gang violence in the news almost every day in California, with gang-related shootings of children almost too numerous to count. Perhaps the worst occurred last September, when Los Angeles experienced a new low.

Three-year-old Kaitlyn Avila was shot point-blank by a gang member who mistakenly thought her father was a member of a rival gang. The gang member shot and wounded her father, then intentionally fired into little Kaitlyn's chest.

It is the first time ever that law enforcement officials remember a young child being ''targeted'' in a gang-related shooting.

Unfortunately, this shooting is only a symptom of the disease that has taken hold of our cities—gang violence. The violence perpetrated by gang members affects not only those associated with gangs, but also police officers and innocent bystanders. It impacts not only individuals, but also our communities.

It stops mothers from allowing their children to play outside. It prevents

the elderly from taking walks in their neighborhoods. And it creates an environment of fear.

It is past time for the Federal Government to provide a hand of assistance to state and local law enforcement. And it is past time to come to grips with our country's escalating levels of gang violence.

Just last month the FBI released its Uniform Crime Report for the first half of 2006. The news was disturbing.

The report showed an alarming increase in homicides, assaults, robberies and other violent crimes across the U.S.—a surge of nearly 3.7 percent for the first 6 months of 2006.

This, of course follows on the heels of the FBI's 2005 figures, which had showed a 2.5 percent jump in violent crime.

At the time, those 2005 figures had represented the largest increase in violent crime in the U.S. in 15 years. But this newly announced increase for the first half of 2006 is almost 50 percent higher.

Of course, a big part of this increase is due to gang violence. Just as we heard when the 2005 figures were released, criminologists point to the spread of violent street gangs as a major cause of the 2006 increase in violent crime as well.

The warnings we have received about the links between the increase in violent crime and gangs have been steady and consistent.

When the FBI announced its 2005 figures last June, the Washington Post reported how criminal justice experts specifically identified ''an influx of gangs into medium-sized cities'' as a big reason for this increase. According to the Los Angeles Times, Houston police attributed their 2005 increase to gang members who evacuated New Orleans after Katrina.

When the 2006 figures were announced, the Washington Post quoted criminologist James Alan Fox, who described how ''[w]e have many high-crime areas where gangs have made a comeback.'' The L.A. Times noted how ''[e]xperts said the crime upsurge reflected an increase in gang violence, particularly in midsized cities.'' Cities like Houston, which experienced a massive 28 percent increase in violent crime.

The headline for the Sacramento Bee, reporting on the FBI's 31 percent reported increase in violent crime for that county, said it all: ''Gangs blamed for increase, which is part of [a] national hike in mayhem in '06.''

Even among the cities that experienced a 2006 reduction in violent crime—such as Los Angeles, which moved into the ranks of the safest cities in the U.S.—Mayor Villairaigosa described gang violence as the ''glaring exception.'' Gang crime was up by 14 percent in Los Angeles—and up 40 percent in San Fernando Valley, and 57 percent of Los Angeles' 478 homicides for 2006 were attributed to gangs—up 50 percent from 2005. And 86 percent of those murder victims were African American or Latino.

There can no longer be serious debate that gang violence is a big part of this problem.

The problem of gang violence in America is daunting. According to the FBI, there are now at least 30,000 gangs nationwide, with 800,000 members.

In California, the State attorney general now estimates that there are 171,000 juveniles and adults committed to criminal street gangs and their way of life. That's greater than the population of 28 California counties.

From 1992 to 2003, there were more than 7,500 gang-related homicides reported in California.

In 2004, more than one-third of the 2,000 homicides in California—698—were gang-related.

And it is worse among teens and young adults. In that same year, nearly 50 percent of the murders of 18 to 29 year olds were gang related. And nearly 60 percent of the murders of teens under 18 were gang related.

The list of people murdered by gangs includes some of our finest law enforcement officers:

Oceanside Police Officer, Dan Bessant, gunned down from behind just last month, in an incident described as eerily similar to a similar killing in 2003, when Oceanside Police Officer, Tony Zepetella, was shot and killed by a known gang member.

Los Angeles Police Officer Ricardo Lizarraga, killed while responding to a domestic violence call, by a man who drew a gun and shot him twice in the back. The suspect was a known member of the Rollin20s Bloods.

Merced Police Officer Stephan Gray, a member of his department's gang violence unit. Gray was shot and killed when a suspect—a gang member he had encountered before—fired two bullets into his chest.

Los Angeles Sherriff's Deputy Jeffrey Ortiz: As a member of his department's anti-gang task force, Ortiz had been going door to door in a gang-plagued neighborhood of L.A. He had just knocked on a door and was checking IDs when he was shot in the head at point-blank range. The alleged gunman is a suspected gang member wanted on an outstanding warrant for attempted murder.

Burbank Police Officer Matthew Pavelka: Two gunmen whom he had stopped for driving without license plates got out and showered him with gunfire. They were allegedly affiliated with the Vineland Boys gang.

California Highway Patrol Officer Thomas Steiner, killed after walking out of the Pomona courthouse after testifying in a series of traffic cases, by a 16-year-old intent on ''killing a cop'' to prove himself to the Pomona 12th street gang.

San Francisco Police Officer Isaac Espinoza: The first San Francisco police officer slain on duty in more than a decade, killed when an apparent ''Westmob'' gang member fired 14 rounds from an AK–47 assault rifle.

Gang killings also impact children and families. Unfortunately, 3–year-old Kaitlyn Avila is not alone: There is also 11-year-old Mynisha Crenshaw of San Bernardino, CA, a little girl shot and killed in November 2005;

Seven-week-old infant Glenn ''Baby G'' Molex, shot and killed on September 28, 2003, by one of the ''Down Below'' Gang after 28 bullets penetrated his family's apartment in San Francisco's Bayview District;

Joseph Swift, a 13-year-old boy shot outside a home after attending church in Los Angeles in 2003; and

Eight-year-old Sunny Elijah Peralez, shot in East Los Angeles by the Ghetto Boyz in 1999.

And this problem extends far beyond California—as evidenced by 8-year-old Kyron Butler, killed by a stray bullet during a Jersey Park Boys gang shootout in Smithfield, VA, in 2003, and 9-year-old Genesis Gonzalez, a little girl shot by a car of Crips gang members in Nevada in 2002.

As gangs have continued to spread across our country, increasing in violence and power in every State, they are no longer just a big city problem. They have metastasized from Los Angeles and Chicago to the medium and smaller cities where they face less competition.

The FBI now estimates that gangs are having an impact on at least 2,500 communities across the nation.

In the latest FBI statistics, violent crime and murder grew fastest in the midsized and smaller cities—not in our largest urban areas. The average midsized city, in fact, had a surge in overall violent crime of more than 5 percent in a single year.

It is clear that gangs engage in drug trafficking, robbery, extortion, prostitution, gun trafficking, and murder. They destroy neighborhoods, cripple families and kill innocent people.

Los Angeles Police Department Chief Bill Bratton put it bluntly:

> There is nothing more insidious than these gangs. They are worse than the Mafia. Show me a year in New York where the Mafia indiscriminately killed 300 people. You can't.

Our national gang problem is immense and growing, and it is not going away. Our cities and States need help. The many law enforcement officers that have spoken to me and others in my office say one thing clearly—short-term infusions are great, but what they really need is a long-term Federal commitment to combat gang violence.

A massive report just prepared for the City of Los Angeles even suggested that what is needed is a ''Marshal Plan'' initiative to combat gang violence.

Senator HATCH and I have been introducing comprehensive Federal gang legislation for over a decade. Our gang bills have been modified and refined over the years, most recently in legislation that we negotiated with the House for possible inclusion in the DOD Authorization bill last year.

The bill that we introduce today essentially takes that bill, but removes

all of its new death penalties. It has no mandatory minimums, and we have eliminated juvenile justice changes that previously proved to be an impediment to the larger bill's passage.

The bill that we offer today will provide a comprehensive solution to gang violence, combining enforcement and prevention efforts in a collaborative approach that has proven effective in models like Operation Ceasefire, and in Modesto, CA.

This bill would establish new Federal gang crimes and tougher Federal penalties.

Today's Federal street gang laws are frankly weak, and are almost never used. Currently, a person committing a gang crime might have extra time tacked on to the end of their Federal sentence. That is because Federal law currently focuses on gang violence only as a sentencing enhancement, rather than a crime unto itself.

The bill that I offer today would make it a separate Federal crime for any criminal street gang member to commit, conspire or attempt to commit violent crimes—including murder, kidnapping, arson, extortion—in furtherance of the gang.

And the penalties for gang members committing such crimes would increase considerably.

For gang-related murder, kidnapping, aggravated sexual abuse or maiming, the penalties would range up to life imprisonment.

For any other serious violent felony, the penalty would range up to 30 years—which in the Federal system means without parole.

And for other crimes of violence—defined as the actual or intended use of physical force against the person of another—the penalty could bring up to 20 years in prison.

The bill would also create a new crime for recruiting juveniles and adults into a criminal street gang, with a penalty of up to 10 years, or if the recruiting involved a juvenile or recruiting from prison, up to 20 years;

Create new Federal crimes for committing violent crimes in connection with drug trafficking, and increase existing penalties for violent crimes in aid of racketeering;

Enact a host of other violent crime reforms, including closing a loophole that had allowed carjackers to avoid convictions, increasing the penalties for those who use guns in violent crimes or transfer guns knowing they will be used in crimes, limiting bail for violent felons who possess firearms, and in a number of other respects cracking down harder on those who commit violent crimes; and

Make a long-term Federal commitment to fight gangs, by authorizing over $1 billion in new funds over the next 5 years for enforcement, prevention, and witness protection.

This would include $500 million for the development of High Intensity Interstate Gang Activity Areas, or HIIGAAs.

These HIIGAAs would mirror the successful HIDTA—High Intensity Drug Trafficking Area model—under which Federal, State and local agents coordinate investigations and prosecutions. And this $500 million would also be split 50/50, so that for every dollar spent on law enforcement, a dollar would be spent on prevention and intervention.

This balanced approach—of prevention and intervention plus tough penalties—will send a clear message to gang members: a new day has arrived. This bill will provide them with new opportunities, with schools and social services agencies empowered to make alternatives to gangs a realistic option. But if gang members continue to engage in violence, they will face new and serious Federal consequences.

I am pleased to report that this bill has already been endorsed by the National Sheriff's Association, the International Association of Chiefs of Police, and the National Association of Police Officers.

For more than 10 years now, Senator HATCH and I have been trying to pass Federal anti-gang legislation. There have been times when we have gotten close. Unfortunately, while Congress has failed to act, violent street gangs have only expanded nationwide and become more empowered and entrenched in other States and communities.

I believe this bill can pass the Senate and be enacted into law, especially after these changes that we have made and our previous negotiations conducted with members of the House and Senate.

The time has arrived for us to finally address this problem, and this bill is well-suited to help solve it. I urge my colleagues to support this legislation.

By Ms. SNOWE (for herself and Mr. ROCKEFELLER):

S. 460. A bill to make determinations by the United States Trade Representative under title III of the Trade Act of 1974 reviewable by the Court of International Trade and to ensure that the United States Trade Representative considers petitions to enforce United States Trade rights, and for other purposes; to the Committee on Finance.

Ms. SNOWE. Mr. President, when reflecting on the attributes that have made our great country prosperous—its free market system, its hard-working and enterprising people, its treasured natural resources—we must not overlook the rule of law as an equal, if not paramount element of the blessings we have secured. Since our Nation's founding, Americans have recognized that the success of worthy enterprises in a functioning market require the government—rather than choosing winners and losers—to consistently and dispassionately enforce the rules that bind all actors.

While our legal system evolved over the course of centuries to provide for the rule of law throughout our country, the fates of American people and businesses have become increasingly bound to counterparts in the world beyond our borders. Whether called ''Globalization'', ''Internationalization'' or some other moniker, the rapidly growing number of connections between suppliers, consumers and financiers across national boundaries means that agreements breached and laws broken on the far side of the world can harm companies and workers here at home.

Yet our government has failed to adapt to this new reality. While foreign governments engage in market-distorting currency manipulation, refuse to protect intellectual property rights and turn a blind eye to labor exploitation—each a violation of trade obligations to the United States—ours demurs with communiques and consultations, rather than formal enforcement action. What makes this abdication of its duty to defend the U.S. economy from unfair foreign practices especially troubling is that the tools to do so already exist in the dispute resolution provisions of various trade agreements.

The distressing reality is that U.S. industry and labor groups are often rebuffed in attempts to petition the United States Trade Representative to initiate a formal investigation or bring a dispute resolution action under the relevant multilateral or bilateral trade agreement, as there seems to be considerable institutional momentum among senior officials at USTR and elsewhere in the Administration against bringing formal enforcement action against certain trade partners, and China in particular.

USTR's handling of the trade effects of China's currency manipulation practices is representative of the problem. In September 2004, a U.S. industry coalition filed a petition under Section 301 of the Trade Act of 1974—the statute setting forth general procedures for the enforcement of U.S. trade rights—alleging that Chinese currency manipulation practices constituted a violation of China's obligations to the United States under World Trade Organization rules, and calling for USTR to conduct an investigation of such practices. USTR rejected the petition on the day it was filed, contending that ''an investigation would not be effective in addressing the acts, policies, and practices covered in the petition. The Administration is currently involved in efforts to address with the Government of China the currency valuation issues raised in the petition. The USTR believes that initiation of an investigation under [the Section 301 process] would hamper, rather than advance, Administration efforts to address Chinese currency valuation policies.'' Shortly thereafter, in November of 2004, a Congressional coalition of 12 Senators and 23 Representatives filed a similar Section 301 petition, which was rejected by USTR on the same grounds.

As noted in USTR's rejection of these petitions, current law allows the Executive to decline to initiate an industry-

requested investigation where it determines that action under Section 301 would be ineffective in addressing the offending act, policy or practice. The merits of USTR's determination are unreviewable under current law. USTR used this loophole to avoid having to even investigate industry's claim, let alone take formal action against China. And as we now know, the Administration's ''soft'' approach to Chinese currency manipulation has itself proven ineffective in addressing the problem in the two years since these filings.

It is to prevent further disregard for U.S. businesses and workers seeking a fair and consequential hearing of their concerns with foreign trade practices that Senator ROCKEFELLER and I today introduce the Trade Complaint and Litigation Accountability Improvement Measures Act, or the ''Trade CLAIM Act''.

The Trade CLAIM Act would amend the Section 301 process to require the United States Trade Representative to act upon an interested party's petition to take formal action in cases where a U.S. trade right has been violated, except in instances where: the matter has already been addressed by the relevant trade dispute settlement body; the foreign country is taking imminent steps to end to ameliorate the effects of the practice; taking action would do more harm than good to the U.S. economy; or taking action would cause serious harm to the national security of the United States.

The bill would also grant the Court of International Trade jurisdiction to review de novo USTR's denials of Section 301 industry petitions to investigate and take enforcement action against unfair foreign trade laws or practices. Such jurisdiction would include the ability to review USTR determinations that U.S. trade rights have not been violated as alleged in industry petitions, and the sufficiency of formal actions taken by USTR in response to foreign trade laws or practices determined to violate U.S. trade rights.

The Trade CLAIM Act would give U.S. businesses and workers a greater say in whether, when and how U.S. trade rights should be enforced. The bill would be particularly beneficial to small businesses, which—like other petitioners in Section 301 cases—currently have no avenue to formally challenge the merits of USTR's decisions, and are often drowned out by large business interests in industry-wide Section 301 actions initiated by USTR.

By providing for judicial review of USTR decisions not to enforce U.S. trade rights, the bill provides for impartial third party oversight by a specialty court not subject to political and diplomatic pressures. In delinking discreet trade disputes from the mercurial machinations of international relations, this Act would end the sacrifice of individual industries on the negotiating table, and leave it to the free market—uniformly operating under the trade rules to which our trading partners have already agreed—to decide their fate.

By Mr. GRASSLEY:

S. 461. A bill to amend title 28, United States Code, to provide an Inspector General for the judicial branch, and for other purposes; to the Committee on the Judiciary.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 461

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 ''Judicial Transparency and Ethics Enhancement Act of 2007''.

SEC. 2. INSPECTOR GENERAL FOR THE JUDICIAL BRANCH.

(a) ESTABLISHMENT AND DUTIES.—Part III of title 28, United States Code, is amended by adding at the end the following:

''CHAPTER 60—INSPECTOR GENERAL FOR THE JUDICIAL BRANCH

''Sec.
''1021. Establishment.
''1022. Appointment, term, and removal of Inspector General.
''1023. Duties.
''1024. Powers.
''1025. Reports.
''1026. Whistleblower protection.

''§ 1021. Establishment

''There is established for the judicial branch of the Government the Office of Inspector General for the Judicial Branch (in this chapter referred to as the 'Office').

''§ 1022. Appointment, term, and removal of Inspector General

''(a) APPOINTMENT.—The head of the Office shall be the Inspector General, who shall be appointed by the Chief Justice of the United States after consultation with the majority and minority leaders of the Senate and the Speaker and minority leader of the House of Representatives.

''(b) TERM.—The Inspector General shall serve for a term of 4 years and may be reappointed by the Chief Justice of the United States for any number of additional terms.

''(c) REMOVAL.—The Inspector General may be removed from office by the Chief Justice of the United States. The Chief Justice shall communicate the reasons for any such removal to both Houses of Congress.

''§ 1023. Duties

''With respect to the judicial branch, the Office shall—

''(1) conduct investigations of alleged misconduct in the judicial branch (other than the United States Supreme Court) under chapter 16, that may require oversight or other action within the judicial branch or by Congress;

''(2) conduct investigations of alleged misconduct in the United States Supreme Court, that may require oversight or other action within the judicial branch or by Congress;

''(3) conduct and supervise audits and investigations;

''(4) prevent and detect waste, fraud, and abuse; and

''(5) recommend changes in laws or regulations governing the judicial branch.

''§ 1024. Powers

''(a) POWERS.—In carrying out the duties of the Office, the Inspector General shall have the power to—

''(1) make investigations and reports;

''(2) obtain information or assistance from any Federal, State, or local governmental agency, or other entity, or unit thereof, including all information kept in the course of business by the Judicial Conference of the United States, the judicial councils of circuits, the Administrative Office of the United States Courts, and the United States Sentencing Commission;

''(3) require, by subpoena or otherwise, the attendance and testimony of such witnesses, and the production of such books, records, correspondence memoranda, papers, and documents, which subpoena, in the case of contumacy or refusal to obey, shall be enforceable by civil action;

''(4) administer to or take from any person an oath, affirmation, or affidavit;

''(5) employ such officers and employees, subject to the provisions of title 5, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

''(6) obtain services as authorized by section 3109 of title 5 at daily rates not to exceed the equivalent rate for a position at level IV of the Executive Schedule under section 5315; and

''(7) the extent and in such amounts as may be provided in advance by appropriations Acts, to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out the duties of the Office.

''(b) CHAPTER 16 MATTERS.—The Inspector General shall not commence an investigation under section 1023(1) until the denial of a petition for review by the judicial council of the circuit under section 352(c) of this title or upon referral or certification to the Judicial Conference of the United States of any matter under section 354(b) of this title.

''(c) LIMITATION.—The Inspector General shall not have the authority to—

''(1) investigate or review any matter that is directly related to the merits of a decision or procedural ruling by any judge, justice, or court; or

''(2) punish or discipline any judge, justice, or court.

''§ 1025. Reports

''(a) WHEN TO BE MADE.—The Inspector General shall—

''(1) make an annual report to the Chief Justice and to Congress relating to the activities of the Office; and

''(2) make prompt reports to the Chief Justice and to Congress on matters that may require action by the Chief Justice or Congress.

''(b) SENSITIVE MATTER.—If a report contains sensitive matter, the Inspector General may so indicate and Congress may receive that report in closed session.

''(c) DUTY TO INFORM ATTORNEY GENERAL.—In carrying out the duties of the Office, the Inspector General shall report expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law.

''§ 1026. Whistleblower protection

''(a) IN GENERAL.—No officer, employee, agent, contractor or subcontractor in the judicial branch may discharge, demote, threaten, suspend, harass or in any other manner discriminate against an employee in the terms and conditions of employment because

of any lawful act done by the employee to provide information, cause information to be provided, or otherwise assist in an investigation regarding any possible violation of Federal law or regulation, or misconduct, by a judge, justice, or any other employee in the judicial branch, which may assist the Inspector General in the performance of duties under this chapter.

''(b) CIVIL ACTION.—An employee injured by a violation of subsection (a) may, in a civil action, obtain appropriate relief.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part III of title 28, United States Code, is amended by adding at the end the following:

''60. Inspector General for the judicial branch.''.

Mr. REID (for himself and Mr. ENSIGN):

S. 462. A bill to approve the settlement of the water rights claims of the Shoshone-Paiute Tribes of the Duck Valley Indian Reservation in Nevada, to require the Secretary of the Interior to carry out the settlement, and for other purposes; to the Committee on Indian Affairs.

Mr. REID. Mr. President, I rise today to introduce legislation to resolve a Nevada water rights matter that has lasted more than a decade.

This bill, the Shoshone-Paiute Tribes of Duck Valley Water Rights Settlement Act, would ratify an agreement reached last fall by the State of Nevada, the Tribes, many individual water users, and the United States. I am pleased that the parties came together, asserted their interests, made compromises, and reached an agreement. Each party had different—and frequently conflicting—water claims, water needs, and ideas on water use and conservation. I appreciate the parties' hard work and their commitment to end expensive litigation to reach an agreement that will permanently resolve the water rights matters along the East Fork of the Owyhee River. This bill, if enacted, will ratify the agreement reached by the parties.

The primary purpose of this bill is to approve, ratify and confirm the agreement that addresses the Tribes' water rights, the rights of upstream water users, and the implementation of a plan for the parties to exercise their water rights.

The Agreement quantifies the Tribes' surface water rights and groundwater claims in Nevada. The Tribes will establish a water code and administer the quantified rights on the Reservation accordingly.

The Agreement also states that the water rights of the upstream water users who live off the Reservation will be determined and administered by the State Engineer. Under the settlement, the parties have agreed to a limitation on the number of acres that can be irrigated by the upstream water users.

The settlement's implementation plan describes how the rights of the respective parties will be administered and disputes will be resolved. It describes that the surface water basin will be closed, and provides that a groundwater basin will be declared a basin in need of additional administration under state law. The agreement further addresses operation of the system particularly during times of shortage. Under this part of the plan, upstream water users gain a small amount of water storage in the Wild Horse Reservoir.

The second purpose of this bill is to settle the Tribes' long-standing claims against the United States for damages caused by the Bureau of Reclamation's Duck Valley Irrigation Project, related Bureau of Indian Affairs projects, and the mismanagement of tribal resources, particularly the destruction of the Tribe's salmon and steelhead trout fishing stock.

The Shoshone-Paiutes have a long history in Nevada and Idaho. The Tribes roamed the region well before the Duck Valley Reservation was established by Executive Order in 1877. The Reservation today encompasses approximately 290,000 acres of land held in trust by the federal government for the Shoshone-Paiute Tribes.

The Reservation draws water from three primary sources: 1. the East Fork of the Owyhee River that flows through the Reservation from south to north from the Nevada side; 2. Blue Creek, a tributary to the Owyhee that flows north to south through the Reservation until it meets the Owyhee on the Idaho side of the Reservation; and 3. Mary's Creek, located in the northeastern part of the Reservation, flowing northeasterly through the Reservation and into Idaho.

When the Bureau of Indian Affairs' Duck Valley Indian Irrigation Project was initiated in the 1930s, the project placed over 12,000 acres of land under irrigation. Like many Indian water projects, the Project was only partially completed and never fully funded, which accounted for the Projects' disrepair, resulted in reduced storage capacity, and an inability to reach the goal of maximizing the acres in production.

With the construction of the Bureau of Reclamation's Owyhee Irrigation Project Dam in the 1930s, the Tribes' salmon runs were destroyed.

The affects of these federal projects on the Tribes' resources and culture and the Federal Government's failure to protect tribal water rights require places the United States in the position of compensating the Tribes for their loss. The Tribes value the loss to their resources and culture at level much higher than what Senator Ensign and I propose. While the United States can never fully compensate the Tribes for their loss, I appreciate the Tribes' willingness to accept the settlement figure and put an end to this painful part of our sovereign-to-sovereign relationship.

The bill, if enacted, would authorize two settlement funds—a development fund and a maintenance fund.

The development fund, to be authorized at $45 million over 5 fiscal years, would fund tribal water development projects. After careful research and consultation with its members and advisors, the Tribes have identified many projects to increase their economic opportunities. The Tribes are preparing to rehabilitate the dilapidated Duck Valley Irrigation Project, increase the amount of irrigable lands in agricultural production, develop a Wildlife Habitat Project, and undertake other economic development projects to enhance the Reservation economy and contribute to the permanent homeland purpose of the Duck Valley Reservation.

The maintenance fund, authorized at $15 million over 5 fiscal years, would fund the refurbishment and maintenance of the Reservation's water infrastructure.

The Shoshone-Paiute Tribes of Duck Valley Water Rights Settlement Act is important legislation. It reflects the compromises of our constituents who worked hard to reach agreement on matters that affect their livelihoods and cultures. I believe this bill benefit the Tribes, the ranchers and upstream water users, and those residents in the northern Nevada and southern Idaho region.

I look forward to working with the chairman and ranking member of the Senate Committee on Indian Affairs to ensure timely review and passage of this bill.

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

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

S. 462

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 ''Shoshone-Paiute Tribes of Duck Valley Water Rights Settlement Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) it is the policy of the United States, in accordance with the trust responsibility of the United States to Indian tribes, to promote Indian self-determination and economic self-sufficiency and to settle Indian water rights claims without lengthy and costly litigation, if practicable;

(2) quantifying rights to water and development of facilities needed to use tribal water supplies is essential to the development of viable Indian reservation economies and the establishment of a permanent reservation homeland;

(3) uncertainty concerning the extent of the right to water of the Shoshone-Paiute Tribes has limited the access of the Tribes to water and financial resources necessary to achieve self-determination and self-sufficiency;

(4) in 2006, the Tribes, the State of Idaho, the affected individual water users, and the United States resolved all tribal claims to water rights in the Snake River Basin Adjudication through a consent decree entered by the District Court of the Fifth Judicial District of the State of Idaho, requiring no further Federal action to implement the Tribes' water rights in the State of Idaho;

(5) as of the date of enactment of this Act, proceedings to determine the extent and nature of the water rights of the Tribes are pending before the Nevada State Engineer;

(6) final resolution through litigation of the water claims of the Tribes will—

(A) take many years;

(B) entail great expense;

(C) continue to limit the access of the Tribes to water, with economic and social consequences;

(D) prolong uncertainty relating to the availability of water supplies; and

(E) seriously impair long-term economic planning and development for all parties to the litigation;

(7) after many years of negotiation, the United States, the Tribes, the State, and the upstream water users have entered into a settlement agreement to resolve permanently all water rights of the Tribes in the State; and

(8) the Tribes have certain water-related claims for damages against the United States.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to resolve outstanding issues with respect to the East Fork of the Owyhee River in the State in such a manner as to provide important benefits to—

(A) the United States;

(B) the State;

(C) the Tribes; and

(D) the upstream water users;

(2) to achieve a fair, equitable, and final settlement of all claims of the Tribes, members of the Tribes, and the United States on behalf of the Tribes to the East Fork of the Owyhee River in the State;

(3) to ratify and provide for the enforcement of the Agreement among the parties to the litigation;

(4) to resolve the Tribes' water-related claims for damages against the United States;

(5) to require the Secretary to perform all obligations of the Secretary under the Agreement and this Act; and

(6) to authorize the actions and appropriations necessary for the United States to meet the obligations of the United States under the Agreement and this Act.

