United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 110th CONGRESS, FIRST SESSION

Vol. 153 WASHINGTON, MONDAY, JANUARY 22, 2007 No. 12

Senate

The Senate met at 1 p.m. and was called to order by the Honorable BENJAMIN L. CARDIN, a Senator from the State of Maryland.

PRAYER

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

Let us pray.

Immortal God, Your Name is great throughout the Earth. We thank You for the undeserved favor You give us each day.

Lord, You bless us with life, health, faith, hope, and love. You give us Your peace; great and marvelous are Your works.

Today, guide the Members of this body with Your wisdom. Keep them from adding to our Nation's problems, and help them to resolve to become part of the solutions. Make clear to them the path of duty, and lead them in the doing of Your will. Provide them with counsel to deal with complex challenges, and infuse them with divine discernment to accomplish Your purposes. Open to them doors of opportunity to bless others.

We pray in Your strong Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable BENJAMIN L. CARDIN led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, January 22, 2007.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, today the Senate will be in a period of morning business, with Senators allowed to speak therein for up to 10 minutes each. At 2 p.m., we are going to begin the consideration of the minimum wage bill.

Last Thursday, prior to action being concluded on the ethics bill, Senator GREGG and I engaged in a colloquy on his plan to offer an amendment to the minimum wage bill which relates to enhanced rescissions. Some call it line-item veto. That amendment is expected to be offered today. Cloture will be filed on that amendment, as I told him I would do, setting up a cloture vote for Wednesday. I advise all Members that we may even do it sooner. It is up to Senator GREGG. We talked about that a little last week.

There will be no rollcall votes today. I expect we will have a vote prior to the caucuses tomorrow. Also, tomorrow evening is the State of the Union Address by President Bush. We will be in recess around 6 p.m. and will reassemble at 8:30 p.m. so that at 8:40 we can proceed to the House Chamber to receive the President's State of the Union Message.

I ask unanimous consent that during morning business today, Senator DORGAN be recognized for up to 30 minutes.

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

MEASURE PLACED ON CALENDAR

Mr. REID. Mr. President, I understand that H.R. 6 is at the desk and is due for a second reading.

The ACTING PRESIDENT pro tempore. The leader is