SEC. 4. DEFINITIONS.

In this Act:

(1) AGREEMENT.—The term ''Agreement'' means the agreement entitled the ''Agreement to Establish the Relative Water Rights of the Shoshone-Paiute Tribes of the Duck Valley Indian Reservation and the Upstream Water Users, East Fork Owyhee River'' (including all attachments to that agreement).

(2) DEVELOPMENT FUND.—The term ''Development Fund'' means the Shoshone-Paiute Tribes Water Rights Development Fund established by section 7(b)(1).

(3) EAST FORK OF THE OWYHEE RIVER.—The term ''East Fork of the Owyhee River'' means the portion of the east fork of the Owyhee River that is located in the State.

(4) MAINTENANCE FUND.—The term ''Maintenance Fund'' means the Shoshone-Paiute Tribes Operation and Maintenance Fund established by section 7(c)(1).

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(6) STATE.—The term ''State'' means the State of Nevada.

(7) TRIBAL WATER RIGHT.—The term ''tribal water right'' means a right of the Tribes described in the Agreement relating to water, including groundwater, storage water, and surface water.

(8) TRIBES.—The term ''Tribes'' means the Shoshone-Paiute Tribes of the Duck Valley Indian Reservation.

(9) UPSTREAM WATER USER.—The term ''upstream water user'' means an individual water user that—

(A) is located upstream from the Duck Valley Indian Reservation on the East Fork of the Owyhee River; and

(B) is a signatory to the Agreement.

SEC. 5. APPROVAL, RATIFICATION, AND CONFIRMATION OF AGREEMENT.

(a) IN GENERAL.—Except as provided in section 1f of article III of the Agreement, and except to the extent that the Agreement otherwise conflicts with this Act, the Agreement is approved, ratified, and confirmed.

(b) PERFORMANCE OF OBLIGATIONS.—The Secretary and any other head of a Federal agency obligated under the Agreement shall perform any action necessary to carry out an obligation under the Agreement in accordance with this Act.

SEC. 6. TRIBAL WATER RIGHTS.

(a) IN GENERAL.—The Secretary shall hold the tribal water rights in trust on behalf of the United States for the benefit of the Tribes.

(b) ADMINISTRATION.—

(1) ENACTMENT OF WATER CODE.—Not later than 3 years after the date of enactment of this Act, the Tribes shall enact a water code to administer tribal water rights.

(2) INTERIM ADMINISTRATION.—The Secretary shall regulate the tribal water rights during the period beginning on the date of enactment of this Act and ending on the date on which the Tribes enact a water code under paragraph (1).

(c) LOSS OF TRIBAL WATER RIGHTS.—The tribal water rights shall not be subject to loss by abandonment, forfeiture, or nonuse.

SEC. 7. DEVELOPMENT AND MAINTENANCE FUNDS.

(a) DEFINITION OF FUNDS.—In this section, the term ''Funds'' means—

(1) the Development Fund; and

(2) the Maintenance Fund.

(b) DEVELOPMENT FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the ''Shoshone-Paiute Tribes Water Rights Development Fund''.

(2) USE OF FUNDS.—The Tribes shall use amounts in the Development Fund—

(A) to pay or reimburse costs incurred by the Tribes in acquiring land and water rights;

(B) for purposes of cultural preservation;

(C) to restore or improve fish or wildlife habitat;

(D) for fish or wildlife production, water resource development, agricultural development, rehabilitation, and expansion of the Duck Valley Irrigation Project;

(E) for water resource planning and development; or

(F) to pay the costs of designing and constructing water supply and sewer systems for tribal communities, including—

(i) a water quality testing laboratory;

(ii) other appropriate water-related projects and other related economic development projects;

(iii) the development of a water code; and

(iv) other costs of implementing the Agreement.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary for deposit in the Development Fund $9,000,000 for each of fiscal years 2008 through 2012.

(c) MAINTENANCE FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the ''Shoshone-Paiute Tribes Operation and Maintenance Fund''.

(2) USE OF FUNDS.—The Tribes shall use amounts in the Maintenance Fund to pay or provide reimbursement for the costs of—

(A) operation and maintenance of the Duck Valley Irrigation Project and other water-related projects funded under this Act; or

(B) water supply and sewer systems for tribal communities, including the operation and maintenance costs of a water quality testing laboratory.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary for deposit in the Maintenance Fund $3,000,000 for each of fiscal years 2008 through 2012.

(d) ADMINISTRATION OF FUNDS.—

(1) IN GENERAL.—The Secretary, in accordance with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.), this Act, and the Agreement, shall manage the Funds, including by investing amounts from the Funds in accordance with—

(A) the Act of April 1, 1880 (25 U.S.C. 161); and

(B) the first section of the Act of June 24, 1938 (25 U.S.C. 162a).

(2) DISTRIBUTIONS.—

(A) WITHDRAWALS.—

(i) IN GENERAL.—During any fiscal year, the Tribes may withdraw amounts from the Funds if the Secretary approves a plan of the Tribes to withdraw amounts under section 202 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4022).

(ii) PLAN TO WITHDRAW AMOUNTS.—

(I) INCLUSION.—In addition to any information required under section 202 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4022), a plan of the Tribes to withdraw amounts under this subparagraph shall include a requirement that the Tribes spend the amounts withdrawn from the Funds during a fiscal year for 1 or more uses described in subsection (b)(2) or (c)(2).

(II) ENFORCEMENT.—The Secretary may take administrative or judicial action to enforce a plan of the Tribes to withdraw amounts.

(B) REMAINING AMOUNTS.—

(i) IN GENERAL.—On approval of an expenditure plan submitted by the Tribes under clause (ii), the Secretary shall distribute to the Tribes amounts in the Funds not withdrawn by the Tribes during the preceding fiscal year.

(ii) EXPENDITURE PLAN.—

(I) IN GENERAL.—For each fiscal year, the Tribes shall submit to the Secretary for approval an expenditure plan for amounts described in clause (i).

(II) INCLUSIONS.—An expenditure plan under subclause (I) shall include—

(aa) an accounting by the Tribes of any funds withdrawn by the Tribes from the Funds during the preceding fiscal year, including a description of any use by the Tribes of the funds and the amount remaining in the Funds for the preceding fiscal year; and

(bb) a description of the means by which the Tribes will use any amount distributed under this subparagraph.

(iii) APPROVAL.—The Secretary shall approve an expenditure plan under this subparagraph if the Secretary determines that the plan is—

(I) reasonable; and

(II) consistent with this Act and the Agreement.

(C) LIMITATIONS.—

(i) TIMING.—No amount from the Funds (including any interest income accruing to the Funds) shall be distributed until the waivers under section 8(a) take effect.

(ii) NO PER CAPITA DISTRIBUTIONS.—No amount from the Funds (including any interest income accruing to the Funds) shall be distributed to a member of the Tribes on a per capita basis.

(3) FUNDING AGREEMENT.—Notwithstanding any other provision of this Act, on receipt of a request from the Tribes, the Secretary shall include an amount appropriated under this subsection in the funding agreement of the Tribes under title IV of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458aa et seq.), for use in accordance with subsections (b)(2) and (c)(2).

(4) LIABILITY.—The Secretary and the Secretary of the Treasury shall not retain any liability for the expenditure or investment of amounts distributed to the Tribes under this subsection.

(5) CAPITAL COSTS NONREIMBURSABLE.—The capital costs associated with the Duck Valley Indian Irrigation Project as of the date of enactment of this Act, including any capital cost incurred with funds distributed under this subsection for that project, shall be permanently nonreimbursable.

SEC. 8. TRIBAL WAIVER OF CLAIMS.

(a) WAIVERS.—

(1) IN GENERAL.—Except as otherwise provided in the Agreement and this Act, the Tribes, and the United States on behalf of the Tribes, waive and release—

(A) all claims to water in the East Fork of the Owyhee River and all claims to injury relating to that water; and

(B) all claims against the State, any agency or political subdivision of the State, or any person, entity, or corporation relating to injury to a right of the Tribe under any Executive order entered on behalf of the Tribes, to the extent that the injury—

(i) resulted from a flow modification or a reduction in the quantity of water available; and

(ii) accrued on or before the effective date of the Agreement.

(2) ENFORCEMENT OF WAIVERS.—A waiver of a claim under this subsection by the Tribes, or the United States on behalf of the Tribes, shall be enforceable in the appropriate forum.

(3) EFFECTIVE DATE.—A waiver by the Tribes, or the United States on behalf of the Tribes, of a claim under this subsection shall take effect on the date on which the Secretary publishes in the Federal Register a statement of findings that includes a finding that—

(A) all parties to the Agreement have executed the Agreement;

(B) a decree acceptable to each party to the Agreement has been entered by the Fourth Judicial District Court, Elko County, Nevada; and

(C) the Agreement has been ratified under section 5(a).

(b) WAIVER AND RELEASE OF CLAIMS AGAINST THE UNITED STATES.—

(1) IN GENERAL.—In consideration of performance by the United States of all actions required by the Agreement and this Act, including the authorization of appropriations under subsections (b)(3) and (c)(3) of section 7, the Tribe shall execute a waiver and release of any claim against the United States for—

(A) a water right in the East Fork of the Owyhee River;

(B) an injury to a right described in subparagraph (A);

(C) breach of trust—

(i) for failure to protect, acquire, or develop a water right that accrued on or before the effective date of a waiver under this subsection; or

(ii) arising out of the negotiation or adoption of the Agreement; or

(D) a fishing right under any Executive order, to the extent that an injury to such a right—

(i) resulted from a reduction in the quantity of water available in the East Fork of the Owyhee River; and

(ii) accrued on or before the effective date of a waiver under this subsection.

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—The waiver under paragraph (1) takes effect on the date on which the amounts authorized to be appropriated under subsections (b)(3) and (c)(3) of section 7 are distributed to the Tribes.

(B) TOLLING OF CLAIMS.—

(i) IN GENERAL.—Each applicable period of limitation and time-based equitable defense relating to a claim described in paragraph (1) shall be tolled for the period beginning on the date of enactment of this Act and ending on the date on which the amounts authorized to be appropriated under subsections (b)(3) and (c)(3) of section 7 are distributed to the Tribes.

(ii) EFFECT OF SUBPARAGRAPH.—Nothing in this subparagraph revives any claim or tolls any period of limitation or time-based equitable defense that expired before the date of enactment of this Act.

(c) RETENTION OF RIGHTS.—

(1) IN GENERAL.—The Tribes shall retain all rights not waived by the Tribes, or the United States on behalf of the Tribes, in the Agreement or this Act.

(2) CLAIMS OUTSIDE RESERVATION.—Nothing in the Agreement or this Act shall be considered to be a waiver by the Tribes of any claim to a right on land outside the Duck Valley Indian Reservation.

(3) FUTURE ACQUISITION OF WATER RIGHTS.—Nothing in the Agreement or this Act precludes the Tribes, or the United States as trustee for the Tribes, from acquiring a water right in the State to the same extent as any other entity in the State, in accordance with State law.

SEC. 9. MISCELLANEOUS.

(a) GENERAL DISCLAIMER.—The parties to the Agreement expressly reserve all rights not specifically granted, recognized, or relinquished by—

(1) the settlement described in the Agreement; or

(2) this Act.

(b) LIMITATION OF CLAIMS AND RIGHTS.—Nothing in this Act—

(1) establishes a standard for quantifying—

(A) a Federal reserved water right;

(B) an aboriginal claim; or

(C) any other water right claim of an Indian tribe in a judicial or administrative proceeding; or

(2) limits the right of a party to the Agreement to litigate any issue not resolved by the Agreement or this Act.

(c) ADMISSION AGAINST INTEREST.—Nothing in this Act shall be considered to be an admission against interest by a party in any legal proceeding.

(d) DUCK VALLEY RESERVATION.—The Duck Valley Indian Reservation established by the Executive order dated April 16, 1877, as adjusted pursuant to the Executive order dated May 4, 1886, and Executive order numbered 1222 and dated July 1, 1910, for use and occupation by the Western Shoshones and the Paddy Cap Band of Paiutes shall be—

(1) considered to be the property of the Tribes; and

(2) permanently held in trust by the United States for the sole use and benefit of the Tribes.

(e) JURISDICTION.—

(1) SUBJECT MATTER JURISDICTION.—Nothing in the Agreement or this Act restricts, enlarges, or otherwise determines the subject matter jurisdiction of any Federal, State, or tribal court.

(2) CIVIL OR REGULATORY JURISDICTION.—Nothing in the Agreement or this Act impairs or impedes the exercise of any civil or regulatory authority of the United States, the State, or the Tribes.

(3) CONSENT TO JURISDICTION.—The United States consents to jurisdiction in a proper forum for purposes of enforcing the provisions of the Agreement.

(4) EFFECT OF SUBSECTION.—Nothing in this subsection confers jurisdiction on any State court to—

(A) enforce Federal environmental laws relating to the duties of the United States under this Act; or

(B) conduct judicial review of a Federal agency action in accordance with this Act.

By Mr. McCAIN (for himself and Mr. FEINGOLD):

S. 463. A bill to amend the Federal Election Campaign Act of 1971 to clarify when organizations described in section 527 of the Internal Revenue Code of 1986 must register as political committees, and for other purposes; to the Committee on Rules and Administration.

Mr. McCAIN. Mr. President, once again I am pleased to be joined by my good friend and colleague Senator FEINGOLD from Wisconsin in introducing a bill to end the illegal practice of 527 groups spending soft money on ads and other activities to influence Federal elections.

This bill is very simple. It would require that all 527s register as political committees and comply with Federal campaign finance laws, including Federal limits on the contributions they receive, unless the money they raise and spend is only in connection with non-Federal candidate elections, State or local ballot initiatives, or the nomination or confirmation of individuals to non-elected offices.

Additionally, this legislation would set new rules for Federal political committees that spend funds on voter mobilization efforts effecting both Federal and local races and, therefore, use both a Federal and a non-Federal account under Federal Election Commission (FEC) regulation. The new rules would prevent unlimited soft money from being channeled into Federal election activities by these Federal political committees.

Under the new rules that would be established under this bill, at least half of the funds spent on these voter mobilization activities by Federal political committees would have to be hard money from their Federal account. More importantly, the funds raised for their non-Federal account would have to come from individuals and would be limited to no more than $25,000 per year per donor. Corporations and labor unions could not contribute to these non-Federal accounts. To put it in simple terms, a George Soros could give $25,000 per year as opposed to $10 million to finance these activities.

It is unfortunate that we even need to be here introducing this bill today. This legislation would not be necessary if the FEC would enforce existing law. As my colleagues know, a number of 527 groups raised and spent a substantial amount of soft money in a blatant effort to influence the outcome of the 2004 Presidential election. These activities are illegal under existing laws,

but, unfortunately, the FEC has failed to implement the regulations necessary to stop these illegal activities.

According to an analysis by campaign finance scholar Tony Corrado, federally oriented 527s spent $423 million to affect the outcome of the 2004 elections. The same analysis shows that ten donors gave at least $4 million each to 527s involved in the 2004 elections and two donors each contributed over $20 million. Let me be perfectly clear on one point here. Our proposal will NOT shut down 527s. It will simply require them to abide by the same Federal regulations every other Federal political committee must abide by in spending money to influence Federal elections.

Opponents of campaign finance reform like to point out that the activities of these 527s serve as proof that the Bipartisan Campaign Reform Act (BCRA) has failed in its stated purpose, which is to eliminate the corrupting influence of soft money in our political campaigns. Let me be perfectly clear on this. The 527 issue has nothing to do with BCRA, it has everything to do with the Federal Election Campaign Act of 1974 and the failure of the FEC to properly regulate the activities of these groups.

The bill Senator FEINGOLD and I are introducing today is designed to put an end to the abusive, illegal practices of these 527s. I urge my colleagues to support swift passage of this bill and put an end to this problem once and for all.

Mr. FEINGOLD. Mr. President, I am pleased to be working once again with my partner in reform, the senior Senator from Arizona, Senator MCCAIN, to introduce the 527 Reform Act.

Our purpose is simple—to pass legislation that will do what the FEC could and should do under current law, but, once again, has failed to do. Current Federal election law requires these groups to register as political committees and to stop raising and spending soft money. But the FEC has failed to enforce the law, so we must act in the Congress. This bill will make it absolutely clear that the federal election laws apply to 527 organizations.

We had to something similar with BCRA, the Bipartisan Campaign Reform Act, which passed in 2002, closing the soft money loophole that the FEC created in the late '70s and expanded in the '90s. That struggle took seven years. We have now been seeking to bring 527s within the law for four.

This bill will require all 527s to register as political committees unless they fall into a number of narrow categories. The exceptions are basically for groups that Congress exempted from disclosure requirements because they are so small or for groups that are involved exclusively in State election activity. Once a group registers as a political committee, certain activities, such as ads that mention only Federal candidates, will have to be paid for solely with hard money.

Under current rules, the FEC permits Federal political committees to maintain a non-Federal account to pay a portion of the expenses of activities that affect both Federal and non-Federal elections. Our bill sets new allocation rules that will make sure that these allocable activities are paid for with at least 50 percent hard money.

Finally, the bill makes an important change with respect to the non-federal portion of the allocable activities. We put a limit of $25,000 per year on the contributions that can be accepted for that non-federal account. This means no more million dollar soft money contributions to pay for get-out-the-vote efforts in the presidential campaign.

Nothing in this bill will affect legitimate 501(c) advocacy groups. The bill only applies to groups that claim a tax exemption under section 527.

Having laid out the central components of the bill, let me discuss how this bill has evolved, and the differences between this bill and the bill we introduced in 2005. In the last Congress, we made a great deal of progress working with the Senator from Mississippi, who at the time chaired the Rules Committee. Prior to taking the bill to a markup in the spring of 2005, Senator LOTT worked with us to clarify the bill and address some of the concerns that had been raised about it. The bill we are introducing today is identical to the ''Chairman's Mark'' that Senator LOTT brought before the Rules Committee last year.

While the original bill exempted 527s engaged exclusively in state elections from the registration requirement, it denied the exemption to groups that carry out ''voter drive activities''—defined as get-out-the vote, voter ID, or voter registration—during a federal election year. This made the exemption too narrow, so we looked for another way to ensure that state 527s that only work on behalf of non-Federal officeholders will not have to become Federal PACs.

The Chairman's Mark, and this year's bill, completely exempt organizations of State and local candidates or officeholders. Groups such as the Democratic Governors Association, Republican Governors Association, or a state legislative caucus would be exempt, as long as their voter drive activities only mention state candidates or ballot issues. These groups do not qualify for the exemption, however, if they mention Federal candidates in their communications.

Second, the bill provides a slightly narrower exemption for State PACs that are active only in State elections. The only additional requirements for these PACs to qualify for an exemption are that they can only be active in a single State, and they cannot have a candidate for Federal office or Federal officeholder controlling or participating in the organization or raising money for it.

Finally, we made a number of changes to ensure that Federal PACs that allocate expenditures can use non-Federal money for expenditures designed only to assist State candidates even if they make an incidental reference to a Federal candidate or political party.

The changes to the legislation that we made last year working with Senator LOTT prior to the Rules Committee markup have been carried forward in the bill we introduce today. They improved and strengthened the bill. Unfortunately, other amendments were added during the Rules Committee consideration of the bill that we could not support. So the bill that we are introducing today is the same as the bill that went to markup in 2005, not the bill that was reported.

In closing, let me remind my colleagues that the soft money loophole was first opened by FEC rulings in the late '70s. By the time we started work on BCRA, the problem had mushroomed and led to the scandals we saw in the 1996 campaign. When we passed BCRA, I said we would have to be vigilant to make sure that the FEC enforced the law and that similar loopholes did not develop. That is what we are trying to do here.

I have no doubt that if we don't act on this 527 problem now, we will see more problems explode into scandals over the next few election cycles. In the 2004 cycle, Federal-oriented 527s spend $423 million. In fact, there were two donors who each contributed over $20 million. We cannot afford to wait until another presidential campaign season is in full bloom before addressing this problem. This FEC-ordained loophole threatens to further undermine the federal election laws. We must close it this year.

By Mr. ROCKEFELLER (for himself, Ms. COLLINS, and Mr. NELSON of Florida):

S. 464. A bill to amend title XVIII and XIX of the Social Security Act to improve the requirements regarding advance directives in order to ensure that an individual's health care decisions are complied with, and for other purposes; to the Committee on Finance.

By Mr. NELSON of Florida (for himself, Mr. LUGAR, Mr. ROCKEFELLER, Ms. COLLINS Mr. DURBIN, and Mr. BINGAMAN):

S. 465. A bill to amend titles XVIII and XIX of the Social Security Act and title III of the Public Health Service Act to improve access to information about individuals' health care options and legal rights for care near the end of life, to promote advance care planning and decisionmaking so that individuals' wishes are known should they become unable to speak for themselves, to engage health care providers in disseminating information about and assisting in the preparation of advance directives, which include living wills and durable powers of attorney for health care, and for other purposes; to the Committee on Finance.

By Mr. ROCKEFELLER (for himself, Mr. NELSON of Florida, and Mr. LUGAR):

S. 466. A bill to amend title XVIII of the Social Security Act to provide for coverage of an end-of-life planning consultation as part of an initial preventive physical examination under the Medicare program; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, death is by no means an easy subject to talk about; nonetheless, end-of-life care continues to be a controversial topic that must be addressed. Today, I am introducing three bills that I hope will go a long way to improve end-of-life care in this country. Senator SUSAN COLLINS and I are reintroducing our Advance Planning and Compassionate Care Act, comprehensive legislation that would ensure that patients' final wishes for end-of-life care are known, respected, and complied with. This legislation has been introduced in each Congress since the 105th Congress. I am hopeful that we will be able to move it this year.

I am also introducing the Medicare End-of-Life Care Planning Act with Senators LUGAR and BILL NELSON. This important bill is based on an amendment that I introduced during the Finance Committee's consideration of the Deficit Reduction Act in 2005. It would require physician consultation regarding advance directives during the initial ''Welcome to Medicare'' physician visit. An end-of-life care consultation during a Medicare recipient's first contact with the program would emphasize the importance of advance planning and give him or her the tools necessary to understand advance directives, the Medicare hospice benefit, and other end-of-life care concerns. Having such a benefit in Medicare would undoubtedly improve patient care and quality at the end-of-life.

The final bill that I would like to talk about today is the Advance Directives Improvement and Education Act, legislation that I am cosponsoring with Senators BILL NELSON and RICHARD LUGAR. The Advance Directives Improvement and Education Act complements both of the bills I am introducing today. It includes my language on the ''Welcome to Medicare'' doctor's visit, which I believe is critical, but it also includes two other important provisions. It improves the policies for use and portability of advance directives across state lines, and it directs the Secretary of HHS to conduct a public education campaign on the importance of end-of-life planning.

I am happy to be an author of each of these bills. As we have seen recently with the well-publicized case of Terri Shiavo, end-of-life decision making can be confusing and cause added anguish to an already sorrowful situation. The delicate nature of life and love make it very difficult to create strict rules governing end-of-life care, nor should we want to. In its present form, however, end-of-life planning and care for most Americans is perplexing, disjointed, and lacking an active dialogue. We can, and must, take action to make this process as easy as possible.

It is not surprising that we face this problem. Health care professionals frequently use terms that are too technical or confusing for the average person. Patients who appear too sick to participate in the discussions may be excluded from determining their own destiny. And all too often the entire conversation never happens due to the discomfort of all parties involved. As a result, patients and families, suffer needlessly during these already difficult times. A report issued by the Institute of Medicine Committee on Care at the End of Life stated that, and I quote, ''suffering arises when the aggressive use of ineffectual or intrusive interventions serves to prolong the period of dying unnecessarily or to dishonor the dying person's wishes about care. Too often, dying people and their families are either not aware of these care options, not fully apprised of the probable benefits and burdens of these various options, or are the recipients of care that is inconsistent with their wishes as expressed in written or oral directives.''

Despite these shortcomings, the evidence tells us that most people want to discuss advanced directives when they are healthy and they want their families involved in the process. According to the American Psychological Association, almost 60 percent of individuals 65 or older state that they want their family to be given choices about treatment should they become incapacitated rather than leaving the decision up to physicians. How can we allow these serious problems to persist when dealing with the lives of our family and friends?

Death is hard to think about. Death is hard to talk about. And the final period of time leading up to our death is hard to plan. But we must encourage our family, our friends, and our loved ones to discuss this difficult topic in an open and effective manner in order to avoid any additional pain when a loved one passes away. We must also provide them the best tools to do so.

The legislation I am introducing today accomplishes this objective by developing standards for end-of-life care, facilitating opportunities for patients to discuss end-of-life issues with a trained professional, and authorizing funds for demonstration projects on innovative approaches to end-of-life care.

Death is a serious, personal, and complicated issue that is eventually relevant to each and every one of us. Americans deserve end-of-life care that is effective in fulfilling individual wishes, avoiding unnecessary disputes, and, most importantly, providing quality end-of-life care. Therefore, I urge my colleagues to join us in improving end-of-life care and reducing the amount of grief that inevitably comes with losing those who we hold dear.

I ask unanimous consent that the text of each of these bills be printed in the RECORD.

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

S. 464

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Advance Planning and Compassionate Care Act of 2007''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Development of standards to assess end-of-life care.
Sec. 3. Study and report by the Secretary of Health and Human Services regarding the establishment and implementation of a national uniform policy on advance directives.
Sec. 4. Improvement of policies related to the use of advance directives.
Sec. 5. National information hotline for end-of-life decisionmaking and hospice care.
Sec. 6. Demonstration project for innovative and new approaches to end-of-life care for Medicare, Medicaid, and SCHIP beneficiaries.
Sec. 7. Establishment of End-of-Life Care Advisory Board.

SEC. 2. DEVELOPMENT OF STANDARDS TO ASSESS END-OF-LIFE CARE.

(a) IN GENERAL.—The Secretary of Health and Human Services, in consultation with the Administrator of the Centers for Medicare & Medicaid Services, the Director of the National Institutes of Health, the Administrator of the Agency for Health Care Policy and Research, and the End-of-Life Care Advisory Board (established under section 7), shall develop outcome standards and measures to—

(1) evaluate the performance of health care programs and projects that provide end-of-life care to individuals, including the quality of the care provided by such programs and projects; and

(2) assess the access to, and utilization of, such programs and projects, including differences in such access and utilization in rural and urban areas and for minority populations.

(b) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a report on the outcome standards and measures developed under subsection (a), together with recommendations for such legislation and administrative actions as the Secretary considers appropriate.

SEC. 3. STUDY AND REPORT BY THE SECRETARY OF HEALTH AND HUMAN SERVICES REGARDING THE ESTABLISHMENT AND IMPLEMENTATION OF A NATIONAL UNIFORM POLICY ON ADVANCE DIRECTIVES.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall conduct a thorough study of all matters relating to the establishment and implementation of a national uniform policy on advance directives for individuals receiving items and services under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq.; 1396 et seq.).

(2) MATTERS STUDIED.—The matters studied by the Secretary of Health and Human Services under paragraph (1) shall include issues concerning—

(A) family satisfaction that a patient's wishes, as stated in the patient's advance directive, were carried out;

(B) the portability of advance directives, including cases involving the transfer of an individual from 1 health care setting to another;

(C) immunity from civil liability and criminal responsibility for health care providers that follow the instructions in an individual's advance directive that was validly executed in, and consistent with the laws of, the State in which it was executed;

(D) conditions under which an advance directive is operative;

(E) revocation of an advance directive by an individual;

(F) the criteria used by States for determining that an individual has a terminal condition;

(G) surrogate decisionmaking regarding end-of-life care;

(H) the provision of adequate palliative care (as defined in paragraph (3)), including pain management; and

(I) adequate and timely referrals to hospice care programs.

(3) PALLIATIVE CARE.—For purposes of paragraph (2)(H), the term ''palliative care'' means interdisciplinary care for individuals with a life-threatening illness or injury relating to pain and symptom management and psychological, social, and spiritual needs and that seeks to improve the quality of life for the individual and the individual's family.

(b) REPORT TO CONGRESS.—Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a report on the study conducted under subsection (a), together with recommendations for such legislation and administrative actions as the Secretary considers appropriate.

(c) CONSULTATION.—In conducting the study and developing the report under this section, the Secretary of Health and Human Services shall consult with the End-of-Life Care Advisory Board (established under section 7), the Uniform Law Commissioners, and other interested parties.

SEC. 4. IMPROVEMENT OF POLICIES RELATED TO THE USE OF ADVANCE DIRECTIVES.

(a) MEDICARE.—Section 1866(f) of the Social Security Act (42 U.S.C. 1395cc(f)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by inserting ''and if presented by the individual, to include the content of such advance directive in a prominent part of such record'' before the semicolon at the end;

(B) in subparagraph (D), by striking ''and'' after the semicolon at the end;

(C) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(D) by inserting after subparagraph (E) the following new subparagraph:

''(F) to provide each individual with the opportunity to discuss issues relating to the information provided to that individual pursuant to subparagraph (A) with an appropriately trained professional.'';

(2) in paragraph (3), by striking ''a written'' and inserting ''an''; and

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

''(5)(A) An advance directive validly executed outside of the State in which such advance directive is presented by an adult individual to a provider of services, a Medicare Advantage organization, or a prepaid or eligible organization shall be given the same effect by that provider or organization as an advance directive validly executed under the law of the State in which it is presented would be given effect.

''(B)(i) The definition of an advanced directive shall also include actual knowledge of instructions made while an individual was able to express the wishes of such individual with regard to health care.

''(ii) For purposes of clause (i), the term 'actual knowledge' means the possession of information of an individual's wishes communicated to the health care provider orally or in writing by the individual, the individual's medical power of attorney representative, the individual's health care surrogate, or other individuals resulting in the health care provider's personal cognizance of these wishes. Other forms of imputed knowledge are not actual knowledge.

''(C) The provisions of this paragraph shall preempt any State law to the extent such law is inconsistent with such provisions. The provisions of this paragraph shall not preempt any State law that provides for greater portability, more deference to a patient's wishes, or more latitude in determining a patient's wishes.''.

(b) MEDICAID.—Section 1902(w) of the Social Security Act (42 U.S.C. 1396a(w)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B)—

(i) by striking ''in the individual's medical record'' and inserting ''in a prominent part of the individual's current medical record''; and

(ii) by inserting ''and if presented by the individual, to include the content of such advance directive in a prominent part of such record'' before the semicolon at the end;

(B) in subparagraph (D), by striking ''and'' after the semicolon at the end;

(C) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(D) by inserting after subparagraph (E) the following new subparagraph:

''(F) to provide each individual with the opportunity to discuss issues relating to the information provided to that individual pursuant to subparagraph (A) with an appropriately trained professional.'';

(2) in paragraph (4), by striking ''a written'' and inserting ''an''; and

(3) by adding at the end the following paragraph:

''(6)(A) An advance directive validly executed outside of the State in which such advance directive is presented by an adult individual to a provider or organization shall be given the same effect by that provider or organization as an advance directive validly executed under the law of the State in which it is presented would be given effect.

''(B)(i) The definition of an advanced directive shall also include actual knowledge of instructions made while an individual was able to express the wishes of such individual with regard to health care.

''(ii) For purposes of clause (i), the term 'actual knowledge' means the possession of information of an individual's wishes communicated to the health care provider orally or in writing by the individual, the individual's medical power of attorney representative, the individual's health care surrogate, or other individuals resulting in the health care provider's personal cognizance of these wishes. Other forms of imputed knowledge are not actual knowledge.

''(C) The provisions of this paragraph shall preempt any State law to the extent such law is inconsistent with such provisions. The provisions of this paragraph shall not preempt any State law that provides for greater portability, more deference to a patient's wishes, or more latitude in determining a patient's wishes.''.

(c) STUDY AND REPORT REGARDING IMPLEMENTATION.—

(1) STUDY.—The Secretary of Health and Human Services shall conduct a study regarding the implementation of the amendments made by subsections (a) and (b).

(2) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a report on the study conducted under paragraph (1), together with recommendations for such legislation and administrative actions as the Secretary considers appropriate.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by subsections (a) and (b) shall apply to provider agreements and contracts entered into, renewed, or extended under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), and to State plans under title XIX of such Act (42 U.S.C. 1396 et seq.), on or after such date as the Secretary of Health and Human Services specifies, but in no case may such date be later than 1 year after the date of enactment of this Act.

(2) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by subsection (b), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

SEC. 5. NATIONAL INFORMATION HOTLINE FOR END-OF-LIFE DECISIONMAKING AND HOSPICE CARE.

The Secretary of Health and Human Services, acting through the Administrator of the Centers for Medicare & Medicaid Services, shall operate directly, or by grant, contract, or interagency agreement, out of funds otherwise appropriated to the Secretary, a clearinghouse and a 24-hour toll-free telephone hotline in order to provide consumer information about advance directives (as defined in section 1866(f)(3) of the Social Security Act (42 U.S.C. 1395cc(f)(3)), as amended by section 4(a)), end-of-life decisionmaking, and available end-of-life and hospice care services. In carrying out the preceding sentence, the Administrator may designate an existing clearinghouse and 24-hour toll-free telephone hotline or, if no such entity is appropriate, may establish a new clearinghouse and a 24-hour toll-free telephone hotline.

SEC. 6. DEMONSTRATION PROJECT FOR INNOVATIVE AND NEW APPROACHES TO END-OF-LIFE CARE FOR MEDICARE, MEDICAID, AND SCHIP BENEFICIARIES.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary, acting through the Administrator of the Centers for Medicare & Medicaid Services, shall conduct a demonstration project under which the Secretary contracts with entities operating programs in order to develop new and innovative approaches to providing end-of-life care to Medicare beneficiaries, Medicaid beneficiaries, and SCHIP beneficiaries.

(2) APPLICATION.—Any entity seeking to participate in the demonstration project shall submit to the Secretary an application in such form and manner as the Secretary may require.

(3) DURATION.—The authority of the Secretary to conduct the demonstration project shall terminate at the end of the 5-year period beginning on the date the Secretary implements the demonstration project.

(b) SELECTION CRITERIA.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), in selecting entities to participate in the demonstration project, the Secretary shall select entities that will allow for programs to be conducted in a variety of States, in an array of care settings, and that reflect—

(A) a balance between urban and rural settings;

(B) cultural diversity; and

(C) various modes of medical care and insurance, such as fee-for-service, preferred provider organizations, health maintenance organizations, hospice care, home care services, long-term care, pediatric care, and integrated delivery systems.

(2) PREFERENCES.—The Secretary shall give preference to entities operating programs that—

(A) will serve Medicare beneficiaries, Medicaid beneficiaries, or SCHIP beneficiaries who are dying of illnesses that are most prevalent under the Medicare program, the Medicaid program, or SCHIP, respectively; and

(B) appear capable of sustained service and broad replication at a reasonable cost within commonly available organizational structures.

(3) SELECTION OF PROGRAM THAT PROVIDES PEDIATRIC END-OF-LIFE CARE.—The Secretary shall ensure that at least 1 of the entities selected to participate in the demonstration project operates a program that provides pediatric end-of-life care.

(c) EVALUATION OF PROGRAMS.—

(1) IN GENERAL.—Each program operated by an entity under the demonstration project shall be evaluated at such regular intervals as the Secretary determines are appropriate.

(2) USE OF PRIVATE ENTITIES TO CONDUCT EVALUATIONS.—The Secretary, in consultation with the End-of-Life Care Advisory Board (established under section 7), shall contract with 1 or more private entities to coordinate and conduct the evaluations under paragraph (1). Such a contract may not be awarded to an entity selected to participate in the demonstration project.

(3) REQUIREMENTS FOR EVALUATIONS.—

(A) USE OF OUTCOME MEASURES AND STANDARDS.—In coordinating and conducting an evaluation of a program conducted under the demonstration project, an entity shall use the outcome standards and measures required to be developed under section 2 as soon as those standards and measures are available.

(B) ELEMENTS OF EVALUATION.—In addition to the use of the outcome standards and measures under subparagraph (A), an evaluation of a program conducted under the demonstration project shall include the following:

(i) A comparison of the quality of care provided by, and of the outcomes for Medicare beneficiaries, Medicaid beneficiaries, and SCHIP beneficiaries, and the families of such beneficiaries enrolled in, the program being evaluated to the quality of care and outcomes for such individuals that would have resulted if care had been provided under existing delivery systems.

(ii) An analysis of how ongoing measures of quality and accountability for improvement and excellence could be incorporated into the program being evaluated.

(iii) A comparison of the costs of the care provided to Medicare beneficiaries, Medicaid beneficiaries, and SCHIP beneficiaries under the program being evaluated to the costs of such care that would have been incurred under the Medicare program, the Medicaid program, and SCHIP if such program had not been conducted.

(iv) An analysis of whether the program being evaluated implements practices or procedures that result in improved patient outcomes, resource utilization, or both.

(v) An analysis of—

(I) the population served by the program being evaluated; and

(II) how accurately that population reflects the total number of Medicare beneficiaries, Medicaid beneficiaries, and SCHIP beneficiaries residing in the area who are in need of services offered by such program.

(vi) An analysis of the eligibility requirements and enrollment procedures for the program being evaluated.

(vii) An analysis of the services provided to beneficiaries enrolled in the program being evaluated and the utilization rates for such services.

(viii) An analysis of the structure for the provision of specific services under the program being evaluated.

(ix) An analysis of the costs of providing specific services under the program being evaluated.

(x) An analysis of any procedures for offering Medicare beneficiaries, Medicaid beneficiaries, and SCHIP beneficiaries enrolled in the program being evaluated a choice of services and how the program responds to the preferences of such beneficiaries.

(xi) An analysis of the quality of care provided to, and of the outcomes for, Medicare beneficiaries, Medicaid beneficiaries, and SCHIP beneficiaries, and the families of such beneficiaries, that are enrolled in the program being evaluated.

(xii) An analysis of any ethical, cultural, or legal concerns—

(I) regarding the program being evaluated; and

(II) with the replication of such program in other settings.

(xiii) An analysis of any changes to regulations or of any additional funding that would result in more efficient procedures or improved outcomes under the program being evaluated.

(d) WAIVER AUTHORITY.—The Secretary may waive compliance with any of the requirements of titles XI, XVIII, XIX, and XXI of the Social Security Act (42 U.S.C. 1301 et seq.; 1395 et seq.; 1396 et seq.; 1397aa et seq.) which, if applied, would prevent the demonstration project carried out under this section from effectively achieving the purpose of such project.

(e) REPORTS TO CONGRESS.—

(1) ANNUAL REPORTS BY SECRETARY.—

(A) IN GENERAL.—Beginning 1 year after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to Congress a report on the demonstration project and on the quality of end-of-life care under the Medicare program, the Medicaid program, and SCHIP, together with recommendations for such legislation and administrative actions as the Secretary considers appropriate.

(B) SUMMARY OF RECENT STUDIES.—A report submitted under subparagraph (A) shall include a summary of any recent studies and advice from experts in the health care field regarding the ethical, cultural, and legal issues that may arise when attempting to improve the health care system to meet the needs of individuals with serious and eventually terminal conditions.

(C) CONTINUATION OR REPLICATION OF DEMONSTRATION PROJECTS.—The first report submitted under subparagraph (A) after the 3-year anniversary of the date the Secretary implements the demonstration project shall include recommendations regarding whether such demonstration project should be continued beyond the period described in subsection (a)(3) and whether broad replication of any of the programs conducted under the demonstration project should be initiated.

(2) REPORT BY END-OF-LIFE CARE ADVISORY BOARD ON DEMONSTRATION PROJECT.—

(A) IN GENERAL.—Not later than 2 years after the conclusion of the demonstration project, the End-of-Life Advisory Board shall submit a report to the Secretary and Congress on such project.

(B) CONTENTS.—The report submitted under subparagraph (A) shall contain—

(i) an evaluation of the effectiveness of the demonstration project; and

(ii) recommendations for such legislation and administrative actions as the Board considers appropriate.

(f) FUNDING.—There are appropriated such sums as are necessary for conducting the demonstration project and for preparing and submitting the reports required under subsection (e)(1).

(g) DEFINITIONS.—In this section:

(1) DEMONSTRATION PROJECT.—The term ''demonstration project'' means the demonstration project conducted under this section.

(2) MEDICAID BENEFICIARIES.—The term ''Medicaid beneficiaries'' means individuals who are enrolled in the State Medicaid program.

(3) MEDICAID PROGRAM.—The term ''Medicaid program'' means the health care program under title XIX of the Social Security Act (42 U.S.C. 1395 et seq.).

(4) MEDICARE BENEFICIARIES.—The term ''Medicare beneficiaries'' means individuals who are entitled to, or enrolled for, benefits under part A or enrolled for benefits under part B of the Medicare program.

(5) MEDICARE PROGRAM.—The term ''Medicare program'' means the health care program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(6) SCHIP.—The term ''SCHIP'' means the State children's health insurance program under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.).

(7) SCHIP BENEFICIARY.—The term ''SCHIP beneficiary'' means an individual who is enrolled in SCHIP.

(8) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

SEC. 7. ESTABLISHMENT OF END-OF-LIFE CARE ADVISORY BOARD.

(a) ESTABLISHMENT.—There is established within the Department of Health and Human Services an End-of-Life Care Advisory Board (in this section referred to as the ''Board'').

(b) STRUCTURE AND MEMBERSHIP.—

(1) IN GENERAL.—The Board shall be composed of 15 members who shall be appointed by the Secretary of Health and Human Services (in this section referred to as the ''Secretary'').

(2) REQUIRED REPRESENTATION.—The Secretary shall ensure that the following groups, organizations, and associations are represented in the membership of the Board:

(A) An end-of-life consumer advocacy organization.

(B) A senior citizen advocacy organization.

(C) A physician-based hospice or palliative care organization.

(D) A nurse-based hospice or palliative care organization.

(E) A hospice or palliative care provider organization.

(F) A hospice or palliative care representative that serves the veterans population.

(G) A physician-based medical association.

(H) A physician-based pediatric medical association.

(I) A home health-based nurses association.

(J) A hospital-based or health system-based palliative care group.

(K) A children-based or family-based hospice resource group.

(L) A cancer pain management resource group.

(M) A cancer research and policy advocacy group.

(N) An end-of-life care policy advocacy group.

(O) An interdisciplinary end-of-life care academic institution.

(3) ETHNIC DIVERSITY REQUIREMENT.—The Secretary shall ensure that the members of the Board appointed under paragraph (1) represent the ethnic diversity of the United States.

(4) PROHIBITION.—No individual who is a Federal officer or employee may serve as a member of the Board.

(5) TERMS OF APPOINTMENT.—Each member of the Board shall serve for a term determined appropriate by the Secretary.

(6) CHAIRPERSON.—The Secretary shall designate a member of the Board as chairperson.

(c) MEETINGS.—The Board shall meet at the call of the chairperson but not less often than every 3 months.

(d) DUTIES.—

(1) IN GENERAL.—The Board shall advise the Secretary on all matters related to the furnishing of end-of-life care to individuals.

(2) SPECIFIC DUTIES.—The specific duties of the Board are as follows:

(A) CONSULTING.—The Board shall consult with the Secretary regarding—

(i) the development of the outcome standards and measures under section 2;

(ii) conducting the study and submitting the report under section 3; and

(iii) the selection of private entities to conduct evaluations pursuant to section 6(c)(2).

(B) REPORT ON DEMONSTRATION PROJECT.—The Board shall submit the report required under section 6(e)(2).

(e) MEMBERS TO SERVE WITHOUT COMPENSATION.—

(1) IN GENERAL.—All members of the Board shall serve on the Board without compensation for such service.

(2) TRAVEL EXPENSES.—The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

(f) STAFF.—

(1) IN GENERAL.—The chairperson of the Board may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Board to perform its duties. The employment of an executive director shall be subject to confirmation by the Board.

(2) COMPENSATION.—The chairperson of the Board may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(3) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) IN GENERAL.—The executive director and any personnel of the Board who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(B) MEMBERS OF BOARD.—Subparagraph (A) shall not be construed to apply to members of the Board.

(g) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Board without additional reimbursement (other than the employee's regular compensation), and such detail shall be without interruption or loss of civil service status or privilege.

(h) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The chairperson of the Board may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(i) FEDERAL ADVISORY COMMITTEE ACT.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Board.

(j) TERMINATION.—The Board shall terminate 90 days after the date on which the Board submits the report under section 6(e)(2).

(k) FUNDING.—Funding for the operation of the Board shall be from amounts otherwise appropriated to the Department of Health and Human Services.

S. 465

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 ''Advance Directives Improvement and Education Act of 2007''.

SEC. 2. ADVANCE DIRECTIVES.

(a) FINDINGS.—Congress makes the following findings:

(1) Every year 2,500,000 people die in the United States. Eighty percent of those people die in institutions such as hospitals, nursing homes, and other facilities. Chronic illnesses, such as cancer and heart disease, account for 2 out of every 3 deaths.

(2) In 1997, the Supreme Court of the United States, in its decisions in Washington v. Glucksberg and Vacco v. Quill, reaffirmed the constitutional right of competent adults to refuse unwanted medical treatment. In those cases, the Court stressed the use of advance directives as a means of safeguarding that right should those adults become incapable of deciding for themselves.

(3) A survey published in 2005 estimated that the overall prevalence of advance directives is 29 percent of the general population, despite the passage of the Patient Self-Determination Act in 1990, which requires that health care providers tell patients about advance directives.

(4) Competent adults should complete advance care plans stipulating their health care decisions in the event that they become unable to speak for themselves. Through the execution of advance directives, including living wills and durable powers of attorney for health care according to the laws of the State in which they reside, individuals can protect their right to express their wishes and have them respected.

(b) PURPOSES.—The purposes of this section are to improve access to information about individuals' health care options and legal rights for care near the end of life, to promote advance care planning and decision-making so that individuals' wishes are known should they become unable to speak for themselves, to engage health care providers in disseminating information about and assisting in the preparation of advance directives, which include living wills and durable powers of attorney for health care, and for other purposes.

(c) MEDICARE COVERAGE OF END-OF-LIFE PLANNING AND CONSULTATIONS AS PART OF INITIAL PREVENTIVE PHYSICAL EXAMINATION.—

(1) IN GENERAL.—Section 1861(ww) of the Social Security Act (42 U.S.C. 1395x(ww)) is amended—

(A) in paragraph (1), by striking ''paragraph (2),'' and inserting ''paragraph (2) and an end-of-life planning consultation (as defined in paragraph (3)),''; and

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

''(3) For purposes of paragraph (1), the term 'end-of-life planning consultation' means a consultation between the physician and an individual regarding—

''(A) the importance of preparing advance directives in case an injury or illness causes the individual to be unable to make health care decisions;

''(B) the situations in which an advance directive is likely to be relied upon;

''(C) the reasons that the development of a comprehensive end-of-life plan is beneficial and the reasons that such a plan should be updated periodically as the health of the individual changes;

''(D) the identification of resources that an individual may use to determine the requirements of the State in which such individual resides so that the treatment wishes of that individual will be carried out if the individual is unable to communicate those wishes, including requirements regarding the designation of a surrogate decision maker (health care proxy); and

''(E) whether or not the physician is willing to follow the individual's wishes as expressed in an advance directive.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to initial preventive physical examinations provided on or after January 1, 2008.

(d) IMPROVEMENT OF POLICIES RELATED TO THE USE AND PORTABILITY OF ADVANCE DIRECTIVES.—

(1) MEDICARE.—Section 1866(f) of the Social Security Act (42 U.S.C. 1395cc(f)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (B), by inserting ''and if presented by the individual (or on behalf of the individual), to include the content of such advance directive in a prominent part of such record'' before the semicolon at the end;

(ii) in subparagraph (D), by striking ''and'' after the semicolon at the end;

(iii) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(iv) by inserting after subparagraph (E) the following new subparagraph:

''(F) to provide each individual with the opportunity to discuss issues relating to the information provided to that individual pursuant to subparagraph (A) with an appropriately trained professional.'';

(B) in paragraph (3), by striking ''a written'' and inserting ''an''; and

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

''(5)(A) In addition to the requirements of paragraph (1), a provider of services, Medicare Advantage organization, or prepaid or eligible organization (as the case may be) shall give effect to an advance directive executed outside the State in which such directive is presented, even one that does not appear to meet the formalities of execution, form, or language required by the State in which it is presented to the same extent as such provider or organization would give effect to an advance directive that meets such requirements, except that a provider or organization may decline to honor such a directive if the provider or organization can reasonably demonstrate that it is not an authentic expression of the individual's wishes concerning his or her health care. Nothing in this paragraph shall be construed to authorize the administration of medical treatment otherwise prohibited by the laws of the State in which the directive is presented.

''(B) The provisions of this paragraph shall preempt any State law to the extent such

law is inconsistent with such provisions. The provisions of this paragraph shall not preempt any State law that provides for greater portability, more deference to a patient's wishes, or more latitude in determining a patient's wishes.''.

(2) MEDICAID.—Section 1902(w) of the Social Security Act (42 U.S.C. 1396a(w)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (B)—

(I) by striking ''in the individual's medical record'' and inserting ''in a prominent part of the individual's current medical record''; and

(II) by inserting ''and if presented by the individual (or on behalf of the individual), to include the content of such advance directive in a prominent part of such record'' before the semicolon at the end;

(ii) in subparagraph (D), by striking ''and'' after the semicolon at the end;

(iii) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(iv) by inserting after subparagraph (E) the following new subparagraph:

''(F) to provide each individual with the opportunity to discuss issues relating to the information provided to that individual pursuant to subparagraph (A) with an appropriately trained professional.'';

(B) in paragraph (4), by striking ''a written'' and inserting ''an''; and

(C) by adding at the end the following paragraph:

''(6)(A) In addition to the requirements of paragraph (1), a provider or organization (as the case may be) shall give effect to an advance directive executed outside the State in which such directive is presented, even one that does not appear to meet the formalities of execution, form, or language required by the State in which it is presented to the same extent as such provider or organization would give effect to an advance directive that meets such requirements, except that a provider or organization may decline to honor such a directive if the provider or organization can reasonably demonstrate that it is not an authentic expression of the individual's wishes concerning his or her health care. Nothing in this paragraph shall be construed to authorize the administration of medical treatment otherwise prohibited by the laws of the State in which the directive is presented.

''(B) The provisions of this paragraph shall preempt any State law to the extent such law is inconsistent with such provisions. The provisions of this paragraph shall not preempt any State law that provides for greater portability, more deference to a patient's wishes, or more latitude in determining a patient's wishes.''.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Subject to subparagraph (B), the amendments made by paragraphs (1) and (2) shall apply to provider agreements and contracts entered into, renewed, or extended under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), and to State plans under title XIX of such Act (42 U.S.C. 1396 et seq.), on or after such date as the Secretary of Health and Human Services specifies, but in no case may such date be later than 1 year after the date of enactment of this Act.

(B) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by paragraph (2), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

(e) INCREASING AWARENESS OF THE IMPORTANCE OF END-OF-LIFE PLANNING.—Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end the following new part:

''PART R—PROGRAMS TO INCREASE AWARENESS OF ADVANCE DIRECTIVE PLANNING ISSUES

''SEC. 399Z–1. ADVANCE DIRECTIVE EDUCATION CAMPAIGNS AND INFORMATION CLEARINGHOUSES.

''(a) ADVANCE DIRECTIVE EDUCATION CAMPAIGN.—The Secretary shall, directly or through grants awarded under subsection (c), conduct a national public education campaign—

''(1) to raise public awareness of the importance of planning for care near the end of life;

''(2) to improve the public's understanding of the various situations in which individuals may find themselves if they become unable to express their health care wishes;

''(3) to explain the need for readily available legal documents that express an individual's wishes, through advance directives (including living wills, comfort care orders, and durable powers of attorney for health care); and

''(4) to educate the public about the availability of hospice care and palliative care.

''(b) INFORMATION CLEARINGHOUSE.—The Secretary, directly or through grants awarded under subsection (c), shall provide for the establishment of a national, toll-free, information clearinghouse as well as clearinghouses that the public may access to find out about State-specific information regarding advance directive and end-of-life decisions.

''(c) GRANTS.—

''(1) IN GENERAL.—The Secretary shall use at least 60 percent of the funds appropriated under subsection (d) for the purpose of awarding grants to public or nonprofit private entities (including States or political subdivisions of a State), or a consortium of any of such entities, for the purpose of conducting education campaigns under subsection (a) and establishing information clearinghouses under subsection (b).

''(2) PERIOD.—Any grant awarded under paragraph (1) shall be for a period of 3 years.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $25,000,000.''.

(f) GAO STUDY AND REPORT ON ESTABLISHMENT OF NATIONAL ADVANCE DIRECTIVE REGISTRY.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study on the feasibility of a national registry for advance directives, taking into consideration the constraints created by the privacy provisions enacted as a result of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191).

(2) REPORT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the study conducted under paragraph (1) together with recommendations for such legislation and administrative action as the Comptroller General of the United States determines to be appropriate.

(g) EFFECTIVE DATE.—Except as provided in subsections (c) and (d), this section and the amendments made by this section shall take effect on the date of enactment of this Act.

Mr. NELSON of Florida. Mr. President, I am pleased to be joined by my colleagues and cosponsors Senators JAY ROCKEFELLER and RICHARD LUGAR as we introduce the Advance Directives Improvement and Education Act of 2007.

The Advance Directives Improvement and Education Act of 2007 has a simple purpose: to encourage all adults in America, especially those 65 and older, to think about, talk about and write down their wishes for medical care near the end of life should they become unable to make decisions for themselves. Advance directives, which include a living will stating the individual's preferences for care, and a power of attorney for health care, are critical documents that each of us should have. The goal is clear, but reaching it requires that we educate the public about the importance of advance directives, offer opportunities for discussion of the issues, and reinforce the requirement that health care providers honor patients' wishes. This bill is designed to do just that.

The Advance Directives Improvement and Education Act of 2007 would encourage new Medicare beneficiaries to prepare advance directives by including a physician consultation on advance directives in each ''Welcome to Medicare'' physical exam. This initial consultation would cover the importance of preparing advance directives, when these documents are most likely to be used, and where to find additional resources and information. The conversation will also enable physicians to learn about their patients' wishes, fears, religious beliefs, and life experiences that might influence their medical care wishes. These are important aspects of a physician-patient relationship that are too often unaddressed.

Another part of our bill would provide funds for the Department of Health and Human Services, HHS, to conduct a public education campaign to raise awareness of the importance of planning for care near the end of life. This campaign would explain what advance directives are, where they are available, what questions need to be asked and answered, and what to do with the executed documents. HHS, directly or through grants, would also establish an information clearinghouse where consumers could receive State-specific information and consumer-friendly documents and publications.

The bill also contains language that would make all advance directives ''portable,'' that is, useful from one State to another. If an out-of-State directive is presented, it will be presumed valid unless the health care provider can reasonably demonstrate that it is not an authentic expression of the individual's wishes concerning his or her health care.

We all know about the tragic situation that occurred in Florida with Terri Schiavo and her family. She was

a young woman who was the subject of a debate about her treatment between her husband and her parents, a debate that was a court case and a legislative quagmire. Most experts agree that if she had an advance directive that made her wishes clear and named a health care proxy, there would have been no question as to who could decide the course of her care.

One of the great legacies of Terri Schiavo's life will be that she began a national dialogue about end-of-life care and got people discussing living wills. Regardless of our views on the ethical, legal and constitutional issues surrounding her case, we all can agree that more people now than ever know the importance of having end-of-life discussions with their family, doctor, clergy or attorney. This bill would build upon this national dialogue and encourage more Americans to learn about and fill out advance directives.

This body is a legislative institution, not a medical one. We cannot legislate good medical care or compassion. What we can do, what I hope we will do, is to enact this bill so that the American public can participate in improving end-of-life care. If we can do that, we will have done a great deal.

S. 466

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Medicare End-of-Life Care Planning Act of 2007''.

SEC. 2. MEDICARE COVERAGE OF AN END-OF-LIFE PLANNING CONSULTATION AS PART OF AN INITIAL PREVENTIVE PHYSICAL EXAMINATION.

(a) IN GENERAL.—Section 1861(ww) of the Social Security Act (42 U.S.C. 1395x(ww)) is amended—

(1) in paragraph (1), by striking ''paragraph (2),'' and inserting ''paragraph (2) and an end-of-life planning consultation (as defined in paragraph (3)),''; and

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

''(3) For purposes of paragraph (1), the term 'end-of-life planning consultation' means a consultation between the physician and an individual regarding—

''(A) the importance of preparing advance directives in case an injury or illness causes the individual to be unable to make health care decisions;

''(B) the situations in which an advance directive is likely to be relied upon;

''(C) the reasons why the development of a comprehensive end-of-life plan is beneficial and the reasons why such a plan should be updated periodically as the health of the individual changes;

''(D) the identification of resources that an individual may use to determine the requirements of the State in which such individual resides so that the treatment wishes of that individual will be carried out if the individual is unable to communicate those wishes, including requirements regarding the designation of a surrogate decision maker (health care proxy); and

''(E) whether or not the physician is willing to follow the individual's wishes as expressed in an advance directive.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to initial preventive physical examinations provided on or after January 1, 2008.

By Mr. DODD (for himself, Mr. GRASSLEY, Mr. WYDEN, Mr. BINGAMAN, Mr. DURBIN, and Mr. HARKIN):

S. 467. A bill to amend the Public Health Service Act to expand the clinical trials drug data bank; to the Committee on Health, Education, Labor and Pensions.

By Mr. GRASSLEY (for himself, Mr. DODD, Ms. MIKULSKI, and Mr. BINGAMAN):

S. 468. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to drug safety, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise today to introduce the Fair Access to Clinical Trials (FACT) Act. I want to begin by thanking Senators GRASSLEY, WYDEN, BINGAMAN, DURBIN, and HARKIN for joining me in introducing this legislation. I also would like to recognize the leadership of Senator JOHNSON who was involved in the crafting of this legislation from the beginning and who has been a long-standing supporter of the FACT Act.

Our bill will create an electronic databank for clinical trials of drugs, biological products, and medical devices. Such a databank will ensure that physicians, researchers, the general public, and patients seeking to enroll in clinical trials have access to basic information about those trials. It will require manufacturers and other researchers to reveal the results of clinical trials so that clinically important information will be available to all Americans, and physicians will have all the information necessary to make appropriate treatment decisions for their patients.

Events of the past few years have made it clear that such a databank is needed. For example, serious questions were raised about the effectiveness and safety of antidepressants when used in children and youth. It has now become clear that the existing data indicates that these drugs may very well put children at risk. However, because the data from antidepressant clinical trials was not publicly available, it took years for this risk to be realized. In the meantime, millions of children have been prescribed antidepressants by well-meaning physicians. While these drugs undoubtedly helped many of these children, they also led to greater suffering for others.

The news is similarly disturbing for a popular class of painkillers known as Cox-2 inhibitors. These medicines, taken by millions of Americans, have been associated with an increased risk of cardiovascular adverse events, such as heart attack and stroke. It has been suggested that one of these medicines, which has since been pulled from the market, may have been responsible for tens of thousands of deaths.

Most recently, a drug manufacturer acknowledged that it did not inform the Food and Drug Administration (FDA) or the public about the results of a 67,000 person study it conducted of an FDA-approved drug used commonly during heart surgery to reduce the need for a transfusion. The study revealed the drug may increase patients' risk of death, serious kidney damage, congestive heart failure, and stroke.

Unfortunately, these are just a few examples of stories that have become all too common. It has been suggested that negative data might actually have been suppressed; and if this is discovered to be the case, those responsible should be dealt with harshly. However, because of what is known as ''publication bias,'' the information available to the public and physicians can be misleading even without nefarious motives. The simple fact is that studies with a positive result are far more likely to be published, and thus publicly available, than a study with a negative result. Physicians and patients hear the good news. Rarely do they hear the bad news. In the end, the imbalance of available information hurts patients.

Our bill would correct this imbalance in information, and prevent manufacturers from suppressing negative data. It would do so by creating a two-part databank, consisting of an expansion of clinicaltrials.gov—an existing registry that is operated by the National Library of Medicine (NLM)—and a new database for clinical trial results.

Under the FACT Act, the registry would continue to operate as a resource for patients seeking to enroll in clinical trials for drugs and biological products intended to treat serious or life-threatening conditions—and for the first time, it would also include medical device trials. The new results database would include all trials (except for preliminary safety trials), and would require the submission of clinical trial results data.

Our legislation would enforce the requirement to submit information to the databank in two ways. First, by requiring registration as a condition of Institutional Review Board (IRB) approval, no trial could begin without submitting preliminary information to the registry and database. This information would include the purpose of the trial, the estimated date of trial completion, as well as all of the information necessary to help patients to enroll in the trial.

Once the trial is completed, the researcher or manufacturer is required to submit the results to the database. If they refuse to do so, they are subject to monetary penalties or, in the case of federally-funded research, a restriction on future federal funding. It is my belief that these enforcement mechanisms will ensure broad compliance. However, in the rare case where a manufacturer does not comply, this legislation also gives the FDA the authority to publicize the required information.

Let me also say that any time you are collecting large amounts of data and making it public, protecting patient privacy and confidentiality is

paramount. Our legislation would in no way threaten patient privacy. The simple fact is that under this bill, no individually-identifiable information would be available to the public.

I believe that the establishment of a clinical trials databank is absolutely necessary for the health and well-being of the American public. But I would also like to highlight two other benefits that such a databank will have. First, it has the potential to reduce health care costs. Studies have shown that publication bias also leads to a bias toward new and more expensive treatment options. A databank could help make it clear that in some cases less expensive treatments are just as effective for patients.

In addition, a databank will ensure that the sacrifice made by patients who enroll in clinical trials is not squandered. We owe it to patients to make sure that their participation in a trial will benefit other individuals suffering from the same illness or condition by making the results of the trial public, no matter the outcome of the trial.

The problems associated with publication bias have recently drawn more attention from the medical community, and there is broad consensus that a clinical trials registry is one of the best ways to address the issue. Accordingly, the American Medical Association (AMA) has recommended creating such a databank. Additionally, the major medical journals have established a policy that they will only publish the results of trials that were registered in a public database before the trial began. Our legislation meets all of the minimum criteria for a trial registry set out by the International Committee of Medical Journal Editors. In fact, our bill closely follows recommendations issued by the Institute of Medicine (IOM) in its recent report on drug safety.

To its credit, the pharmaceutical industry has also acknowledged the problem, and has created a database where manufacturers can voluntarily submit clinical trials data. I applaud this step. However, if our objective is to provide the public with a complete and consistent supply of information, a voluntary database is unlikely to achieve that goal. Some companies will provide information, but others may decide not to participate. We need a clinical trials framework that is not just fair to all companies, but provides patients with the peace of mind that they will receive complete information about the medicines they rely on.

The American drug industry is an extraordinary success story. As a result of the innovations that this industry has spawned, millions of lives have been improved and saved in our country and around the globe. Due to the importance of these medicines to our health and well-being, I have consistently supported sound public policies to help the industry succeed in protecting the public's health and well-being. This legislation aims to build upon the successes of this industry, and help ensure that the positive changes to our health care system that prescription drugs have brought are not undermined by controversies such as the ones surrounding antidepressants and Cox-2 inhibitors, which are at least in part based on a lack of public information. This bill will help ensure that well-informed patients will use new and innovative medicines.

Creating a clinical trials databank is a critical step toward ensuring the safety of drugs, biological products, and medical devices in this country—but it should not be the end of our efforts. However, other steps are necessary to fully restore patient confidence in the safety of the medicines they rely on.

That is why today I am also introducing the Food and Drug Administration Safety Act (FDASA) with Senator GRASSLEY. We are joined by Senators MIKULSKI and BINGAMAN in introducing this legislation and thank them for their support for reforming our nation's system to ensure that FDA-approved drugs being used by millions are safe and effective.

Our legislation would enhance the FDA's drug-safety monitoring system by setting up an independent center within the FDA called the Center for Postmarket Evaluation and Research for Drugs and Biologics (CPER). This Center would be responsible for monitoring the safety of drugs and biologics once they are on the market, in consultation with other existing Centers at the FDA, and would have the authority to take corrective action if a drug or biologic presents a risk to patients. Under the bill, the Center Director is authorized to require manufacturers to conduct post-market clinical or observational studies if there are questions about the safety or efficacy of a drug or biologic once it is already on the market. The Center Director can take corrective actions to include labeling changes, restricted distribution, and other risk management tools if an unreasonable risk is found to exist. The bill also gives the Center Director the authority to review drug advertisements before they are disseminated, and to require certain disclosures about increased risk, and in extreme cases, the authority to pull the product off the market. Our bill authorizes $500 million over the next 5 years to provide the new center with the resources necessary to carry out the critically important provisions of this legislation.

Under our legislation, the Director of CPER will report directly to the FDA Commissioner. Our bill will ensure that CPER consults with the other Centers at FDA as it conducts risk assessments, benefiting from their knowledge and expertise, but not being beholden to them if corrective action is needed.

These new authorities will allow the FDA to act quickly to get answers when there are questions about the safety of a drug, and to act decisively to mitigate the risks when the evidence shows that a drug presents a safety issue. With these authorities, we will never again have a situation where a critical labeling change takes 2 years to complete, as was the case with Vioxx. When we are talking about drugs that are already on the market and in widespread use, any delay can put millions of patients in harm's way.

By creating CPER we hope to restore confidence in the medicines that so many Americans rely on to safeguard their health and well-being. Patients should have the peace of mind that the drugs they take to help them will not hurt them instead. We must restore public confidence in the words ''FDA-Approved.'' Unfortunately, events of the past few years have seriously tarnished the FDA's image and put millions of patients at undue risk. Recent developments have cast into doubt the FDA's ability to ensure that the drugs that it approves are safe—especially once they are on the market. These concerns are bad for patients, bad for physicians, and bad for the pharmaceutical industry.

Like many Americans, I have been deeply disturbed by the revelations of the significant risk associated with widely-used medications to treat pain and depression. These revelations raise legitimate questions about the safety of drugs that have already been approved. It would be one thing if these drugs were in a trial phase, but safety issues are being identified in drugs once they are on the market and in widespread use. Health risks significant enough to remove drugs from the market or significantly restrict their use are becoming clear only after millions of Americans have been exposed to real or potential harm.

It has been estimated that more than 100,000 Americans might have been seriously injured or killed by a popular pain medication, while millions of children have been prescribed antidepressants that could put them at risk. This recent spate of popular medicines being identified as unsafe underscores the need to take additional steps to monitor and protect patient safety after a drug has been approved. Allowing the status quo on drug safety at the FDA is unacceptable. Real reform is needed now.

An internal study conducted by the Department of Health and Human Services (HHS) Office of the Inspector General in 2002 revealed that approximately one-fifth of drug reviewers were pressured to approve a drug despite concerns about safety, efficacy, or quality. In addition, more than one-third said they were ''not at all'' or only ''somewhat'' confident that final decisions of the Center for Drug Evaluation and Research (CDER) adequately assessed safety. A more recent survey of 997 FDA scientists conducted by the Union of Concerned Scientists and the Public Employees for Environmental Responsibility found that 420

FDA scientists reported that they knew of cases in which HHS or FDA political appointees inappropriately injected themselves into FDA determinations or actions.

I look forward to working with industry, physicians, medical journals, patient groups, and my colleagues—including the Chairman and Ranking Member of the Health, Education, Labor, and Pensions Committee, Senator KENNEDY and Senator ENZI—to move this legislation forward. These bills have already been endorsed by Consumers Union, the U.S. Public Interest Research Group (PIRG), the National Women's Health Network, and Public Citizen. I thank these organizations for lending their expertise as we crafted these bills. I also want to recognize the New England Journal of Medicine and the American Psychiatric Association for their support in the crafting of the FACT Act.

Clinical trials are critically important to protecting the safety and health of the American public. For this reason, clinical trial results must not be treated as information that can be hidden from scrutiny. Recent events have made it clear that a clinical trials databank is needed. Patients and physicians agree that such a databank is important to our public health. At the same time, there have been disturbing reports that suggest the FDA does not place enough emphasis on drug safety, and that concerns raised by those in the Office of Surveillance and Epidemiology (formerly the Office of Drug Safety) at CDER are sometimes ignored and even suppressed. Our legislation will ensure that those who are responsible for monitoring the safety of drugs already on the market at the FDA will have the independence, resources, and authority to ensure medicines intended to help patients won't instead end up causing them harm. I urge my colleagues to support these bills, and I am hopeful that they will become law as soon as possible.

I ask unanimous consent that a letter from the American Psychiatric Association supporting the FACT Act be printed in the RECORD.

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

AMERICAN PSYCHIATRIC ASSOCIATION,
Arlington, VA, January 31, 2007.

Hon. CHRISTOPHER DODD,
U.S. Senate,
Washington, DC.

DEAR SENATOR DODD: The American Psychiatric Association (APA) would like to commend and congratulate you on your efforts to strengthen and improve clinical trial registries. The FACT Act's goals of revamping the Food and Drug Administration's post-marketing surveillance by ensuring that access to clinical trials information is accessible and available to the scientific community and the general public is a goal shared by the APA.

The APA is the national medical specialty society representing more than 37,000 psychiatric physicians nationwide who specialize in the diagnosis and treatment of mental and emotional illnesses and substance use disorders. APA advocates for patient access to information and supports further post-market research of medications to ensure the safety of patients. APA member David Fassler, M.D. testified before the Senate Health, Education, Labor and Pensions Committee on March 1, 2005 and subsequent FDA Advisory Committee meetings. Dr. Fassler's testimony focused on key recommendations to improve the FDA's drug approval process outlining: The importance of access to comprehensive clinical trial data including negative trials and unpublished results to be housed in a publicly accessible registry; The need for ongoing post-marketing surveillance with increased funding for follow up; and The necessity of a workforce of researchers, including experts who can assist with the design, oversight, interpretation and reporting of clinical research.

The APA thanks you again for your dedication and commitment to enhance the nation's drug safety monitoring system. We look forward to working with you in ensuring that clinical trial data is transparent and accountable in order for patients to make well informed decisions. As your staff move forward with further action on legislation, Lizbet Boroughs, Deputy Director, Government Relations for the APA or Chatrane Birbal, Federal Legislative Coordinator may be reached at *lboroughs@psych.org* 703/489–5907 or *cbirbal@psych.org* 703/907–8584 respectively.

Sincerely,

James H. Scully, Jr.,
CEO and Medical Director.

Mr. DODD. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

S. 467

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 ''Fair Access to Clinical Trials Act of 2007'' or the ''FACT Act''.

SEC. 2. PURPOSE.

It is the purpose of this Act—

(1) to create a publicly accessible national data bank of clinical trial information comprised of a clinical trial registry and a clinical trial results database;

(2) to foster transparency and accountability in health-related intervention research and development;

(3) to maintain a clinical trial registry accessible to patients and health care practitioners seeking information related to ongoing clinical trials for serious or life-threatening diseases and conditions; and

(4) to establish a clinical trials results database of all publicly and privately funded clinical trial results regardless of outcome, that is accessible to the scientific community, health care practitioners, and members of the public.

SEC. 3. CLINICAL TRIALS DATA BANK.

(a) IN GENERAL.—Subsection (i) of section 402 of the Public Health Service Act (42 U.S.C. 282), as amended by Public Law 109–482, is amended—

(1) in paragraph (1)(A), by striking ''for drugs for serious or life-threatening diseases and conditions'';

(2) in paragraph (2), by striking ''available to individuals with serious'' and all that follows through the period and inserting ''accessible to patients, other members of the public, health care practitioners, researchers and the scientific community. In making information about clinical trials publicly available, the Secretary shall seek to be as timely and transparent as possible.'';

(3) by redesignating paragraphs (4) and (5), as paragraphs (8) and (9), respectively;

(4) by striking paragraph (3) and inserting the following:

''(3) The data bank shall include the following:

''(A)(i) A registry of clinical trials (in this subparagraph referred to as the 'registry') of health-related interventions (whether federally or privately funded).

''(ii) The registry shall include information for all clinical trials conducted to test the safety or effectiveness (including comparative effectiveness) of any drug, biological product, or device (including those drugs, biological products, or devices approved or cleared by the Secretary) intended to treat serious or life-threatening diseases and conditions, except those Phase I clinical trials conducted to test solely the safety of an unapproved drug or unlicensed biological product, or pilot or feasibility studies conducted to confirm the design and operating specifications of an unapproved or not yet cleared medical device. For purposes of this section, Phase I clinical trials are trials described in section 313.12(a) of title 21, Code of Federal Regulations (or any successor regulations).

''(iii) The registry may include information for—

''(I) Phase I clinical trials conducted to test solely the safety of an unapproved drug or unlicensed biological product, or pilot or feasibility studies conducted to confirm the design and operating specifications of an unapproved or not yet cleared medical device with the consent of the responsible person; and

''(II) clinical trials of other health-related interventions with the consent of the responsible person.

''(iv) The information to be included in the registry under this subparagraph shall include the following:

''(I) Descriptive information, including a brief title, trial description in lay terminology, trial phase, trial type, trial purpose, description of the primary and secondary clinical outcome measures to be examined in the trial, the time at which the outcome measures will be assessed, and the dates and details of any revisions to such outcomes.

''(II) Recruitment information, including eligibility and exclusion criteria, a description of whether, and through what procedure, the manufacturer or sponsor of the investigation of a new drug will respond to requests for protocol exception, with appropriate safeguards, for single-patient and expanded protocol use of the new drug, particularly in children, a statement as to whether the trial is closed to enrollment of new patients, overall trial status, individual site status, and estimated completion date. For purposes of this section the term 'completion date' means the date of the last visit by subjects in the trial for the outcomes described in subclause (I).

''(III) Location and contact information, including the identity of the responsible person.

''(IV) Administrative data, including the study sponsor and the study funding source.

''(V) Information pertaining to experimental treatments for serious or life-threatening diseases and conditions (whether federally or privately funded) that may be available—

''(aa) under a treatment investigational new drug application that has been submitted to the Secretary under section 360bbb(c) of title 21, Code of Federal Regulations; or

''(bb) as a Group C cancer drug (as defined by the National Cancer Institute).

''(B)(i) A clinical trial results database (in this subparagraph referred to as the 'database') of health-related interventions (whether federally or privately funded).

''(ii) The database shall include information for all clinical trials conducted to test the safety or effectiveness (including comparative effectiveness) of any drug, biological product, or device (including those drugs, biological products, or devices approved or cleared by the Secretary), except those Phase I clinical trials conducted to test solely the safety of an unapproved drug or unlicensed biological product, or pilot or feasibility studies conducted to confirm the design and operating specifications of an unapproved or not yet cleared medical device.

''(iii) The database may include information for—

''(I) Phase I clinical trials conducted to test solely the safety of an unapproved drug or unlicensed biological product, or pilot or feasibility studies conducted to confirm the design and operating specifications of an unapproved or not yet cleared medical device with the consent of the responsible person; and

''(II) clinical trials of other health-related interventions with the consent of the responsible person.

''(iv) The information to be included in the database under this subparagraph shall include the following:

''(I) Descriptive information, including—

''(aa) a brief title;

''(bb) the drug, biological product or device to be tested;

''(cc) a trial description in lay terminology;

''(dd) the trial phase;

''(ee) the trial type;

''(ff) the trial purpose;

''(gg) demographic data such as age, gender, or ethnicity of trial participants;

''(hh) the estimated completion date for the trial; and

''(ii) the study sponsor and the study funding source.

''(II) A description of the primary and secondary clinical outcome measures to be examined in the trial, the time at which the outcome measures will be assessed, and the dates and details of any revisions to such outcomes.

''(III) The actual completion date of the trial and the reasons for any difference from such actual date and the estimated completion date submitted pursuant to subclause (I)(ii). If the trial is not completed, the termination date and reasons for such termination.

''(IV) A summary of the results of the trial in a standard, non-promotional summary format (such as ICHE3 template form), including the trial design and methodology, results of the primary and secondary outcome measures as described in subclause (II), summary data tables with respect to the primary and secondary outcome measures, including information on the statistical significance or lack thereof of such results.

''(V) Safety data concerning the trial (including a summary of all adverse events specifying the number and type of such events, data on prespecified adverse events, data on serious adverse events, and data on overall deaths).

''(VI) Any publications in peer reviewed journals relating to the trial. If the trial results are published in a peer reviewed journal, the database shall include a citation to and, when available, a link to the journal article.

''(VII) A description of the process used to review the results of the trial, including a statement about whether the results have been peer reviewed by reviewers independent of the trial sponsor.

''(VIII) If the trial addresses the safety, effectiveness, or benefit of a use not described in the approved labeling for the drug, biological product, or device, a statement, as appropriate, displayed prominently at the beginning of the data in the registry with respect to the trial, that the Food and Drug Administration—

''(aa) is currently reviewing an application for approval of such use to determine whether the use is safe and effective;

''(bb) has disapproved an application for approval of such use;

''(cc) has reviewed an application for approval of such use but the application was withdrawn prior to approval or disapproval; or

''(dd) has not reviewed or approved such use as safe and effective.

''(IX) If data from the trial has not been submitted to the Food and Drug Administration, an explanation of why it has not been submitted.

''(X) A description of the protocol used in such trial to the extent necessary to evaluate the results of such trial.

''(4)(A)(i) Not later than 90 days after the date of the completion of the review by the Food and Drug Administration of information submitted by a sponsor in support of a new drug application, or a supplemental new drug application, whether or not approved by the Food and Drug Administration, the Commissioner of Food and Drugs shall make available to the public the full reviews conducted by the Administration of such application, including documentation of significant differences of opinion and the resolution of those differences.

''(ii) When submitting information in support of a new drug application or a supplemental new drug application, the sponsor shall certify, in writing, that the information submitted to the Food and Drug Administration complies with the requirements of the Federal Food, Drug, and Cosmetic Act and that such information presented is accurate.

''(iii) If the sponsor fails to provide certification as specified under clause (ii), the Secretary shall transmit to the sponsor a notice stating that such sponsor shall submit the certification by the date determined by the Secretary. If, by the date specified by the Secretary in the notice under this clause, the Secretary has not received the certification, the Secretary, after providing the opportunity for a hearing, shall order such sponsor to pay a civil monetary penalty of $10,000 for each day after such date that the certification is not submitted.

''(iv) If the Secretary determines, after notice and opportunity for a hearing, that the sponsor knew or should have known that the information submitted in support of a new drug application or a supplemental new drug application was inaccurate, the Secretary shall order such sponsor to pay a civil monetary penalty of not less than $100,000 but not to exceed $2,000,000 for any 30-day period.

''(B)(i) The Secretary shall deposit the funds collected under subparagraph (A) into an account and use such funds, in consultation with the Director of the Agency for Healthcare Research and Quality, to fund studies that compare the clinical effectiveness of 2 or more treatments for similar diseases or conditions.

''(ii) The Secretary shall award funding under clause (i) based on a priority list established not later than 6 months after the date of enactment of the FACT Act by the Director of the Agency for Healthcare Research and Quality and periodically updated as determined appropriate by the Director.

''(C) Not later than 90 days after the date of the completion of a written consultation on a drug concerning the drug's safety conducted by the Office of Surveillance and Epidemiology, regardless of whether initiated by such Office or outside of the Office, the Commissioner of Food and Drugs shall make available to the public a copy of such consultation in full.

''(D) Nothing in this paragraph shall be construed to alter or amend section 301(j) or section 1905 of title 18, United States Code.

''(E) This paragraph shall supersede section 552 of title 5, United States Code.

''(5) The information described in subparagraphs (A) and (B) of paragraph (3) shall be in a format that can be readily accessed and understood by members of the general public, including patients seeking to enroll as subjects in clinical trials.

''(6) The Secretary shall assign each clinical trial a unique identifier to be included in the registry and in the database described in subparagraphs (A) and (B) of paragraph (3). To the extent practicable, this identifier shall be consistent with other internationally recognized and used identifiers.

''(7) To the extent practicable, the Secretary shall ensure that where the same information is required for the registry and the database described in subparagraphs (A) and (B) of paragraph (3), a process exists to allow the responsible person to make only one submission.''; and

(5) by adding at the end the following:

''(10) In this section, the term 'clinical trial' with respect to the registry and the database described in subparagraphs (A) and (B) of paragraph (3) means a research study in human volunteers to answer specific health questions, including treatment trials, prevention trials, diagnostic trials, screening trials, and quality of life trials.''.

(b) ACTIONS OF SECRETARY REGARDING CLINICAL TRIALS.—Section 402 of the Public Health Service Act (42 U.S.C. 282), as amended by Public Law 109–482, is amended—

(1) by redesignating subsections (j) and (k) as subsections (o) and (p), respectively; and

(2) by inserting after subsection (i), the following:

''(j) FEDERALLY SUPPORTED TRIALS.—

''(1) ALL FEDERALLY SUPPORTED TRIALS.—With respect to any clinical trial described in subsection (i)(3)(B) that is supported solely by a grant, contract, or cooperative agreement awarded by the Secretary, the principal investigator of such trial shall, not later than the date specified in paragraph (2), submit to the Secretary—

''(A) the information described in subclauses (II) through (X) of subsection (i)(3)(B)(iv), and with respect to clinical trials in progress on the date of enactment of the FACT Act, the information described in subclause (I) of subsection (i)(3)(B)(iv); or

''(B) a statement containing information sufficient to demonstrate to the Secretary that the information described in subparagraph (A) cannot reasonably be submitted, along with an estimated date of submission of the information described in such subparagraph.

''(2) DATE SPECIFIED.—The date specified in this paragraph shall be the date that is 1 year from the earlier of—

''(A) the estimated completion date of the trial, as submitted under subsection (i)(3)(B)(vi)(I)(ii); or

''(B) the actual date of the completion or termination of the trial.

''(3) CONDITION OF FEDERAL GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS.—

''(A) CERTIFICATION OF COMPLIANCE.—To be eligible to receive a grant, contract, or cooperative agreement from the Secretary for the conduct or support of a clinical trial described in subsection (i)(3)(B), the principal investigator involved shall certify to the Secretary that—

''(i) such investigator shall submit data to the Secretary in accordance with this subsection; and

''(ii) such investigator has complied with the requirements of this subsection with respect to other clinical trials conducted by

such investigator after the date of enactment of the FACT Act.

''(B) FAILURE TO SUBMIT CERTIFICATION.—An investigator that fails to submit a certification as required under subparagraph (A) shall not be eligible to receive a grant, contract, or cooperative agreement from the Secretary for the conduct or support of a clinical trial described in subsection (i)(3)(B).

''(C) FAILURE TO COMPLY WITH CERTIFICATION.—If, by the date specified in paragraph (2), the Secretary has not received the information or statement described in paragraph (1), the Secretary shall—

''(i) transmit to the principal investigator involved a notice specifying the information or statement required to be submitted to the Secretary and stating that such investigator shall not be eligible to receive further funding from the Secretary if such information or statement is not submitted to the Secretary within 30 days of the date on which such notice is transmitted; and

''(ii) include and prominently display, until such time as the Secretary receives the information or statement described in paragraph (1), as part of the record of such trial in the database described in subsection (i), a notice stating that the results of such trials have not been reported as required by law.

''(D) FAILURE TO COMPLY WITH NOTICE.—If by the date that is 30 days after the date on which the notice described in subparagraph (C) is transmitted, the Secretary has not received from the principal investigator involved the information or statement required pursuant to such notice, the Secretary may not award a grant, contract, cooperative agreement, or any other award to such principal investigator until such principal investigator submits to the Secretary the information or statement required pursuant to such notice.

''(E) SUBMISSION OF STATEMENT BUT NOT INFORMATION.—

''(i) IN GENERAL.—If by the date specified in paragraph (2), the Secretary has received a statement described in paragraph (1)(B) but not the information described in paragraph (1)(A), the Secretary shall transmit to the principal investigator involved a notice stating that such investigator shall submit such information by the date determined by the Secretary in consultation with such investigator.

''(ii) FAILURE TO COMPLY WITH CERTIFICATION.—If, by the date specified by the Secretary in the notice under clause (i), the Secretary has not received the information described in paragraph (1)(B), the Secretary shall—

''(I) transmit to the principal investigator involved a notice specifying the information required to be submitted to the Secretary and stating that such investigator shall not be eligible to receive further funding from the Secretary if such information is not submitted to the Secretary within 30 days of the date on which such notice is transmitted; and

''(II) include and prominently display, until such time as the Secretary receives the information described in paragraph (1)(B), as part of the record of such trial in the database described in subsection (i), a notice stating that the results of such trials have not been reported as required by law.

''(F) FAILURE TO COMPLY WITH NOTICE.—If by the date that is 30 days after the date on which the notice described in subparagraph (E)(ii)(I) is transmitted, the Secretary has not received from the principal investigator involved the information required pursuant to such notice, the Secretary may not award a grant, contract, cooperative agreement, or any other award to such principal investigator until such principal investigator submits to the Secretary the information required pursuant to such notice.

''(G) RULE OF CONSTRUCTION.—For purposes of this paragraph, limitations on the awarding of grants, contracts, cooperative agreements, or any other awards to principal investigators for violations of this paragraph shall not be construed to include any funding that supports the clinical trial involved.

''(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prevent an investigator other than the investigator described in paragraph (3)(F) from receiving an ongoing award, contract, or cooperative agreement.

''(5) INCLUSION IN REGISTRY.—

''(A) GENERAL RULE.—The Secretary shall, pursuant to subsection (i)(5), include—

''(i) the data described in subsection (i)(3)(A) and submitted under the amendments made by section 4(a) of the FACT Act in the registry described in subsection (i) as soon as practicable after receiving such data; and

''(ii) the data described in clause (I) of subsection (i)(3)(B)(iv) and submitted under this subsection or the amendments made by section 4(a) of the FACT Act in the database described in subsection (i) as soon as practicable after receiving such data.

''(B) OTHER DATA.—

''(i) IN GENERAL.—The Secretary shall, pursuant to subsection (i)(5), include the data described in subclauses (II) through (X) of subsection (i)(3)(B)(iv) and submitted under this section in the database described in subsection (i)—

''(I) as soon as practicable after receiving such data; or

''(II) in the case of data to which clause (ii) applies, by the date described in clause (iii).

''(ii) DATA DESCRIBED.—This clause applies to data described in clause (i) if—

''(I) the principal investigator involved requests a delay in the inclusion in the database of such data in order to have such data published in a peer reviewed journal; and

''(II) the Secretary determines that an attempt will be made to seek such publication.

''(iii) DATE FOR INCLUSION IN REGISTRY.—Subject to clause (iv), the date described in this clause is the earlier of—

''(I) the date on which the data involved is published as provided for in clause (ii); or

''(II) the date that is 18 months after the date on which such data is submitted to the Secretary.

''(iv) EXTENSION OF DATE.—The Secretary may extend the 18-month period described in clause (iii)(II) for an additional 6 months if the principal investigator demonstrates to the Secretary, prior to the expiration of such 18-month period, that the data involved has been accepted for publication by a journal described in clause (ii)(I).

''(v) MODIFICATION OF DATA.—Prior to including data in the database under clause (ii) or (iv), the Secretary shall permit the principal investigator to modify the data involved.

''(6) MEMORANDUM OF UNDERSTANDING.—Not later than 6 months after the date of enactment of the FACT Act, the Secretary shall seek a memorandum of understanding with the heads of all other Federal agencies that conduct clinical trials to include in the registry and the database clinical trials sponsored by such agencies that meet the requirements of this subsection.

''(7) APPLICATION TO CERTAIN PERSONS.—The provisions of this subsection shall apply to a responsible person described in subsections (n)(1)(A)(ii)(II) or (n)(1)(B)(i)(II).

''(k) TRIALS WITH NON-FEDERAL SUPPORT.—

''(1) IN GENERAL.—The responsible person for a clinical trial described in subsection (i)(3)(B) shall, not later than the date specified in paragraph (3), submit to the Secretary—

''(A) the information described in subclauses (II) through (X) of subsection (i)(3)(B)(iv), and with respect to clinical trials in progress on the date of enactment of the FACT Act, the information described in subclause (I) of subsection (i)(3)(B)(iv); or

''(B) a statement containing information sufficient to demonstrate to the Secretary that the information described in subparagraph (A) cannot reasonably be submitted, along with an estimated date of submission of the information described in such subparagraph.

''(2) SANCTION IN CASE OF NONCOMPLIANCE.—

''(A) INITIAL NONCOMPLIANCE.—If by the date specified in paragraph (3), the Secretary has not received the information or statement required to be submitted to the Secretary under paragraph (1), the Secretary shall—

''(i) transmit to the responsible person for such trial a notice stating that such responsible person shall be liable for the civil monetary penalties described in subparagraph (B) if the required information or statement is not submitted to the Secretary within 30 days of the date on which such notice is transmitted; and

''(ii) include and prominently display, until such time as the Secretary receives the information described in paragraph (1), as part of the record of such trial in the database described in subsection (i), a notice stating that the results of such trials have not been reported as required by law.

''(B) CIVIL MONETARY PENALTIES FOR NONCOMPLIANCE.—

''(i) IN GENERAL.—If by the date that is 30 days after the date on which a notice described in subparagraph (A) is transmitted, the Secretary has not received from the responsible person involved the information or statement required pursuant to such notice, the Secretary shall, after providing the opportunity for a hearing, order such responsible person to pay a civil penalty of $10,000 for each day after such date that the information or statement is not submitted.

''(ii) WAIVERS.—In any case in which a responsible person described in clause (i) is a nonprofit entity, the Secretary may waive or reduce the penalties applicable under such clause to such person.

''(C) SUBMISSION OF STATEMENT BUT NOT INFORMATION.—

''(i) IN GENERAL.—If by the date specified in paragraph (3), the Secretary has received a statement described in paragraph (1)(B) but not the information described in paragraph (1)(A) the Secretary shall transmit to the responsible person involved a notice stating that such responsible person shall submit such information by the date determined by the Secretary in consultation with such responsible person.

''(ii) FAILURE TO COMPLY.—If, by the date specified by the Secretary in the notice under clause (i), the Secretary has not received the information described in paragraph (1)(A), the Secretary shall—

''(I) transmit to the responsible person involved a notice specifying the information required to be submitted to the Secretary and stating that such responsible person shall be liable for the civil monetary penalties described in subparagraph (D) if such information is not submitted to the Secretary within 30 days of the date on which such notice is transmitted; and

''(II) include and prominently display, until such time as the Secretary receives the information described in paragraph (1)(A), as part of the record of such trial in the database described in subsection (i), a notice stating that the results of such trials have not been reported as required by law.

''(D) NONCOMPLIANCE.—

''(i) IN GENERAL.—If by the date that is 30 days after the date on which a notice described in subparagraph (C)(ii)(I) is transmitted, the Secretary has not received from the responsible person involved the information required pursuant to such notice, the Secretary, after providing the opportunity for a hearing, shall order such responsible person to pay a civil penalty of $10,000 for each day after such date that the information is not submitted.

''(ii) WAIVERS.—In any case in which a responsible person described in clause (i) is a nonprofit entity, the Secretary may waive or reduce the penalties applicable under such clause to such person.

''(E) NOTICE OF PUBLICATION OF DATA.—If the responsible person is the manufacturer or distributor of the drug, biological product, or device involved, the notice under subparagraphs (A)(i) and (C)(ii)(I) shall include a notice that the Secretary shall publish the data described in subsection (i)(3)(B) in the database if the responsible person has not submitted the information specified in the notice transmitted by the date that is 6 months after the date of such notice.

''(F) PUBLICATION OF DATA.—Notwithstanding section 301(j) of the Federal Food, Drug, and Cosmetic Act, section 1905 of title 18, United States Code, or any other provision of law, if the responsible person is the manufacturer or distributor of the drug, biological product, or device involved, and if the responsible person has not submitted to the Secretary the information specified in a notice transmitted pursuant to subparagraph (A)(i) or (C)(ii)(I) by the date that is 6 months after the date of such notice, the Secretary shall publish in the registry information that—

''(i) is described in subsection (i)(3)(B); and

''(ii) the responsible person has submitted to the Secretary in any application, including a supplemental application, for the drug or device under section 505, 510, 515, or 520 of the Federal Food, Drug, and Cosmetic Act or for the biological product under section 351.

''(3) DATE SPECIFIED.—The date specified in this paragraph shall be the date that is 1 year from the earlier of—

''(A) the estimated completion date of the trial, submitted under subsection (i)(3)(B)(vi)(I)(ii); or

''(B) the actual date of completion or termination of the trial.

''(4) USE OF FUNDS.—

''(A) IN GENERAL.—The Secretary shall deposit the funds collected under paragraph (2) into an account and use such funds, in consultation with the Director of the Agency for Healthcare Research and Quality, to fund studies that compare the clinical effectiveness of 2 or more treatments for similar diseases or conditions.

''(B) FUNDING DECISIONS.—The Secretary shall award funding under subparagraph (A) based on a priority list established not later than 6 months after the date of enactment of the FACT Act by the Director of the Agency for Healthcare Research and Quality and periodically updated as determined appropriate by the Director.

''(5) INCLUSION IN REGISTRY.—

''(A) GENERAL RULE.—The Secretary shall, pursuant to subsection (i)(5), include—

''(i) the data described in subsection (i)(3)(A) and submitted under the amendments made by section 4(a) of the FACT Act in the registry described in subsection (i) as soon as practicable after receiving such data; and

''(ii) the data described in clause (I) of subsection (i)(3)(B)(iv) and submitted under this subsection in the database described in subsection (i) as soon as practicable after receiving such data.

''(B) OTHER DATA.—

''(i) IN GENERAL.—The Secretary shall, pursuant to subsection (i)(5), include the data described in subclauses (II) through (X) of subsection (i)(3)(B)(iv) and submitted under this section in the database described in subsection (i)—

''(I) as soon as practicable after receiving such data; or

''(II) in the case of data to which clause (ii) applies, by the date described in clause (iii).

''(ii) DATA DESCRIBED.—This clause applies to data described in clause (i) if—

''(I) the responsible person involved requests a delay in the inclusion in the database of such data in order to have such data published in a peer reviewed journal; and

''(II) the Secretary determines that an attempt will be made to seek such publication.

''(iii) DATE FOR INCLUSION IN REGISTRY.—Subject to clause (iv), the date described in this clause is the earlier of—

''(I) the date on which the data involved is published as provided for in clause (ii); or

''(II) the date that is 18 months after the date on which such data is submitted to the Secretary.

''(iv) EXTENSION OF DATE.—The Secretary may extend the 18-month period described in clause (iii)(II) for an additional 6 months if the responsible person demonstrates to the Secretary, prior to the expiration of such 18-month period, that the data involved has been accepted for publication by a journal described in clause (ii)(I).

''(v) MODIFICATION OF DATA.—Prior to including data in the database under clause (ii) or (iv), the Secretary shall permit the responsible person to modify the data involved.

''(6) EFFECT.—The information with respect to a clinical trial submitted to the Secretary under this subsection, including data published by the Secretary pursuant to paragraph (2)(F), may not be submitted by a person other than the responsible person as part of, or referred to in, an application for approval of a drug or device under section 505, 510, 515, or 520 of the Federal Food, Drug, and Cosmetic Act or of a biological product under section 351, unless the information is available from a source other than the registry or database described in subsection (i).

''(l) PROCEDURES AND WAIVERS.—

''(1) SUBMISSION PRIOR TO NOTICE.—Nothing in subsections (j) through (k) shall be construed to prevent a principal investigator or a responsible person from submitting any information required under this subsection to the Secretary prior to receiving any notice described in such subsections.

''(2) ONGOING TRIALS.—A factually accurate statement that a clinical trial is ongoing shall be deemed to be information sufficient to demonstrate to the Secretary that the information described in subsections (j)(1)(A) and (k)(1)(A) cannot reasonably be submitted.

''(3) INFORMATION PREVIOUSLY SUBMITTED.—Nothing in subsections (j) through (k) shall be construed to require the Secretary to send a notice to any principal investigator or responsible person requiring the submission to the Secretary of information that has already been submitted.

''(4) SUBMISSION FORMAT AND TECHNICAL STANDARDS.—

''(A) IN GENERAL.—The Secretary shall, to the extent practicable, accept submissions required under this subsection in an electronic format and shall establish interoperable technical standards for such submissions.

''(B) CONSISTENCY OF STANDARDS.—To the extent practicable, the standards established under subparagraph (A) shall be consistent with standards adopted by the Consolidated Health Informatics Initiative (or a successor organization to such Initiative) to the extent such Initiative (or successor) is in operation.

''(5) TRIALS COMPLETED PRIOR TO ENACTMENT.—The Secretary shall establish procedures and mechanisms to allow for the voluntary submission to the database of the information described in subsection (i)(3)(B) with respect to clinical trials completed prior to the date of enactment of the FACT Act. In cases in which it is in the interest of public health, the Secretary may require that information from such trials be submitted to the database. To the extent practicable, submissions to the database shall comply with paragraph (4). Failure to comply with a requirement to submit information to the database under this paragraph shall be deemed to be a failure to submit information as required under this section, and the appropriate remedies and sanctions under this section shall apply.

''(6) TRIALS NOT INVOLVING DRUGS, BIOLOGICAL PRODUCTS, OR DEVICES.—The Secretary shall establish procedures and mechanisms to allow for the voluntary submission to the database of the information described in subsection (i)(3)(B) with respect to clinical trials that do not involve drugs, biological products, or devices. In cases in which it is in the interest of public health, the Secretary may require that information from such trials be submitted to the database. Failure to comply with such a requirement shall be deemed to be a failure to submit information as required under this section, and the appropriate remedies and sanctions under this section shall apply.

''(7) SUBMISSION OF INACCURATE INFORMATION.—

''(A) IN GENERAL.—If the Secretary determines that information submitted by a principal investigator or a responsible person under this section is factually and substantively inaccurate, the Secretary shall submit a notice to the investigator or responsible person concerning such inaccuracy that includes—

''(i) a summary of the inaccuracies involved; and

''(ii) a request for corrected information within 30 days.

''(B) AUDIT OF INFORMATION.—

''(i) IN GENERAL.—The Secretary may conduct audits of any information submitted under subsection (i).

''(ii) REQUIREMENT.—Any principal investigator or responsible person that has submitted information under subsection (i) shall permit the Secretary to conduct the audit described in clause (i).

''(C) CHANGES TO INFORMATION.—Any change in the information submitted by a principal investigator or a responsible person under this section shall be reported to the Secretary within 30 days of the date on which such investigator or person became aware of the change for purposes of updating the registry or the database.

''(D) FAILURE TO CORRECT.—If a principal investigator or a responsible person fails to permit an audit under subparagraph (B), provide corrected information pursuant to a notice under subparagraph (A), or provide changed information under subparagraph (C), the investigator or responsible person involved shall be deemed to have failed to submit information as required under this section and the appropriate remedies and sanction under this section shall apply.

''(E) CORRECTIONS.—

''(i) IN GENERAL.—The Secretary may correct, through any means deemed appropriate by the Secretary to protect public health, any information included in the registry or the database described in subsection (i) (including information described or contained in a publication referred to under subclause (VI) of subsection (i)(3)(B)(iv)) that is—

''(I) submitted to the Secretary for inclusion in the registry or the database; and

''(II) factually and substantively inaccurate or false or misleading.

''(ii) RELIANCE ON INFORMATION.—The Secretary may rely on any information from a clinical trial or a report of an adverse event acquired or produced under the authority of section 351 of this Act or of the Federal Food, Drug, and Cosmetic Act in determining whether to make corrections as provided for in clause (i).

''(iii) DETERMINATIONS RELATING TO MISLEADING INFORMATION.—For purposes of clause (i)(II), in determining whether information is misleading, the Secretary shall use the standard described in section 201(n) of the Federal Food, Drug, and Cosmetic Act that is used to determine whether labeling or advertising is misleading.

''(iv) RULE OF CONSTRUCTION.—This subparagraph shall not be construed to authorize the disclosure of information if—

''(I) such disclosure would constitute an invasion of personal privacy;

''(II) such information concerns a method or process which as a trade secret is entitled to protection within the meaning of section 301(j) of the Federal Food, Drug, and Cosmetic Act;

''(III) such disclosure would disclose confidential commercial information or a trade secret, other than a trade secret described in subclause (II), unless such disclosure is necessary—

''(aa) to make a correction as provided for under clause (i); and

''(bb) protect the public health; or

''(IV) such disclosure relates to a biological product for which no license is in effect under section 351, a drug for which no approved application is in effect under section 505(c) of the Federal Food, Drug, and Cosmetic Act, or a device that is not cleared under section 510(k) of such Act or for which no application is in effect under section 515 of such Act.

''(v) NOTICE.—In the case of a disclosure under clause (iv)(III), the Secretary shall notify the manufacturer or distributor of the drug, biological product, or device involved—

''(I) at least 30 days prior to such disclosure; or

''(II) if immediate disclosure is necessary to protect the public health, concurrently with such disclosure.

''(8) WAIVERS REGARDING CLINICAL TRIAL RESULTS.—The Secretary may waive the requirements of subsections (j)(1) and (k)(1) that the results of clinical trials be submitted to the Secretary, upon a written request from the responsible person if the Secretary determines that extraordinary circumstances justify the waiver and that providing the waiver is in the public interest, consistent with the protection of public health, or in the interest of national security. Not later than 30 days after any part of a waiver is granted, the Secretary shall notify, in writing, the appropriate committees of Congress of the waiver and provide an explanation for why the waiver was granted.

''(m) TRIALS CONDUCTED OUTSIDE OF THE UNITED STATES.—

''(1) IN GENERAL.—With respect to clinical trials described in paragraph (2), the responsible person shall submit to the Secretary the information required under subclauses (II) through (X) of subsection (i)(3)(B)(iv). The Secretary shall ensure that the information described in the preceding sentence is made available in the database under subsection (i) in a timely manner. Submissions to the database shall comply with subsection (l)(4) to the extent practicable. The Secretary shall include the information described in the preceding sentence in the database under subsection (i) as soon as practicable after receiving such information. Failure to comply with this paragraph shall be deemed to be a failure to submit information as required under this section, and the appropriate remedies and sanctions under this section shall apply.

''(2) CLINICAL TRIAL DESCRIBED.—A clinical trial is described in this paragraph if—

''(A) such trial is conducted outside of the United States; and

''(B) the data from such trial is—

''(i) submitted to the Secretary as part of an application, including a supplemental application, for a drug or device under section 505, 510, 515, or 520 of the Federal Food, Drug, and Cosmetic Act or for the biological product under section 351; or

''(ii) used in advertising or labeling to make a claim about the drug, device, or biological product involved.

''(n) DEFINITIONS; INDIVIDUAL LIABILITY.—

''(1) RESPONSIBLE PERSON.—

''(A) IN GENERAL.—In this section, the term 'responsible person' with respect to a clinical trial, means—

''(i) if such clinical trial is the subject of an investigational new drug application or an application for an investigational device exemption, the sponsor of such investigational new drug application or such application for an investigational device exemption; or

''(ii) except as provided in subparagraph (B), if such clinical trial is not the subject of an investigational new drug application or an application for an investigational device exemption—

''(I) the person that provides the largest share of the monetary support (such term does not include in-kind support) for the conduct of such trial; or

''(II) in the case in which the person described in subclause (I) is a Federal or State agency, the principal investigator of such trial.

''(B) NONPROFIT ENTITIES AND REQUESTING PERSONS.—

''(i) NONPROFIT ENTITIES.—For purposes of subparagraph (A)(ii)(I), if the person that provides the largest share of the monetary support for the conduct of the clinical trial involved is a nonprofit entity, the responsible person for purposes of this section shall be—

''(I) the nonprofit entity; or

''(II) if the nonprofit entity and the principal investigator of such trial jointly certify to the Secretary that the principal investigator will be responsible for submitting the information described in subsection (i)(3)(B) for such trial, the principal investigator.

''(ii) REQUESTING PERSONS.—For purposes of subparagraph (A)(ii)(I), if a person—

''(I) has submitted a request to the Secretary that the Secretary recognize the person as the responsible person for purposes of this section; and

''(II) the Secretary determines that such person—

''(aa) provides monetary support for the conduct of such trial;

''(bb) is responsible for the conduct of such trial; and

''(cc) will be responsible for submitting the information described in subsection (i)(3)(B) for such trial;

such person shall be the responsible person for purposes of this section.

''(2) DRUG, DEVICE, BIOLOGICAL PRODUCT.—In this section—

''(A) the terms 'drug' and 'device' have the meanings given such terms in section 201 of the Federal Food, Drug, and Cosmetic Act; and

''(B) the term 'biological product' has the meaning given such term in section 351 of this Act.

''(3) INDIVIDUAL LIABILITY.—

''(A) LIMITATION ON LIABILITY OF INDIVIDUALS.—No individual shall be liable for any civil monetary penalty under this section.

''(B) INDIVIDUALS WHO ARE RESPONSIBLE PERSONS.—If a responsible person under subparagraph (A) or (B) of paragraph (1) is an individual, such individual shall be subject to the procedures and conditions described in subsection (j).''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 402 of the Public Health Service Act (42 U.S.C. 282), as amended by this section, is further amended by adding at the end the following:

''(q) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.''.

(d) CONFORMING AMENDMENT.—Section 402(c)(1)(D) of the Public Health Service Act (42 U.S.C. 282(c)(1)(D)), as amended by Public Law 109-482, is amended by striking ''402(k)'' and inserting ''402(p)''.

SEC. 4. REVIEW AND APPROVAL OF PROPOSALS FOR RESEARCH.

(a) AMENDMENTS.—Section 492A(a) of the Public Health Service Act (42 U.S.C. 289a–1(a)) is amended—

(1) in paragraph (1)(A), by striking ''unless'' and all that follows through the period and inserting the following: ''unless—

''(i) the application has undergone review in accordance with such section and has been recommended for approval by a majority of the members of the Board conducting the review;

''(ii) such Board has submitted to the Secretary a notification of such approval; and

''(iii) with respect to an application involving a clinical trial to which section 402(i) applies, the principal investigator who has submitted such application has submitted to the Secretary for inclusion in the registry and the database described in section 402(i) the information described in paragraph (3)(A) and subclause (I) of paragraph (3)(B)(iv) of such section.''; and

(2) by adding at the end the following:

''(3) COST RECOVERY.—Nonprofit entities may recover the full costs associated with compliance with the requirements of paragraph (1) from the Secretary as a direct cost of research.''.

(b) REGULATIONS.—The Secretary of Health and Human Services shall modify the regulations promulgated at part 46 of title 45, Code of Federal Regulations, part 50 of title 21, Code of Federal Regulations, and part 56 of title 21, Code of Federal Regulations, to reflect the amendments made by subsection (a).

(c) CONFORMING AMENDMENT.—Section 492A(a)(2) of the Public Health Service Act (42 U.S.C. 289a–1(a)(2)), as amended by Public Law 109-482, is amended by striking ''402(k)'' and inserting ''402(p)''.

SEC. 5. PROHIBITED ACTS.

Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended by adding at the end the following:

''(ii)(1) The entering into of a contract or other agreement by a responsible person or a manufacturer of a drug, biological product, or device with an individual who is not an employee of such responsible person or manufacturer, or the performance of any other act by such a responsible person or manufacturer, that prohibits, limits, or imposes unreasonable delays on the ability of such individual to—

''(A) discuss the results of a clinical trial at a scientific meeting or any other public or private forum; or

''(B) publish the results of a clinical trial or a description or discussion of the results of a clinical trial in a scientific journal or any other publication.

''(2) The entering into a contract or other agreement by a responsible person or a manufacturer of a drug, biological product, or device with an academic institution or a health care facility, or the performance of any other act by such a responsible person or manufacturer, that prohibits, limits, or imposes unreasonable delays on the ability of an individual who is not an employee of such responsible person or manufacturer to—

''(A) discuss the results of a clinical trial at a scientific meeting or any other public or private forum; or

''(B) publish the results of a clinical trial or a description or discussion of the results of a clinical trial in a scientific journal or any other publication.''.

SEC. 6. REPORTS.

(a) IMPLEMENTATION REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to the appropriate committees of Congress a report on the status of the implementation of the requirements of the amendments made by section 3 that includes a description of the number and types of clinical trials for which information has been submitted under such amendments.

(b) DATA COLLECTION.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall enter into a contract with the Institute of Medicine for the conduct of a study concerning the extent to which data submitted to the registry under section 402(i) of the Public Health Service Act (42 U.S.C. 282(i)) has impacted the public health.

(2) REPORT.—Not later than 6 months after the date on which a contract is entered into under paragraph (1), the Institute of Medicine shall submit to the Secretary of Health and Human Services a report on the results of the study conducted under such paragraph. Such report shall include recommendations for changes to the registry, the database, and the data submission requirements that would benefit the public health.

Mr. GRASSLEY. Madam President, I am pleased to have bipartisan sponsorship of two very important bills with Senator DODD of Connecticut that are being introduced today, the Food and Drug Administration Safety Act of 2007 and the Fair Access to Clinical Trials Act of 2007.

These bills are part of a sustained effort to restore public confidence in the Federal Government's food and drug safety program and to make sure the agency does all it can to protect the public.

Enactment of those two bills would provide doctors and patients with more information about the risks and benefits of their medicines and bring about greater transparency and accountability of the Food and Drug Administration.

I am sure my colleagues realize I have been involved in oversight of the Food and Drug Administration for now at least 3 years, and it has been in response to concerns about the reluctance of the Food and Drug Administration to provide information to the public about the increased suicide risks for young people taking antidepressants.

In November 2004, I chaired a groundbreaking hearing on drug safety involving the Food and Drug Administration and the drug Vioxx. That hearing and other critical drug safety concerns that have come to light since then highlight the need for comprehensive and systematic reforms as well as more stringent oversight of the Food and Drug Administration.

Over the past 3 years, it has become increasingly apparent that the Food and Drug Administration has repeatedly failed to protect the public from an industry that focuses all too often on profits, even when those profits come at the expense of ''John Q. Public.''

In 2005, then, and because of this, Senator DODD and I introduced almost identical companion bills to advance serious reforms at the Food and Drug Administration. In the 2 years following the introduction of those bills, however, the Food and Drug Administration failed to take comprehensive and systematic steps toward restoring public confidence in that agency, as well as the necessity of strengthening public safety.

Yesterday, the Food and Drug Administration released its response to the Institute of Medicine's 2006 report on drug safety. The two safety bills introduced today are not intended to supplant the plans articulated in the Food and Drug Administration's response but, rather, to augment those plans and to provide the FDA with additional enforcement tools, something they now lack.

In fact, one of our bills is intended to specifically address a serious problem that was also identified by the Institute of Medicine. Dr. Alta Charo, a member of the Institute of Medicine committee that wrote the report on drug safety, stated in the newspaper USA Today:

I have to confess I'm disappointed that they—

Meaning the FDA—

ignored one of our most critical recommendations.

According to the USA Today article, she was referring to the Institute of Medicine's recommendation that the Food and Drug Administration give more clout to the office that monitors drugs after they go to market. I want you to know I agree with Dr. Charo.

The Food and Drug Administration Safety Act of 2007 would then establish an independent center within the Food and Drug Administration. The name of the center would be the Center for Postmarket Evaluation and Research for Drugs and Biologics. The director of this center would report directly to the Food and Drug Administration Commissioner and would be responsible for conducting risk assessments for approved drugs and biological products.

The new center would also be responsible for ensuring the safety and effectiveness of drugs once they are on the market. Unfortunately, the problem we are trying to solve is that now at the FDA, the office that reviews drug safety postmarketing is a mere consultant and under the thumb of the office that puts the drugs on the market in the first place.

Even more troubling is the fact that those who speak out of line are targeted. Whistleblowers, as we call them, are targeted. They are very helpful to Congress in ferreting out wrongdoing, that laws are not being faithfully executed, that money is not being spent according to congressional intent. So they speak out at the FDA and point out a lot of things that are wrong. And what do they get for it? They are treated like a skunk at a picnic. They are targeted.

So this legislation we put before us would provide the new center with the independence and authority to promptly identify serious safety risks and take necessary actions to protect the public, and I hope eliminate some of the intimidation against whistleblowers.

At the same time, the intra-agency communication is essential in addressing drug safety. So this legislation would encourage communication between the center and other centers and offices, or let's say subagencies at the Food and Drug Administration that handle drugs and biological products, to do what is best for the consumer and not have big PhRMA having undue influence.

The second bill we are introducing would expand an existing Web site, www.clinicaltrials.gov, to create a publicly accessible national databank of clinical trial information. The databank would be comprised of a clinical trial registry and a clinical trial results database of all publicly and privately funded clinical trials so that everything is out there for the public to consider, not letting somebody choose: Well, if this is a little negative toward our drug, we will not make that public. All the positive stuff, of course, we will make public.

So I think this legislation is going to foster transparency. But it is going to bring about a great deal of accountability in health research and development and ensure that the scientific community and, most importantly, the general public whom we are trying to protect have access to basic information about clinical trials, about new drugs going out on the market.

The legislation would also create an environment that would encourage companies from withholding clinically important information about their products from the Food and Drug Administration and from the public.

By the way, the information that is coming out now about Vioxx in the newspapers today will even tell you that a long time before Vioxx went on the market there were scientists within the company who were raising questions about whether it was going to cause harm to the heart. All of this information should be out there. The public ought to know it. Your doctor ought to know it. Transparency and accountability should not hurt anybody in an open society such as we have in

America. Oh, there might be some legitimate reasons for intellectual property privacy, but nothing beyond that.

If we have learned anything over the last few years, it is that the Food and Drug Administration is a troubled agency that lost sight of its fundamental function. That fundamental function is to protect the safety and the efficacy of new prescription drugs.

Two very important things for them to answer: Are the drugs safe for you? Are they effective?

Unfortunately, the public has good reason to doubt the Food and Drug Administration's ability to do its job. And experts from all over the country have expressed concern. These two bills, then, that Senator DODD and I are introducing—and let me parenthetically say for the public, people are always thinking that Democrats are hitting on Republicans and Republicans are hitting on Democrats. There is a lot going on around here you never see on evening television that is bipartisan because there is not controversy about it, or at least there is no controversy between Republicans and Democrats. But what they want to put in the news media every night is when some Republican is fighting some Democrat. So our constituents get a view about this Congress that is very distorted.

I would like to have people read on a regular basis about how Senator BAUCUS and I meet on a regular basis to determine the agenda for the Finance Committee. I would like to have them read about how he and I have put out bipartisan bills for the last 6 years—whether he was chairman or I was chairman—and that every one of them got to the President to be signed. But you do not hear those things.

So I want to emphasize, this is a DODD—and Senator DODD is a Democrat from Connecticut—and a GRASSLEY bill—and GRASSLEY is a Republican Senator from Iowa. So this bill is being introduced to ensure the safety and efficacy of new prescription drugs, not to do something new for the FDA, just to give them the tools to do what they have had a responsibility to do for several decades.

So the public has doubts about the FDA's ability to do it. These two bills will help put the FDA back on the path to fulfilling its mission and, most importantly, put the American consumer first.

So, Madam President, in closing, I ask unanimous consent that my statement in the RECORD that I give today be coupled with the statement of Senator DODD, which will be given later today, regarding the introduction of these important bills.

By giving me this unanimous consent, it will assure the public, when they read about these bills, knows that DODD is a Democrat, GRASSLEY is a Republican, and they are bipartisan bills.

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

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

S. 468

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 ''Food and Drug Administration Safety Act of 2007''.

SEC. 2. CENTER FOR POSTMARKET EVALUATION AND RESEARCH FOR DRUGS AND BIOLOGICS.

(a) IN GENERAL.—Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by inserting after section 506C the following:

''SEC. 507. DRUG SAFETY.

''(a) ESTABLISHMENT OF THE CENTER FOR POSTMARKET EVALUATION AND RESEARCH FOR DRUGS AND BIOLOGICS.—There is established within the Food and Drug Administration a Center for Postmarket Evaluation and Research for Drugs and Biologics (referred to in the section as the 'Center'). The Director of the Center shall report directly to the Commissioner of Food and Drugs.

''(b) DUTIES OF THE CENTER FOR POSTMARKET EVALUATION AND RESEARCH FOR DRUGS AND BIOLOGICS.—

''(1) RESPONSIBILITIES OF DIRECTOR.—The Director of the Center, in consultation with the Director of the Center for Drug Evaluation and Research or the Director of the Center for Biologics Evaluation and Research, as appropriate, shall—

''(A) conduct postmarket risk assessment of drugs approved under section 505 of this Act and of biological products licensed under section 351 of the Public Health Service Act;

''(B) conduct and improve postmarket surveillance of approved drugs and licensed biological products using postmarket surveillance programs and activities (including MedWatch), risk-benefit analyses, adverse event reports, the scientific literature, any clinical or observational studies (including studies required under subsection (d) or (e)), and any other resources that the Director of the Center determines appropriate;

''(C) determine whether a study is required under subsection (d) or (e) and consult with the sponsors of drugs and biological products to ensure that such studies are completed by the date, and according to the terms, specified by the Director of the Center;

''(D) contract, or require the sponsor of an application or the holder of an approved application or license to contract, with the holders of domestic and international patient databases to conduct epidemiologic and other observational studies;

''(E) determine, based on postmarket surveillance programs and activities (including MedWatch), risk-benefit analyses, adverse event reports, the scientific literature, and any clinical or observational studies (including studies required under subsection (d) or (e)), and any other resources that the Director of the Center determines appropriate, whether a drug or biological product may present an unreasonable risk to the health of patients or the general public, and take corrective action if such an unreasonable risk may exist;

''(F) make information about the safety and effectiveness of approved drugs and licensed biological products available to the public and healthcare providers in a timely manner; and

''(G) conduct other activities as the Director of the Center determines appropriate to ensure the safety and effectiveness of all drugs approved under section 505 and all biological products licensed under section 351 of the Public Health Service Act.

''(2) DETERMINATION OF UNREASONABLE RISK.—In determining whether a drug or biological product may present an unreasonable risk to the health of patients or the general public, the Director of the Center, in consultation with the Director of the Center for Drug Evaluation and Research or the Director of the Center for Biologics Evaluation and Research, as appropriate, shall consider the risk in relation to the known benefits of such drug or biological product.

''(c) SECRETARIAL AUTHORITY.—

''(1) IN GENERAL.—Approval of a drug under section 505 of this Act or issuance of a license for a biological product under section 351 of the Public Health Service Act may be subject to the requirement that the sponsor conduct 1 or more postmarket studies as described in subsection (d) or (e) of this section, or other postmarket studies as required by the Secretary, to validate the safety and effectiveness of the drug or biological product.

''(2) DEFINITION.—For purposes of this section, the term 'postmarket' means—

''(A) with respect to a drug, after approval of an application under section 505; and

''(B) with respect to a biological product, after licensure under section 351 of the Public Health Service Act.

''(d) PREAPPROVAL REVIEW.—

''(1) REVIEW OF APPLICATION.—

''(A) IN GENERAL.—

''(i) REVIEW.—At any time before a drug is approved under section 505 of this Act or a biological product is licensed under section 351 of the Public Health Service Act, the Director of the Center shall review the application (or supplement to the application), and any analyses associated with the application, of such drug or biological product.

''(ii) EFFECT OF APPROVAL OR LICENSURE.—The approval of a drug under section 505 or the licensure of a biological product under such section 351 shall not affect the continuation and completion of a review under clause (i).

''(B) LIMITATION.—In no case shall the review under subparagraph (A) delay a decision with respect to an application for a drug under section 505 of this Act or for a biological product under section 351 of the Public Health Service Act.

''(2) RESULT OF REVIEW.—The Director of the Center may, based on the review under paragraph (1)—

''(A) require that the sponsor of the application agree to conduct 1 or more postmarket studies to determine the safety or effectiveness of a drug or biological product, including such safety or effectiveness as compared to other drugs or biological products, to be completed by a date, and according to the terms, specified by the Director of the Center; or

''(B) contract, or require the sponsor of the application to contract, with a holder of a domestic or an international patient database to conduct 1 or more epidemiologic or other observational studies.

''(e) POSTMARKETING STUDIES OF DRUG SAFETY.—

''(1) IN GENERAL.—At any time after a drug is approved under section 505 of this Act or a biological product is licensed under section 351 of the Public Health Service Act, the Director of the Center, may—

''(A) require that the holder of an approved application or license conduct 1 or more studies to determine the safety or effectiveness of such drug or biological product, including such safety and effectiveness as compared to other drugs or biological products, to be completed by a date, and according to the terms, specified by such Director; or

''(B) contract, or require the holder of the approved application or license to contract, with a holder of a domestic or an international patient database to conduct 1 or more epidemiologic or other observational studies.

''(2) REVIEW OF OUTSTANDING STUDIES.—Not later than 90 days after the date of enactment of the Food and Drug Administration Safety Act of 2007, the Director of the Center shall—

''(A) review and publish a list in the Federal Register of any postmarketing studies outstanding on the date of enactment of the Food and Drug Administration Safety Act of 2007; and

''(B) as the Director determines appropriate, require the sponsor of a study described in subparagraph (A) to conduct such study under this subsection.

''(f) PUBLICATION OF PROGRESS REPORTS AND COMPLETED STUDIES.—

''(1) IN GENERAL.—The Director of the Center shall require that the sponsor of a study under subsection (d) or (e) submit to the Secretary—

''(A) not less frequently than every 90 days, an up-to-date report describing the progress of such study; and

''(B) upon the completion date of such study, the results of such study.

''(2) COMPLETION DATE.—For purposes of this section, the completion date of such study shall be determined by the Director of the Center.

''(g) DETERMINATIONS BY DIRECTOR.—

''(1) RESULTS OF STUDY.—The Director of the Center shall determine, upon receipt of the results of a study required under subsection (d) or (e)—

''(A) whether the drug or biological product studied may present an unreasonable risk to the health of patients or the general public; and

''(B) what, if any, corrective action under subsection (k) shall be taken to protect patients and the public health.

''(2) RESULTS OF EVIDENCE.—The Director of the Center may, at any time, based on the empirical evidence from postmarket surveillance programs and activities (including MedWatch), risk-benefit analyses, adverse event reports, the scientific literature, any clinical or observational studies (including studies required under subsection (d) or (e)), or any other resources that the Director of the Center determines appropriate—

''(A) make a determination that a drug or biological product may present an unreasonable risk to the health of patients or the general public; and

''(B) order a corrective action under subsection (k) be taken to protect patients and the public health.

''(3) REQUIRED CONSULTATION AND CONSIDERATIONS.—Before making a determination under paragraph (2), ordering a study under subsection (d) or (e), or taking a corrective action under subsection (k), the Director of the Center shall—

''(A) consult with the Director of the Center for Drug Evaluation and Research or the Director of the Center for Biologics Evaluation and Research, as appropriate; and

''(B) consider—

''(i) the benefit-to-risk profile of the drug or biological product;

''(ii) the effect that a corrective action, or failure to take corrective action, will have on the patient population that relies on the drug or biological product; and

''(iii) the extent to which the drug or biological product presents a meaningful therapeutic benefit as compared to other available treatments.

''(h) PUBLIC INFORMATION.—Periodically, but not less often than every 90 days, the Secretary shall make available to the public, by publication in the Federal Register and posting on an Internet website, the following information:

''(1) Studies required under subsection (d) or (e) including—

''(A) the type of study;

''(B) the nature of the study;

''(C) the primary and secondary outcomes of the study;

''(D) the date the study was required under subsection (d) or (e) or was agreed to by the sponsor;

''(E) the deadline for completion of the study; and

''(F) if the study has not been completed by the deadline under subparagraph (E), a statement that explains why.

''(2) The periodic progress reports and results of completed studies described under subsection (f).

''(3) Any determinations made by the Director of the Center under subsection (g), including—

''(A) reasons for the determination, including factual basis for such determination;

''(B) reference to supporting empirical data; and

''(C) an explanation that describes why contrary data is insufficient.

''(i) DRUG ADVISORY COMMITTEE.—The Drug Safety and Risk Management Advisory Committee within the Center of the Food and Drug Administration shall—

''(1) meet not less frequently than every 180 days; and

''(2) make recommendations to the Director of the Center with respect to—

''(A) which drugs and biological products should be the subject of a study under subsection (d) or (e);

''(B) the design and duration for studies under subsection (d) or (e);

''(C) which drugs and biological products may present an unreasonable risk to the health of patients or the general public; and

''(D) appropriate corrective actions under subsection (k).

''(j) PENALTIES.—

''(1) IN GENERAL.—If the Secretary determines, after notice and opportunity for an informal hearing, that a sponsor of a drug or biological product or other entity has failed to complete a study required under subsection (d) or (e) by the date or to the terms specified by the Secretary under such subsection, the Secretary may order such sponsor or other entity to—

''(A) complete the study in a specified time;

''(B) revise the study to comply with the terms specified by the Secretary under subsection (d) or (e); or

''(C) pay a civil penalty.

''(2) AMOUNT OF PENALTIES.—

''(A) IN GENERAL.—The civil penalty ordered under paragraph (1) shall be $250,000 for the first 30-day period after the date specified by the Secretary that the study is not completed, and shall double in amount for every 30-day period thereafter that the study is not completed.

''(B) LIMITATION.—In no case shall a penalty under subparagraph (A) exceed $2,000,000 for any 30-day period.

''(3) NOTIFICATION OF PENALTY.—The Secretary shall publish in the Federal Register any civil penalty ordered under this subsection.

''(k) RESULT OF DETERMINATION.—

''(1) IN GENERAL.—If the Director of the Center makes a determination that a drug or biological product may present an unreasonable risk to the health of patients or the general public under subsection (g), such Director shall order a corrective action, as described under paragraph (2).

''(2) CORRECTIVE ACTIONS.—The corrective action described under subsection (g)—

''(A) may include—

''(i) requiring a change to the drug or biological product label by a date specified by the Director of the Center;

''(ii) modifying the approved indication of the drug or biological product to restrict use to certain patients;

''(iii) placing restriction on the distribution of the drug or biological product to ensure safe use;

''(iv) requiring the sponsor of the drug or biological product or license to establish a patient registry;

''(v) requiring patients to sign a consent form prior to receiving a prescription of the drug or biological product;

''(vi) requiring the sponsor to monitor sales and usage of the drug or biological product to detect unsafe use;

''(vii) requiring patient or physician education; and

''(viii) requiring the establishment of a risk management plan by the sponsor; and

''(B) shall include the requirements with respect to promotional material under subsection (l)(1).

''(3) PENALTIES.—

''(A) IN GENERAL.—If the Secretary determines, after notice and opportunity for an informal hearing, that a sponsor of a drug or biological product has failed to take the corrective action ordered by the Director of the Center under this subsection or has failed to comply with subsection (l)(2), the Secretary may order such sponsor to pay a civil penalty.

''(B) AMOUNT OF PENALTIES.—

''(i) IN GENERAL.—The civil penalty ordered under subparagraph (A) shall be $250,000 for the first 30-day period that the sponsor does not comply with the order under paragraph (1), and shall double in amount for every 30-day period thereafter that the order is not complied with.

''(ii) LIMITATION.—In no case shall a penalty under clause (i) exceed $2,000,000 for any 30-day period.

''(C) NOTIFICATION OF PENALTY.—The Secretary shall publish in the Federal Register any civil penalty ordered under this paragraph.

''(l) PROMOTION MATERIAL.—

''(1) SAFETY ISSUE.—If the Director of the Center makes a determination that a drug or biological product may present an unreasonable risk to the health of patients or the general public under subsection (g), such Director, in consultation with the Division of Drug Marketing, Advertising, and Communications of the Food and Drug Administration, shall—

''(A) notwithstanding section 502(n), require that the sponsor of such drug or biological product submit to the Director of the Center copies of all promotional material with respect to the drug or biological product not less than 30 days prior to the dissemination of such material; and

''(B) require that all promotional material with respect to the drug or biological product include certain disclosures, which shall be displayed prominently and in a manner easily understood by the general public, including—

''(i) a statement that describes the unreasonable risk to the health of patients or the general public as determined by the Director of the Center;

''(ii) a statement that encourages patients to discuss potential risks and benefits with their healthcare provider;

''(iii) a description of the corrective actions required under subsection (k);

''(iv) where appropriate, a statement explaining that there may be products available to treat the same disease or condition that present a more favorable benefit-to-risk profile, and that patients should talk to their healthcare provider about the risks and benefits of alternative treatments;

''(v) a description of any requirements of outstanding clinical and observational studies, including the purpose of each study; and

''(vi) contact information to report a suspected adverse reaction.

''(2) NEW PRODUCTS; OUTSTANDING STUDIES.—For the first 2-year period after a drug is approved under section 505 of this Act or a biological product is licensed under section 351 of the Public Health Service Act, and with respect to drugs and biological products for which there are outstanding study requirements under subsection (d) or (e), the Director of the Center, in consultation with the Division of Drug Marketing, Advertising, and Communications of the Food and Drug Administration, shall—

''(A) notwithstanding section 502(n), require that the sponsor of such drug or biological product submit to the Director of the Center copies of all promotional material with respect to the drug or biological product not less than 30 days prior to the dissemination of such material; and

''(B) require that all promotional material with respect to the drug or biological product include certain disclosures, which shall be displayed prominently and in a manner easily understood by the general public, including—

''(i) a statement explaining that the drug or biological product is newly approved or licensed or the subject of outstanding clinical or observational studies, as the case may be, and, as a result, not all side effects or drug interactions may be known;

''(ii) the number of people in which the drug or biological product has been studied and the duration of time during which the drug or biological product has been studied;

''(iii) a statement that encourages patients to discuss the potential risks and benefits of treatment with their healthcare provider;

''(iv) a description of any requirements of outstanding clinical and observational studies, including the purpose of each study; and

''(v) contact information to report a suspected adverse reaction.

''(3) EFFECT OF VOLUNTARY SUBMISSION.—Paragraphs (1)(A) and (2)(A) shall not apply to the sponsor of a drug or biological product if such sponsor has voluntarily submitted to the Division of Drug Marketing, Advertising, and Communications of the Food and Drug Administration all promotional material with respect to the drug or biological product prior to the dissemination of such material.

''(m) WITHDRAWAL OR SUSPENSION OF APPROVAL OR LICENSURE.—

''(1) IN GENERAL.—The Director of the Center, may withdraw or suspend approval of a drug or licensure of a biological product using expedited procedures (as prescribed by the Secretary in regulations promulgated not later than 1 year after the date of enactment of the Food and Drug Administration Safety Act of 2007, which shall include an opportunity for an informal hearing) after consultation with the Director of the Center for Drug Evaluation and Research or the Director of the Center for Biologics Evaluation and Research, as appropriate, and any other person as determined appropriate by the Director of the Center, if—

''(A) the Director of the Center makes a determination that the drug or biological product may present an unreasonable risk to the health of patients or the general public, and that risk cannot be satisfactorily alleviated by a corrective action under subsection (k); or

''(B) the sponsor fails to comply with an order or requirement under this section.

''(2) PUBLIC INFORMATION.—The Secretary shall make available to the public, by publication in the Federal Register and posting on an Internet website, the details of the consultation described in paragraph (1), including—

''(A) the reason for the determination to withdraw, suspend, or failure to withdraw or suspend, approval for the drug or licensure for the biological product;

''(B) the factual basis for such determination;

''(C) reference to supporting empirical data;

''(D) an explanation that describes why contrary data is insufficient; and

''(E) the position taken by each individual consulted.

''(n) EFFECT OF SECTION.—The authorities conferred by this section shall be separate from and in addition to the authorities conferred by section 505B.

''(o) ADMINISTRATION OF SECTION.—The provisions of this section shall be carried out by the Secretary, acting through the Director of the Center.''.

(b) MISBRANDING.—Section 502 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352) is amended by inserting after subsection (j) the following:

''(k) If it is a drug or biological product for which the sponsor of an application or holder of an approved application or license has not complied with an order or requirement under section 507.''.

(c) REPORT ON DEVICES.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services, in consultation with the Commissioner of Food and Drugs, the Director of the Center for Postmarket Evaluation and Research for Drugs and Biologics, and the Director of the Center for Devices and Radiological Health, shall submit to Congress a report that—

(1) identifies gaps in the current process of postmarket surveillance of devices approved under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.);

(2) includes recommendations on ways to improve gaps in postmarket surveillance of devices; and

(3) identifies the changes in authority needed to make those improvements, recognizing the legitimate differences between devices and other medical products regulated by the Food and Drug Administration.

(d) TRANSFER OF FUNCTIONS.—The functions and duties of the Office of Surveillance and Epidemiology, including the Drug Safety and Risk Management Advisory Committee, of the Food and Drug Administration on the day before the date of enactment of this Act shall be transferred to the Center for Postmarket Evaluation and Research for Drugs and Biologics established under section 507 of the Federal Food, Drug, and Cosmetic Act (as added by this section). The Center for Postmarket Evaluation and Research for Drugs and Biologics shall be a separate entity within the Food and Drug Administration and shall not be an administrative office of the Center for Drug Evaluation and Research or the Center for Biologics Evaluation and Research.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this Act (and the amendments made by this Act)—

(1) $50,000,000 for fiscal year 2008;
(2) $75,000,000 for fiscal year 2009;
(3) $100,000,000 for fiscal year 2010;
(4) $125,000,000 for fiscal year 2011; and
(5) $150,000,000 for fiscal year 2012.

By Mr. BAUCUS (for himself and Mr. GRASSLEY):

S. 469. A bill to amend the Internal Revenue Code of 1986 to make permanent the special rule for contributions of qualified conservation contributions; to the Committee on Finance.

Mr. BAUCUS. Mr. President, I rise today to introduce the Rural Heritage Conservation Extension Act of 2007, along with my good friend Senator GRASSLEY from Iowa.

As we all know, the country, and my home State of Montana, are losing precious agricultural and ranch lands at a record pace. While providing Montana and the Nation with the highest quality food and fiber, these farms and ranches also provide habitat for wildlife and the open spaces, land that many of us take for granted and assume will always be there. Montana has begun to recognize the importance of these lands. We currently have 1,573,411 acres covered by conservation easements. To some, that may seem like a large amount, but this is Montana, a State that covers 93,583,532 acres, making the conservation easements coverage a mere 1.68 percent of all of our lands.

To assure that open space and habitat will be there for future generations, we must help our hardworking farmers and ranchers preserve this precious heritage and their way-of-life.

Conservation easements have been tremendously successful in preserving open space and wildlife habitat. Last year, the Congress recognized this by providing targeted income tax relief to small farmers and ranchers who wish to make a charitable contribution of a qualified conservation easement. The provision allows eligible farmers and ranchers to increase the amounts of deduction that may be taken currently for charitable contributions of qualified conservation easements by raising the Adjusted Gross Income (AGI) limitations to 100 percent and extending the carryover period from 5 years to 15 years. In the case of all landowners, the AGI limitation would be raised from 30 percent to 50 percent.

The Rural Heritage Conservation Extension Act of 2007 would make this allowable deduction permanent, building on the success of conservation easements. Our farmers and ranchers will be able to preserve their important agricultural and ranching lands for future generations, while continuing to operate their businesses. Landowners, conservationists, the Federal Government, and local communities are working together to preserve our precious natural resources.

This legislation is vitally important to Montana, and to every other State in the Nation.

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

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

S. 469

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

SECTION 1. SPECIAL RULE FOR CONTRIBUTIONS OF QUALIFIED CONSERVATION CONTRIBUTIONS MADE PERMANENT.

(a) IN GENERAL.—

(1) INDIVIDUALS.—Subparagraph (E) of section 170(b)(1) of the Internal Revenue Code of 1986 (relating to contributions of qualified conservation contributions) is amended by striking clause (vi).

(2) CORPORATIONS.—Subparagraph (B) of section 170(b)(2) of such Code (relating to qualified conservation contributions) is amended by striking clause (iii).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made in taxable years beginning after the date of the enactment of this Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 52—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON THE BUDGET

Mr. CONRAD submitted the following resolution; from the Committee on the Budget; which was referred to the Committee on Rules and Administration.

S. RES. 52

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on the Budget is authorized from March 1, 2007, through September 30, 2007; October 1, 2007, through September 30, 2008; and October 1, 2008, through February 28, 2009, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or nonreimbursable basis the services of personnel of any such department or agency.

SEC. 2. (a) The expenses of the committee for the period March 1, 2007, through September 30, 2007, under this resolution shall not exceed $3,554,606, of which amount (1) not to exceed $35,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946), and (2) not to exceed $70,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period October 1, 2007, through September 30, 2008, expenses of the committee under this resolution shall not exceed $6,230,828, of which amount (1) not to exceed $60,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946), and (2) not to exceed $120,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(c) For the period October 1, 2008, through February 28, 2009, expenses of the committee under this resolution shall not exceed $2,646,665, of which amount (1) not to exceed $25,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946), and (2) not to exceed $50,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 2008, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services, or (7) for payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

SENATE RESOLUTION 53—CONGRATULATING ILLINOIS STATE UNIVERSITY AS IT MARKS ITS SESQUICENTENNIAL

Mr. DURBIN (for himself and Mr. OBAMA) submitted the following resolution; which was referred to the Committe on the Judiciary:

S. RES. 53

Whereas Illinois State University marks its sesquicentennial with a year-long celebration, beginning with Founders Day on February 15, 2007;

Whereas Illinois State University is the oldest public university in the State of Illinois;

Whereas Illinois State University has 34 academic departments and offers more than 160 programs of study in the College of Applied Science and Technology, the College of Arts and Sciences, the College of Business, the College of Education, the College of Fine Arts, and the Mennonite College of Nursing;

Whereas Illinois State University is 1 of the 10 largest producers of teachers in the Nation, and nearly 1 in 7 Illinois teachers holds a degree from Illinois State University;

Whereas Milner Library at Illinois State University contains more than 3 million holdings and special collections;

Whereas Illinois State University is ranked nationally as one of the 100 ''best values'' in public higher education; and

Whereas Illinois State University participates in the American Democracy Project, an initiative that prepares students to engage in a competitive global society: Now, therefore, be it

Resolved, That the Senate congratulates Illinois State University as it marks its sesquicentennial.

Mr. DURBIN. Mr. President, I rise today to congratulate Illinois State University, ISU, as it marks its 150th year of providing an outstanding college education to students in the State of Illinois.

Illinois State University commemorates its 150th anniversary this year with a year-long celebration that begins with Founders Day on February 15, 2007. ISU was founded as Bloomington-Normal in 1857. The school was Illinois's first public university and is one of the oldest institutions of higher education in the Midwest. Abraham Lincoln himself drew up the legal papers to establish the University, which has grown from a small teachers' college to a premiere liberal arts university. The University now serves more than 20,000 talented undergraduate and graduate students from across the country and from 88 nations.

For 150 years, Illinois State University has prided itself on providing a high quality education at a cost within the reach of most students. In fact, ISU is ranked nationally as one of the 100 ''best values'' in public higher education, according to Kiplinger magazine. ISU students can choose the program that best fits their academic needs from among 63 undergraduate programs in more than 160 fields of study. In particular, I commend Illinois State for its successful College of Education, which continues the University's long tradition of educating teachers. ISU is one of the 10 largest producers of teachers in the Nation. In fact, nearly 1 in 7 Illinois teachers holds a degree from ISU. By educating future teachers, Illinois State University has played an invaluable role in shaping the education of Illinois children.

Illinois State hosts a large and successful athletics program. During the past 23 years, the ISU Redbirds have won 125 league titles in 19 intercollegiate sports. Redbird competitors have gone on to be professional athletes, Olympians, and World Series Champions, as in the case of pitcher Neal Cotts, an ISU alumnus and member of the 2005 World Champion Chicago White Sox team.

Students at Illinois State are encouraged to embrace the University's motto, ''Gladly we Learn and Teach,'' both in and outside the classroom. Many students choose to take part in public service and outreach programs that provide learning and service experiences beyond the classroom. ISU also participates in the American Democracy Project, an initiative that prepares students to be engaged in a competitive global society.

Illinois State University has proven itself to be a tremendous asset to the students and citizens of Illinois for the past 150 years. I congratulate the University on its 150th anniversary, and I look forward to many more years of excellence in education and academic advancement in the future.

SENATE RESOLUTION 54—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. KENNEDY submitted the following resolution; from the Committee on Health, Education, Labor, and Pensions; which was referred to the Committee on Rules and Administration:

S. RES. 54

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Health, Education, Labor, and Pensions is authorized from March 1, 2007, through September 30, 2007; October 1, 2007, through September 30, 2008; and October 1, 2008, through February 28, 2009, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursible basis the services of personnel of any such department or agency.

SEC. 2(a). The expenses of the committee for the period March 1, 2007, through September 30, 2007, under this resolution shall not exceed $4,794,663, of which amount (1) not to exceed $75,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $25,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period October 1, 2007, through September 30, 2008, expenses of the committee under this resolution shall not exceed $8,402,456, of which amount (1) not to exceed $75,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $25,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(c) For the period October 1, 2008, through February 28, 2009, expenses of the committee under this resolution shall not exceed $3,568,366, of which amount (1) not to exceed $75,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $25,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 2008 and February 28, 2009, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services, or (7) for payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 2007, through September 30, 2007, October 1, 2007 through September 30, 2008; and October 1, 2008 through February 28, 2009, to be paid from the Appropriations account for ''Expenses of Inquiries and Investigations.''

SENATE RESOLUTION 55—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON VETERANS' AFFAIRS

Mr. AKAKA submitted the following resolution; from the Committee on Veterans' Affairs; which was referred to the Committee on Rules and Administration:

S. RES. 55

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Veterans' Affairs is authorized from March 1, 2007, through September 30, 2007; October 1, 2007, through September 30, 2008; and October 1, 2008, through February 28, 2009, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. (a) The expenses of the committee for the period March 1, 2007, through September 30, 2007, under this resolution shall not exceed $1,259,442 of which amount (1) not to exceed $59,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $12,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period October 1, 2007, through September 30, 2008, expenses of the committee under this resolution shall not exceed $2,207,230 of which amount (1) not to exceed $100,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(I)of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $20,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(c) For the period October 1, 2007, through February 28, 2008, expenses of the committee under this resolution shall not exceed $937,409, of which amount (1) not to exceed $42,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i)of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $8,334 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendation for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 2007, and February 28, 2008, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for (1) the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment stationery supplies purchased through the Keeper of Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services, or (7) for payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 2007, through September 30, 2007; October 1, 2007, through September 30, 2008; and October 1, 2008, through February 28, 2009, to be paid from the appropriations account for ''Expenses of Inquiries and Investigations.''

SENATE RESOLUTION 56—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DODD submitted the following resolution; from the Committee on Banking, Housing, and Urban Affairs; which was referred to the Committee on Rules and Administration:

S. RES. 56

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Banking, Housing, and Urban Affairs is authorized from March 1, 2007 through September 30, 2007; October 1, 2007, through September 30,2008, and October 1, 2008, through February 28, 2009, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or nonreimbursable basis the services of personnel of any such department or agency.

SEC. 2. (a) The expenses of the committee for the Period March 1, 2007, through September 30, 2007, under this resolution shall not exceed $3,370,280 of which amount (1) not to exceed $12,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $700 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period October 1, 2007, through September 30, 2008, expenses of the committee under this resolution shall not exceed $5,905,629 of which amount (1) not to exceed $20,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1200 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(c) For the period of October 1, 2008, through February 28, 2009, expenses of the committee under this resolution shall not exceed $2,507,776 of which amount (1) not to exceed $8,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $500 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 2009.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the Chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services, or (7) for payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 2007, through September 30, 2007; October 1, 2007, through September 30, 2008; and October 1, 2008, through February 28, 2009, to be paid from the Appropriations account for ''Expenses of Inquiries and Investigations.''

SENATE RESOLUTION 57—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HARKIN submitted the following resolution; from the Committee on Agriculture, Nutrition, and Forestry; which was referred to the Committee on Rules and Administration:

S. RES. 57

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Agriculture, Nutrition and Forestry is authorized from March 1, 2007, through September 30, 2007; October 1, 2007 to September 30, 2008; and October 1, 2008 through February 28, 2009, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. (a) The expenses of the committee for the period March 1, 2007, through September 30, 2007, under this resolution shall not exceed $2,204,538, of which amount (1) not to exceed $200,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $40,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period October 1, 2007, through September 30, 2008, expenses of the committee under this resolution shall not exceed $3,862,713, of which amount (1) not to exceed $200,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $40,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(c) For the period October 1, 2008, through February 28, 2009, expenses of the committee under this resolution shall not exceed $1,640,188, of which amount (1) not to exceed $200,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $40,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 2009.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services or (7) for payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 2007, through September 30, 2007; October 1, 2007, through September 30, 2008; and October 1, 2008 through February 28, 2009 to be paid from the Appropriations account for ''Expenses of Inquiries and Investigations.''

SENATE RESOLUTION 58—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. INOUYE submitted the following resolution; from the Committee on Commerce, Science, and Transportation; which was referred to the Committee on Rules and Administration:

S. RES. 58

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Commerce, Science, and Transportation is authorized from March 1, 2007, through September 30, 2007, October 1, 2007, through September 30, 2008, and October 1, 2008, through February 28, 2009, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. (a) The expenses of the Committee for the period from March 1, 2007, through September 30, 2007, under this resolution shall not exceed $3,652,466, of which amount (1) not to exceed $50,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $50,000 may be expended for the training of the professional staff of the Committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period October 1, 2007, through September 30, 2008, expenses of the Committee under this resolution shall not exceed $6,400,559, of which amount (1) not to exceed $50,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $50,000 may be expended for the training of the professional staff of the Committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(c) For the period October 1, 2008, through February 28, 2009, expenses of the committee under this resolution shall not exceed $2,718,113, of which amount (1) not to exceed $50,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $50,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The Committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 2008, and February 28, 2009, respectively.

SEC. 4. Expenses of the Committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the Committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, (2) for the payment of

telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, (4) for payments to the Postmaster, United States Senate, (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, (6) for the payment of Senate Recording and Photographic Services, or (7) for the payment of franked and mass mail costs by the Office of the Sergeant at Arms and Doorkeeper, United States Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the Committee from March 1, 2007, through September 30, 2007, October 1, 2007, through September 30, 2008, and October 1, 2008, through February 28, 2009, to be paid from the Appropriations account for ''Expenses of Inquiries and Investigations''.

SENATE RESOLUTION 59—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON FINANCE

Mr. BAUCUS submitted the following resolution; from the Committee on Finance; which was referred to the Committee on Rules and Administration:

S. RES. 59

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Finance is authorized from March 1, 2007, through September 30, 2007; October 1, 2007, through September 30, 2008; and October 1, 2008, through February 28, 2009, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. (a) The expenses of the committee for the period March 1, 2007, through September 30, 2007, under this resolution shall not exceed $4,203,707, of which amount (1) not to exceed $17,500 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $5,833 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period October 1, 2007, through September 30, 2008, expenses of the committee under this resolution shall not exceed $7,356,895, of which amount (1) not to exceed $30,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $10,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(c) For the period October 1, 2008, through February 28, 2009, expenses of the committee under this resolution shall not exceed $3,120,762, of which amount (1) not to exceed $12,500 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $4,167 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946.)

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 2009.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services, or (7) for payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 2007, through September 30, 2007; October 1, 2007 through September 30, 2008; and October 1, 2008 through February 28, 2009, to be paid from the Appropriations account for ''Expenses of Inquiries and Investigations.''

SENATE RESOLUTION 60—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. LIEBERMAN submitted the following resolution; from the Committee on Homeland Security and Governmental Affairs; which was referred to the Committee on Rules and Administration:

S. RES. 60

Resolved,

SECTION 1. COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS.

(a) GENERAL AUTHORITY.—In carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules and S. Res. 445 (108th Congress), including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Homeland Security and Governmental Affairs (referred to in this resolution as the ''committee'') is authorized from March 1, 2007, through February 28, 2009, in its discretion—

(1) to make expenditures from the contingent fund of the Senate;

(2) to employ personnel; and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

(b) EXPENSES FOR PERIOD ENDING SEPTEMBER 30, 2007.—The expenses of the committee for the period March 1, 2007, through September 30, 2007, under this section shall not exceed $5,393,404, of which amount—

(1) not to exceed $75,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $20,000, may be expended for the training of the professional staff of the committee (under procedures specified by section 202(j) of that Act).

(c) EXPENSES FOR FISCAL YEAR 2008 PERIOD.—The expenses of the committee for the period October 1, 2007, through September 30, 2008, under this section shall not exceed $9,451,962, of which amount—

(1) not to exceed $75,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i))); and

(2) not to exceed $20,000, may be expended for the training of the professional staff of the committee (under procedures specified by section 202(j) of that Act).

(d) EXPENSES FOR PERIOD ENDING FEBRUARY 28, 2009.—For the period October 1, 2008, through February 28, 2009, expenses of the committee under this section shall not exceed $4,014,158, of which amount—

(1) not to exceed $75,000, may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946); and

(2) not to exceed $20,000, may be expended for the training of the professional staff of the committee (under procedures specified by section 202(j) of that Act).

SEC. 2. REPORTING LEGISLATION.

The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 2009.

SEC. 3. EXPENSES; AGENCY CONTRIBUTIONS; AND INVESTIGATIONS.

(a) EXPENSES OF THE COMMITTEE.—

(1) IN GENERAL.—Except as provided in paragraph (2), any expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

(2) VOUCHERS NOT REQUIRED.—Vouchers shall not be required for—

(A) the disbursement of salaries of employees of the committee who are paid at an annual rate;

(B) the payment of telecommunications expenses provided by the Office of the Sergeant at Arms and Doorkeeper;

(C) the payment of stationery supplies purchased through the Keeper of Stationery;

(D) payments to the Postmaster of the Senate;

(E) the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper;

(F) the payment of Senate Recording and Photographic Services; or

(G) for payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

(b) AGENCY CONTRIBUTIONS.—There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee for the period March 1, 2007, through September 30, 2007, for the period October 1, 2007, through September 30, 2008, and for the period October 1, 2008, through February 28,

2009, to be paid from the appropriations account for `Expenses of Inquiries and Investigations' of the Senate.

(c) INVESTIGATIONS.—

(1) IN GENERAL.—The committee, or any duly authorized subcommittee of the committee, is authorized to study or investigate—

(A) the efficiency and economy of operations of all branches of the Government including the possible existence of fraud, misfeasance, malfeasance, collusion, mismanagement, incompetence, corruption, or unethical practices, waste, extravagance, conflicts of interest, and the improper expenditure of Government funds in transactions, contracts, and activities of the Government or of Government officials and employees and any and all such improper practices between Government personnel and corporations, individuals, companies, or persons affiliated therewith, doing business with the Government; and the compliance or noncompliance of such corporations, companies, or individuals or other entities with the rules, regulations, and laws governing the various governmental agencies and its relationships with the public;

(B) the extent to which criminal or other improper practices or activities are, or have been, engaged in the field of labor-management relations or in groups or organizations of employees or employers, to the detriment of interests of the public, employers, or employees, and to determine whether any changes are required in the laws of the United States in order to protect such interests against the occurrence of such practices or activities;

(C) organized criminal activity which may operate in or otherwise utilize the facilities of interstate or international commerce in furtherance of any transactions and the manner and extent to which, and the identity of the persons, firms, or corporations, or other entities by whom such utilization is being made, and further, to study and investigate the manner in which and the extent to which persons engaged in organized criminal activity have infiltrated lawful business enterprise, and to study the adequacy of Federal laws to prevent the operations of organized crime in interstate or international commerce; and to determine whether any changes are required in the laws of the United States in order to protect the public against such practices or activities;

(D) all other aspects of crime and lawlessness within the United States which have an impact upon or affect the national health, welfare, and safety; including but not limited to investment fraud schemes, commodity and security fraud, computer fraud, and the use of offshore banking and corporate facilities to carry out criminal objectives;

(E) the efficiency and economy of operations of all branches and functions of the Government with particular reference to—

(i) the effectiveness of present national security methods, staffing, and processes as tested against the requirements imposed by the rapidly mounting complexity of national security problems;

(ii) the capacity of present national security staffing, methods, and processes to make full use of the Nation's resources of knowledge and talents;

(iii) the adequacy of present intergovernmental relations between the United States and international organizations principally concerned with national security of which the United States is a member; and

(iv) legislative and other proposals to improve these methods, processes, and relationships;

(F) the efficiency, economy, and effectiveness of all agencies and departments of the Government involved in the control and management of energy shortages including, but not limited to, their performance with respect to—

(i) the collection and dissemination of accurate statistics on fuel demand and supply;

(ii) the implementation of effective energy conservation measures;

(iii) the pricing of energy in all forms;

(iv) coordination of energy programs with State and local government;

(v) control of exports of scarce fuels;

(vi) the management of tax, import, pricing, and other policies affecting energy supplies;

(vii) maintenance of the independent sector of the petroleum industry as a strong competitive force;

(viii) the allocation of fuels in short supply by public and private entities;

(ix) the management of energy supplies owned or controlled by the Government;

(x) relations with other oil producing and consuming countries;

(xi) the monitoring of compliance by governments, corporations, or individuals with the laws and regulations governing the allocation, conservation, or pricing of energy supplies; and

(xii) research into the discovery and development of alternative energy supplies; and

(G) the efficiency and economy of all branches and functions of Government with particular references to the operations and management of Federal regulatory policies and programs.

(2) EXTENT OF INQUIRIES.—In carrying out the duties provided in paragraph (1), the inquiries of this committee or any subcommittee of the committee shall not be construed to be limited to the records, functions, and operations of any particular branch of the Government and may extend to the records and activities of any persons, corporation, or other entity.

(3) SPECIAL COMMITTEE AUTHORITY.—For the purposes of this subsection, the committee, or any duly authorized subcommittee of the committee, or its chairman, or any other member of the committee or subcommittee designated by the chairman, from March 1, 2007, through February 28, 2009, is authorized, in its, his, her, or their discretion—

(A) to require by subpoena or otherwise the attendance of witnesses and production of correspondence, books, papers, and documents;

(B) to hold hearings;

(C) to sit and act at any time or place during the sessions, recess, and adjournment periods of the Senate;

(D) to administer oaths; and

(E) to take testimony, either orally or by sworn statement, or, in the case of staff members of the Committee and the Permanent Subcommittee on Investigations, by deposition in accordance with the Committee Rules of Procedure.

(4) AUTHORITY OF OTHER COMMITTEES.—Nothing contained in this subsection shall affect or impair the exercise of any other standing committee of the Senate of any power, or the discharge by such committee of any duty, conferred or imposed upon it by the Standing Rules of the Senate or by the Legislative Reorganization Act of 1946.

(5) SUBPOENA AUTHORITY.—All subpoenas and related legal processes of the committee and its subcommittee authorized under S. Res. 50, agreed to February 17, 2005 (109th Congress), are authorized to continue.

SENATE RESOLUTION 61—DESIGNATING JANUARY 2007 AS ''NATIONAL MENTORING MONTH''

Mr. KENNEDY (for himself, Mr. MCCAIN, Mr. AKAKA, Mr. BOND, Mr. BURR, Ms. CANTWELL, Mr. CARPER, Mrs. CLINTON, Mr. COCHRAN, Mr. COLEMAN, Mr. CONRAD, Mr. DODD, Mrs. DOLE, Mr. DOMENICI, Mr. DURBIN, Mr. ENSIGN, Mr. GRASSLEY, Mr. ISAKSON, Mr. KERRY, Ms. LANDRIEU, Mr. LEAHY, Mr. LEVIN, Ms. MURKOWSKI, Mr. PRYOR, Mr. SANDERS, Mr. REID, and Mr. SPECTER) submitted the following resolution; which was considered and agreed to:

S. RES. 61

Whereas mentoring is a long-standing tradition with modern applications in which an adult provides guidance, support, and encouragement to help with a young person's social, emotional, and cognitive development;

Whereas research provides strong evidence that mentoring can promote positive outcomes for young people, such as an increased sense of industry and competency, a boost in academic performance and self-esteem, and improved social and communications skills;

Whereas studies of mentoring further show that a quality mentoring relationship successfully reduces the incidence of risky behaviors, delinquency, absenteeism, and academic failure;

Whereas mentoring is a frequently used term and a well-accepted practice in many sectors of our society;

Whereas thanks to the remarkable creativity, vigor, and resourcefulness of the thousands of mentoring programs and millions of volunteer mentors in communities throughout the Nation, quality mentoring has grown dramatically in the past 15 years, and there are now 3,000,000 young people in the United States who are being mentored;

Whereas in spite of the strides made in the mentoring field, the Nation has a serious ''mentoring gap,'' with nearly 15,000,000 young people currently in need of mentors;

Whereas a recent study confirmed that one of the most critical challenges that mentoring programs face is recruiting enough mentors to help close the mentoring gap;

Whereas the designation of January 2007 as National Mentoring Month will help call attention to the critical role mentors play in helping young people realize their potential;

Whereas the month-long celebration of mentoring will encourage more organizations across the Nation, including schools, businesses, nonprofit organizations and faith institutions, foundations, and individuals to become engaged in mentoring;

Whereas National Mentoring Month will, most importantly, build awareness of mentoring and encourage more individuals to become mentors, helping close the Nation's mentoring gap; and

Whereas the President has issued a proclamation declaring January 2007 to be National Mentoring Month and calling on the people of the United States to recognize the importance of mentoring, to look for opportunities to serve as mentors in their communities, and to observe the month with appropriate activities and programs: Now, therefore, be it

Resolved, That the Senate—

(1) designates the month of January 2007 as ''National Mentoring Month'';

(2) recognizes with gratitude the contributions of the millions of caring adults who are already serving as mentors and encourages more adults to volunteer as mentors; and

(3) encourages the people of the United States to observe the month with appropriate ceremonies and activities that promote awareness of, and volunteer involvement with, youth mentoring.

SENATE RESOLUTION 62—RECOGNIZING THE GOALS OF CATHOLIC SCHOOLS WEEK AND HONORING THE VALUABLE CONTRIBUTIONS OF CATHOLIC SCHOOLS IN THE UNITED STATES

Mr. VITTER (for himself and Ms. LANDRIEU) submitted the following resolution; which was considered and agreed to:

S. RES. 62

Whereas Catholic schools in the United States have received international acclaim for academic excellence while providing students with lessons that extend far beyond the classroom;

Whereas Catholic schools present a broad curriculum that emphasizes the lifelong development of moral, intellectual, physical, and social values in the young people of the United States;

Whereas Catholic schools in the United States today educate 2,363,220 students and maintain a student-to-teacher ratio of 15 to 1;

Whereas the faculty members of Catholic schools teach a highly diverse body of students;

Whereas the graduation rate for all Catholic school students is 95 percent;

Whereas 83 percent of Catholic high school graduates go on to college;

Whereas Catholic schools produce students strongly dedicated to their faith, values, families, and communities by providing an intellectually stimulating environment rich in spiritual character and moral development; and

Whereas in the 1972 pastoral message concerning Catholic education, the National Conference of Catholic Bishops stated, ''Education is one of the most important ways by which the Church fulfills its commitment to the dignity of the person and building of community. Community is central to education ministry, both as a necessary condition and an ardently desired goal. The educational efforts of the Church, therefore, must be directed to forming persons-in-community; for the education of the individual Christian is important not only to his solitary destiny, but also the destinies of the many communities in which he lives.'': Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the goals of Catholic Schools Week, an event cosponsored by the National Catholic Educational Association and the United States Conference of Catholic Bishops that recognizes the vital contributions of thousands of Catholic elementary and secondary schools in the United States; and

(2) commends Catholic schools, students, parents, and teachers across the United States for their ongoing contributions to education, and for the vital role they play in promoting and ensuring a brighter, stronger future for the United States.

SENATE RESOLUTION 63—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON RULES AND ADMINISTRATION

Mrs. FEINSTEIN submitted the following resolution; from the Committee on Rules and Administration; which was placed on the calendar:

S. RES. 63

Resolved, That in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Rules and Administration is authorized from March 1, 2007, through September 30, 2007; October 1, 2007, through September 30, 2008; and, October 1, 2008, through February 28, 2009, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non reimbursable basis the services of personnel of any such department or agency.

SEC. 2. (a) The expenses of the committee for the period March 1, 2007, through September 30, 2007, under this resolution shall not exceed $1,461,012, of which amount (1) not to exceed $30,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $6,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period October 1, 2007, through September 30, 2008, expenses of the committee under this resolution shall not exceed $2,561,183, of which amount (1) not to exceed $50,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $10,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(c) For the period October 1, 2008, through February 28, 2009, expenses of the committee under this resolution shall not exceed $1,087,981, of which amount (1) not to exceed $21,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $4,200 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 2009.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services, or (7) for payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 2007, through September 30, 2007; October 1, 2007, through September 30, 2008; and October 1, 2008, through February 28, 2009, to be paid from the Appropriations account for ''Expenses of Inquiries and Investigations''.

SENATE CONCURRENT RESOLUTION 5—HONORING THE LIFE OF PERCY LAVON JULIAN, A PIONEER IN THE FIELD OF ORGANIC CHEMISTRY AND THE FIRST AND ONLY AFRICAN-AMERICAN CHEMIST TO BE INDUCTED INTO THE NATIONAL ACADEMY OF SCIENCES

Mr. OBAMA (for himself, Mr. DURBIN, Mr. DODD, Mr. LUGAR, Mr. LIEBERMAN, and Mr. BAYH) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 5

Whereas Percy Julian was born on April 11, 1899 in Montgomery, Alabama, the son of a railway clerk and the first member of his family to attend college;

Whereas Percy Julian graduated from DePauw University in 1920 and received a M.S. degree from Harvard University in 1923 and a Ph.D. from the University of Vienna in 1931;

Whereas, in 1935, Dr. Julian became the first to discover a process to synthesize physostigmine, the drug used in the treatment of glaucoma;

Whereas Dr. Julian later pioneered a commercial process to synthesize cortisone from soy beans, enabling the widespread use of cortisone as an affordable treatment for arthritis;

Whereas Dr. Julian was the first African-American chemist elected to the National Academy of Sciences in 1973 for his lifetime of scientific accomplishments, held over 130 patents at the time of his death in 1975, and dedicated much of his life to the advancement of African Americans in the sciences; and

Whereas Dr. Julian's life story has been documented in the Public Broadcasting Service NOVA film ''Forgotten Genius'': Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress honors the life of Percy Lavon Julian, a pioneer in the field of organic chemistry and the first and only African-American chemist to be inducted into the National Academy of Sciences.

SENATE CONCURRENT RESOLUTION 6—EXPRESSING THE SENSE OF CONGRESS THAT THE NATIONAL MUSEUM OF WILDLIFE ART, LOCATED IN JACKSON, WYOMING, SHOULD BE DESIGNATED AS THE ''NATIONAL MUSEUM OF WILDLIFE ART OF THE UNITED STATES''

Mr. ENZI (for himself and Mr. THOMAS) sumbitted the following concurrent

resolution; which was referred to the Committee on Energy and Natural Resources:

S. CON. RES. 6

Whereas the National Museum of Wildlife Art in Jackson, Wyoming, is devoted to inspiring global recognition of fine art related to nature and wildlife;

Whereas the National Museum of Wildlife Art is an excellent example of a thematic museum that strives to unify the humanities and sciences into a coherent body of knowledge through art;

Whereas the National Museum of Wildlife Art, which was founded in 1987 with a private gift of a collection of art, has grown in stature and importance and is recognized today as the world's premier museum of wildlife art;

Whereas the National Museum of Wildlife Art is the only public museum in the United States with the mission of enriching and inspiring public appreciation and knowledge of fine art, while exploring the relationship between humanity and nature by collecting fine art focused on wildlife;

Whereas the National Museum of Wildlife Art is housed in an architecturally significant and award-winning 51,000–square foot facility that overlooks the 28,000–acre National Elk Refuge and is adjacent to the Grand Teton National Park;

Whereas the National Museum of Wildlife Art is accredited with the American Association of Museums, continues to grow in national recognition and importance with members from every State, and has a Board of Trustees and a National Advisory Board composed of major benefactors and leaders in the arts and sciences from throughout the United States;

Whereas the permanent collection of the National Museum of Wildlife Art has grown to more than 3,000 works by important historic American artists including Edward Hicks, Anna Hyatt Huntington, Charles M. Russell, William Merritt Chase, and Alexander Calder, and contemporary American artists, including Steve Kestrel, Bart Walter, Nancy Howe, John Nieto, and Jamie Wyeth;

Whereas the National Museum of Wildlife Art is a destination attraction in the Western United States with annual attendance of 92,000 visitors from all over the world and an award-winning website that receives more than 10,000 visits per week;

Whereas the National Museum of Wildlife Art seeks to educate a diverse audience through collecting fine art focused on wildlife, presenting exceptional exhibitions, providing community, regional, national, and international outreach, and presenting extensive educational programming for adults and children; and

Whereas a great opportunity exists to use the invaluable resources of the National Museum of Wildlife Art to teach the schoolchildren of the United States, through onsite visits, traveling exhibits, classroom curriculum, online distance learning, and other educational initiatives: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the National Museum of Wildlife Art, located at 2820 Rungius Road, Jackson, Wyoming, should be designated as the ''National Museum of Wildlife Art of the United States''.

SENATE CONCURRENT RESOLUTION 7—EXPRESSING THE SENSE OF CONGRESS ON IRAQ

Mr. WARNER (for himself, Mr. NELSON of Nebraska, Ms. COLLINS, Mr. LEVIN, and Ms. SNOWE) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 7

Whereas, we respect the Constitutional authorities given a President in Article II, Section 2, which states that ''The President shall be commander in chief of the Army and Navy of the United States;'' it is not the intent of this resolution to question or contravene such authority, but to accept the offer to Congress made by the President on January 10, 2007 that, ''if members have improvements that can be made, we will make them. If circumstances change, we will adjust;''

Whereas, the United States' strategy and operations in Iraq can only be sustained and achieved with support from the American people and with a level of bipartisanship;

Whereas, over 137,000 American military personnel are current1y serving in Iraq, like thousands of others since March 2003, with the bravery and professionalism consistent with the finest traditions of the United States armed forces, and are deserving of the support of all Americans, which they have strongly;

Whereas, many American service personnel have lost their lives, and many more have.been wounded, in Iraq, and the American people will always honor their sacrifices and honor their families;

Whereas, the U.S. Army and Marine Corps, including their Reserve and National Guard organizations, together with components of the other branches of the military, are under enormous strain from multiple, extended deployments to Iraq and Afghanistan;

Whereas, these deployments, and those that will follow, will have lasting impacts on the future recruiting, retention and readiness of our nation's all volunteer force;

Whereas in the National Defense Authorization Act for Fiscal Year 2006, the Congress stated that ''calendar year 2006 should be a period of significant transition to full sovereignty, with Iraqi security forces taking the lead for the security of a free and sovereign Iraq;''

Whereas, United Nations Security Council Resolution 1723, approved November 28, 2006, ''determin[ed] that the situation in Iraq continues to constitute a threat to international peace and security;''

Whereas, Iraq is experiencing a deteriorating and ever-widening problem of sectarian and intra-sectarian violence based upon political distrust and cultural differences between some Sunni and Shia Muslims;

Whereas, Iraqis must reach political settlements in order to achieve reconciliation, and the failure of the Iraqis to reach such settlements to support a truly unified government greatly contributes to the increasing violence in Iraq;

Whereas, the responsibility for Iraq's internal security and halting sectarian violence must rest primarily with the Government of Iraq and Iraqi Security Forces;

Whereas, U.S. Central Command Commander General John Abizaid testified to Congress on November 15, 2006, ''I met with every divisional commander, General Casey, the Corps Commander, [and] General Dempsey. We all talked together. And I said, in your professional opinion, if we were to bring in more American troops now, does it add considerably to our ability to achieve success in Iraq? And they all said no. And the reason is, because we want the Iraqis to do more. It's easy for the Iraqis to rely upon us to do this work. I believe that more American forces prevent the Iraqis from doing more, from taking more responsibility for their own future;''

Whereas, Iraqi Prime Minister Nouri al-Maliki stated on November 27, 2006 that ''The crisis is political, and the ones who can stop the cycle of aggravation and bloodletting of innocents are the politicians;''

Whereas, there is growing evidence that Iraqi public sentiment opposes the continued U.S. troop presence in Iraq, much less increasing the troop level;

Whereas, in the fall of 2006, leaders in the Administration and Congress, as well as recognized experts in the private sector, began to express concern that the situation in Iraq was deteriorating and required a change in strategy; and, as a consequence, the Administration began an intensive, comprehensive review by all components of the Executive Branch to devise a new strategy;

Whereas, in December 2006, the bipartisan Iraq Study Group issued a valuable report, suggesting a comprehensive strategy that includes ''new and enhanced diplomatic and political efforts in Iraq and the region, and a change in the primary mission of U.S. forces in Iraq that will enable the United States to begin to move its combat forces out of Iraq responsibly;''

Whereas, on January 10, 2007, following consultations with the Iraqi Prime Minister, the President announced a new strategy (hereinafter referred to as the ''plan''), which consists of three basic elements: diplomatic, economic, and military; the central component of the military element is an augmentation of the present level of the U.S. military forces through additional deployments of approximately 21,500 US. military troops to Iraq;

Whereas, on January 10, 2007, the President said that the ''Iraqi government will appoint a military commander and two deputy commanders for their capital'' and that U.S. forces will ''be embedded in their formations;'' and in subsequent testimony before the Armed Services Committee on January 25, 2007, by the retired former Vice Chief of the Army it was learned that there will also be a comparable US. command in Baghdad, and that this dual chain of command may be problematic because ''the Iraqis are going to be able to move their forces around at times where we will disagree with that movement,'' and called for clarification;

Whereas, this proposed level of troop augmentation far exceeds the expectations of many of us as to the reinforcements that would be necessary to implement the various options for a new strategy, and led many members of Congress to express outright opposition to augmenting our troops by 21,500;

Whereas, the Government of Iraq has promised repeatedly to assume a greater share of security responsibilities, disband militias, consider Constitutional amendments and enact laws to reconcile sectarian differences, and improve the quality of essential services for the Iraqi people; yet, despite those promises, little has been achieved;

Whereas, the President said on January 10, 2007 that ''I've made it clear to the Prime Minister and Iraq's other leaders that America's commitment is not openended'' so as to dispel the contrary impression that exists;

Whereas, the recommendations in this resolution should not be interpreted as precipitating any immediate reduction in, or withdrawal of, the present level of forces: Now therefore be it—

Resolved, by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the Senate disagrees with the ''plan'' to augment our forces by 21,500, and urges the President instead to consider all options and alternatives for achieving the strategic goals set forth below;

(2) the Senate believes the United States should continue vigorous operations in

Anbar province, specifically for the purpose of combating an insurgency, including elements associated with the Al Qaeda movement, and denying terrorists a safe haven;

(3) the Senate believes a failed state in Iraq would present a threat to regional and world peace, and the long-term security interests of the United States are best served by an Iraq that can sustain, govern, and defend itself, and serve as an ally in the war against extremists;

(4) the Congress should not take any action that will endanger United States military forces in the field, including the elimination or reduction of funds for troops in the field, as such an action with respect to funding would undermine their safety or harm their effectiveness in pursuing their assigned missions;

(5) the primary objective of the overall U.S. strategy in Iraq should be to encourage Iraqi leaders to make political compromises that will foster reconciliation and strengthen the unity government, ultimately leading to improvements in the security situation;

(6) the military part of this strategy should focus on maintaining the territorial integrity of Iraq, denying international terrorists a safe haven, conducting counterterrorism operations, promoting regional stability, supporting Iraqi efforts to bring greater security to Baghdad, and training and equipping Iraqi forces to take full responsibility for their own security;

(7) United States military operations should, as much as possible, be confined to these goals, and should charge the Iraqi military with the primary mission of combating sectarian violence;

(8) the military Rules of Engagement for this plan should reflect this delineation of responsibilities, and the Secretary of Defense and the Chairman of the Joint Chiefs of Staff should clarify the command and control arrangements in Baghdad;

(9) the United States Government should transfer to the Iraqi military, in an expeditious manner, such equipment as is necessary;

(10) the United States Government should engage selected nations in the Middle East to develop a regional, internationally sponsored peace-and-reconciliation process for Iraq;

(11) the Administration should provide regular updates to the Congress, produced by the Commander of United States Central Command and his subordinate commanders, about the progress or lack of progress the Iraqis are making toward this end.

(12) our overall military, diplomatic and economic strategy should not be regarded as an ''open-ended'' or unconditional commitment, but rather as a new strategy that hereafter should be conditioned upon the Iraqi government's meeting benchmarks that must be delineated in writing and agreed to by the Iraqi Prime Minister. Such benchmarks should include, but not be limited to, the deployment of that number of additional Iraqi security forces as specified in the plan in Baghdad, ensuring equitable distribution of the resources of the Government of Iraq without regard to the sect or ethnicity of recipients, enacting and implementing legislation to ensure that the oil resources of Iraq benefit Sunni Arabs, Shia Arabs, Kurds, and other Iraqi citizens in an equitable manner, and the authority of Iraqi commanders to make tactical.and operational decisions without political intervention:

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition and Forestry be authorized to conduct a hearing during the session of the Senate on Wednesday, January 31, 2007 at 9:45 AM in 328A, Senate Russell Office Building. The purpose of this committee hearing will be to discuss ''The Role of Federal Food Assistance Programs in Family Economic Security and Nutrition''.

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

COMMITTEE ON ARMED SERVICES

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, January 31, 2007, at 10 a.m., in closed session to receive a briefing regarding the Iraq ''SURGE'' Plan.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on January 31, 2007, at 10 a.m., to conduct a vote on the Committee Budget Resolution, rules of procedure, and subcommittee organization for the 110th Congress; immediately following the executive session, the committee will meet in open session to conduct a hearing on ''The Treasury Department's Report to Congress on International Economic and Exchange Rate Policy (IEERP) and the U.S.-China Strategic Economic Dialogue.''

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to hold a business meeting and hearing during the sessions of the Senate on Wednesday, January 31, 2007, at 2:30 p.m., in room 253 of the Russell Senate Office Building.

The purpose of the business meeting is to adopt the budget resolution for the Committee for the 110th Congress. The purpose of the hearing is to promote travel to America, and to examine related economic and security concerns.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to hold a Business Meeting during the session of the Senate on Wednesday, January 31, 2007, at 11:30 a.m. in room SD–366 of the Dirksen Senate Office Building.

The purpose of the Business Meeting is to consider pending calendar business.

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

COMMITTEE ON FINANCE

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Wednesday, January 31, 2007, at 10 a.m. in 215 Dirksen Senate Office Building, to organize for the 110th Congress. The Committee will also consider favorably reporting the following nominations: Michael J. Astrue, to be Commissioner of Social Security, Social Security Administration; Dean A. Pinkert, to be Member of the United States International Trade Commission; and Irving A. Williamson, to be Member of the United States International Trade Commission.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, January 31, 2007, at 9:15 a.m. to hold a hearing on Iraq.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions meet in executive session during the session of the Senate on Wednesday, January 31, 2007 at 10 a.m. SD–430.

PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE THE JUDICIARY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on ''Examining the Iraq Study Group's Recommendations for Improvements to Iraq's Police and Criminal Justice System'' for Wednesday, January 31, 2007 at 10 a.m. in Dirksen Senate Office Building Room 226.

Witnesses

The Honorable Lee H. Hamilton, Former Member of Congress, Director, The Woodrow Wilson International Center for Scholars, Co-Chair, Iraq Study Group Washington, DC.

The Honorable Edwin Meese III, Former U.S. Attorney General, Ronald Reagan Chair in Public Policy, The Heritage Foundation, Member Iraq Study Group Washington, DC.

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

COMMITTEE ON THE JUDICIARY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on ''US–

VISIT Challenges and Strategies for Securing the U.S. Border'' for Wednesday, January 31, 2007, at 2:30 p.m. in Dirksen Senate Office Building Room 226.

Witnesses

Panel I. The Honorable Richard Barth, Ph.D., Assistant Secretary, Office of Policy Development, Department of Homeland Security, Washington, DC.

Robert A. Mocny, Acting Director, US–VISIT, Department of Homeland Security Washington, DC.

Panel II. Richard Stana, Director, Homeland Security and Justice, Government Accountability Office, Washington, DC.

Phillip J. Bond, President and CEO, Information Technology Association of America, Arlington, VA.

C. Stewart Verdery, Jr., President, Monument Policy Group, Washington, DC.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, January 31, 2007, at 9:30 a.m., to conduct its organizational meeting for the 110th Congress.

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

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Small Business and Entrepreneurship be authorized to meet during the session of the Senate for a hearing entitled ''Assessing Federal Small Business Assistance Programs for Veterans and Reservists,'' on Wednesday, January 31, 2007, beginning at 10 a.m. in room 428A of the Russell Senate Office Building.

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

JOINT ECONOMIC COMMITTEE

Mr. DURBIN. Mr. President, I ask unanimous consent that the Joint Economic Committee be authorized to conduct a hearing in room 106 of the Dirksen Senate Office Building, Wednesday, January 31, from 9:30 a.m. to 1 p.m.

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

SPECIAL COMMITTEE ON AGING

Mr. DURBIN. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet Wednesday, January 31, 2007 from 10:30 a.m.–12 p.m. in Dirksen 562 for the purpose of conducting a hearing.

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

SUBCOMMITTEE ON READINESS AND MANAGEMENT SUPPORT

Mr. DURBIN. Mr. President, I ask unanimous consent that the Subcommittee on Readiness and Management Support be authorized to meet during the session of the Senate on Wednesday, January 31, 2007, at 2:30 p.m., to continue to receive testimony on abusive practices in Department of Defense contracting for services and inter-agency contracting.

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

PRIVILEGES OF THE FLOOR

Mr. GRASSLEY. Madam President, I ask unanimous consent for Stanford Swinton, Anne Freeman, Lynda Simmons, Bess Ullman, Ann Thomas, and Eric Slack of my staff to be given privileges of the floor during the deliberation of H.R. 2, the Fair Minimum Wage Act of 2007.

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

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDER

Mr. REID. Mr. President, if I could now move to the more mundane, I ask unanimous consent that at 11:45 tomorrow, the Senate proceed to executive session to consider the following nominations en bloc: Calendar Nos. 8 through 10; that there be 10 minutes for debate on the nominations equally divided between Senators LEAHY and SPECTER or their designees; that at the conclusion of the yielding back of time, the Senate vote on nomination No. 8, Lawrence Joseph O'Neill to be a U.S. district judge; that following that vote, the Senate vote on nomination No. 9, Valerie Baker, to be a U.S. district judge; that following that vote, the Senate vote on nomination No. 10, Gregory Frizzell, to be a U.S. district judge; that there be 2 minutes for debate between the votes; that the motions to reconsider be laid on the table, the President be immediately notified of the Senate's action; that the Senate then return to legislative session, and that all time consumed in executive session, including the votes, count toward cloture on H.R. 2.

I would say, before the Chair rules on this unanimous consent request, how much we can count on staff. One number was missing, and I am just here trying to figure out what to do without staff, and as usual, they come through.

The PRESIDING OFFICER. The majority leader quickly got to the correction. Is there objection?

Without objection, it is so ordered.

NATIONAL MENTORING MONTH

Mr. REID. Mr. President, I ask consent that the Senate proceed to the consideration of S. Res. 61.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 61) designating January 2007 as ''National Mentoring Month.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

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

The resolution (S. Res. 61) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 61

Whereas mentoring is a long-standing tradition with modern applications in which an adult provides guidance, support, and encouragement to help with a young person's social, emotional, and cognitive development;

Whereas research provides strong evidence that mentoring can promote positive outcomes for young people, such as an increased sense of industry and competency, a boost in academic performance and self-esteem, and improved social and communications skills;

Whereas studies of mentoring further show that a quality mentoring relationship successfully reduces the incidence of risky behaviors, delinquency, absenteeism, and academic failure;

Whereas mentoring is a frequently used term and a well-accepted practice in many sectors of our society;

Whereas thanks to the remarkable creativity, vigor, and resourcefulness of the thousands of mentoring programs and millions of volunteer mentors in communities throughout the Nation, quality mentoring has grown dramatically in the past 15 years, and there are now 3,000,000 young people in the United States who are being mentored;

Whereas in spite of the strides made in the mentoring field, the Nation has a serious ''mentoring gap,'' with nearly 15,000,000 young people currently in need of mentors;

Whereas a recent study confirmed that one of the most critical challenges that mentoring programs face is recruiting enough mentors to help close the mentoring gap;

Whereas the designation of January 2007 as National Mentoring Month will help call attention to the critical role mentors play in helping young people realize their potential;

Whereas the month-long celebration of mentoring will encourage more organizations across the Nation, including schools, businesses, nonprofit organizations and faith institutions, foundations, and individuals to become engaged in mentoring;

Whereas National Mentoring Month will, most importantly, build awareness of mentoring and encourage more individuals to become mentors, helping close the Nation's mentoring gap; and

Whereas the President has issued a proclamation declaring January 2007 to be National Mentoring Month and calling on the people of the United States to recognize the importance of mentoring, to look for opportunities to serve as mentors in their communities, and to observe the month with appropriate activities and programs: Now, therefore, be it

Resolved, That the Senate—

(1) designates the month of January 2007 as ''National Mentoring Month'';

(2) recognizes with gratitude the contributions of the millions of caring adults who are already serving as mentors and encourages more adults to volunteer as mentors; and

(3) encourages the people of the United States to observe the month with appropriate ceremonies and activities that promote awareness of, and volunteer involvement with, youth mentoring.

CATHOLIC SCHOOLS WEEK

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 62.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 62) recognizing the goals of Catholic Schools Week and honoring the valuable contributions of Catholic schools in the United States.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask unanimous consent the resolution be agreed to, the preamble be agreed to, and the motion to reconsider by laid upon the table

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

The resolution (S. Res. 62) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 62

Whereas Catholic schools in the United States have received international acclaim for academic excellence while providing students with lessons that extend far beyond the classroom;

Whereas Catholic schools present a broad curriculum that emphasizes the lifelong development of moral, intellectual, physical, and social values in the young people of the United States;

Whereas Catholic schools in the United States today educate 2,363,220 students and maintain a student-to-teacher ratio of 15 to 1;

Whereas the faculty members of Catholic schools teach a highly diverse body of students;

Whereas the graduation rate for all Catholic school students is 95 percent;

Whereas 83 percent of Catholic high school graduates go on to college;

Whereas Catholic schools produce students strongly dedicated to their faith, values, families, and communities by providing an intellectually stimulating environment rich in spiritual character and moral development; and

Whereas in the 1972 pastoral message concerning Catholic education, the National Conference of Catholic Bishops stated, ''Education is one of the most important ways by which the Church fulfills its commitment to the dignity of the person and building of community. Community is central to education ministry, both as a necessary condition and an ardently desired goal. The educational efforts of the Church, therefore, must be directed to forming persons-in-community; for the education of the individual Christian is important not only to his solitary destiny, but also the destinies of the many communities in which he lives.'': Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the goals of Catholic Schools Week, an event cosponsored by the National Catholic Educational Association and the United States Conference of Catholic Bishops that recognizes the vital contributions of thousands of Catholic elementary and secondary schools in the United States; and

(2) commends Catholic schools, students, parents, and teachers across the United States for their ongoing contributions to education, and for the vital role they play in promoting and ensuring a brighter, stronger future for the United States.

MEASURE READ THE FIRST TIME—H.J. RES. 20

Mr. REID. Mr. President, I understand that H.J. Res. 20 has been received from the House and is now at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the joint resolution by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 20) making further continuing appropriations for the fiscal year 2007, and for other purposes.

The PRESIDING OFFICER. Is there objection to proceeding to the measure?

Mr. REID. Mr. President, this is the continuing resolution, which is so important to continuing the functions of this Government, but I am objecting to my own request for its second reading.

The PRESIDING OFFICER. Objection is heard.

The bill will receive its second reading on the next legislative day.

MEASURE READ THE FIRST TIME—S. 470

Mr. REID. Mr. President, it is my understanding that S. 470, introduced by Senator LEVIN, is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 470) to express the sense of Congress on Iraq.

Mr. REID. Mr. President, I now ask for its second reading but object to my own request.

The PRESIDING OFFICER. Objection is heard.

The bill will receive its second reading on the next legislative day.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDERS FOR THURSDAY, FEBRUARY 1, 2007

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 10 a.m., Thursday, February 1; that on Thursday, following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day; that there then be a period of morning business until 11:45 a.m., with Senators permitted to speak therein for up to 10 minutes each, with the first 30 minutes under the control of the Republicans and the next 30 minutes under the control of the majority; that following morning business, the Senate proceed to executive session as under the previous order; that upon resuming legislative session, the Senate resume consideration of H.R. 2, the minimum wage bill; that all time during the adjournment and morning business count against the postcloture time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

PROGRAM

Mr. REID. Mr. President, today, the Senate has completed the amendment process on H.R. 2, and the Senate also invoked cloture on the bill by a vote of 88 to 8. Tomorrow, we will anticipate concluding action on the bill in the afternoon. Once the bill has been completed, there will then be a cloture vote on the motion to proceed to S. Con. Res. 2, the bipartisan Iraq resolution, unless we work something out, as we expressed here at some length tonight.

To remind Members, we will be voting tomorrow prior to noon on three judicial nominations. Those votes are expected to begin at about 11:55 a.m.

ORDER FOR ADJOURNMENT

Mr. REID. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that following the remarks of Senator SNOWE of Maine, the Senate stand adjourned under the previous order.

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

The Senator from Maine is recognized.

Ms. SNOWE. Mr. President, I know the hour is late. I want to speak briefly to the resolution that has been introduced by our most respected Member of the Senate, Senator WARNER, regarding Iraq.

I first ask unanimous consent to be added as a cosponsor.

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

Ms. SNOWE. For the record, I know the Senator from Virginia and the Senator from Michigan have had numerous conversations. The proposed changes in the resolution that was introduced this evening by the Senator from Virginia certainly reflect many of the concerns of those of us who are the cosponsors of the Biden-Hagel-Levin resolution regarding the troop surge. The changes in the proposed resolution now reinforce the opposition to troop increases. It does enhance the position. It solidifies the unified view of those of us who have adopted a position in opposition to the troop surge. It also helps to advance this debate. Now we can begin on a course of deliberation within the Senate.

I join the concerns of Senator WARNER and our Republican leader that we should proceed in consideration of a resolution and not proceed out of order on the Warner resolution. It was introduced as a resolution. It should be debated and voted upon as a resolution here in the Senate. I am pleased, because I think it does unite us now that we have had these types of changes that I think go a long way to making a strong statement with respect to the President's proposed strategy of increasing troops in Iraq.

I thank the Senator from Virginia for offering this resolution as modified so we can proceed and embark on the deliberations that not only consistently are the traditions of this institution but also are consistent with the views of the people of this country that this issue, which is the preeminent one of our time, deserves a full and open debate.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I thank our distinguished colleague from Maine. I share her views, as I expressed them with our leader here, that it was certainly always the intention of the Senator from Virginia that this matter should be kept in a resolution status, thereby precluding any necessity for the President to become involved in the sense of a legislative process. I feel confident that what we have put forth are recommendations—not orders to the President, not contravening the President's constitutional authority in any way, but they are the heartfelt thoughts of Senators as to how there could be further modifications in the new strategy in such a way as to hopefully lower the profile of the United States Armed Forces in the Baghdad operation and, thereby, hopefully, wherever possible, not inject them into this sectarian violence which can be better handled by the Iraqis, who understand the Iraqis, who have a far better understanding of the cultural differences that give rise to so much of this sectarian strife today. I am optimistic that can come to pass and we can treat this in the resolution status and that Senators can work their free will. There may be ideas far better than what I have embraced in this resolution, together with my colleagues, Senator COLLINS and Senator BEN NELSON. We are open to ideas. It is best that those ideas be exhibited right here on the Senate floor in full view of all to determine their merit.

I thank my colleague. I am honored the Senator sees fit to join us as a cosponsor.

Ms. SNOWE. I want to express my appreciation to the Senator from Virginia, because I do think this resolution reinforces the position of those of us who oppose the troop surge. I couldn't agree with the Senator more about the concerns we have involving the sectarian strife, particularly at a time in which the Iraqi Government has not demonstrated the political resoluteness to confront its own militias, to disarm and demobilize them, to proceed with a political process that would advance in unifying the country. That is long overdue. The time has come for the Iraqi Government and its people to step up and assume those responsibilities. That is why I had for the last few months the deep concern about the increase in the level of troops at a time in which sectarian strife has enveloped the country.

It is time for the Iraqi Government, the Iraqi Army to begin to proceed to take responsibility for the internal problems that are developing. We obviously should move in a different direction and place the pressure on them to do what is right.

Mr. WARNER. I thank our colleague. I also note the Senator from Maine was present on the floor in the course of the colloquy between the distinguished Senator from Nevada, Mr. REID, and our distinguished leader, Mr. MCCONNELL. I think they are both working toward trying to find the basis on which this matter can be treated as a resolution, which has been my desire from the first. I believe the Senator shares that view very strongly.

Ms. SNOWE. Absolutely. And I have indicated that concern about introducing this resolution in the form of a bill. I also understand that at some point that bill would obviously be converted to a resolution. But I think we should proceed in regular order and have a full and open debate, as the Senator from Virginia has recommended. I think that is consistent with the traditions and practices of the Senate. And certainly this issue is deserving of open debate for the American people.

Mr. WARNER. I thank the Senator. I am glad she, once again, pointed out that if it were to go into bill status, there is a point in time when I—and I presume you would join me—and others would move to try and have that bill status once again returned to the resolution status before any final action on this or other measures that may come before the Senate in this debate. Senator MCCONNELL all along to all his colleagues has said, me included, that he wanted to try to provide an opportunity for as many viewpoints to be heard, either by resolution or by amendment, as possible.

I also note the Presiding Officer was an original cosponsor on the resolution that I and Senator NELSON and Senator COLLINS put forward.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 10 a.m. on Thursday, February 1, 2007.

Thereupon, the Senate, at 8:27 p.m., adjourned until Thursday, February 1, 2007, at 10 a.m.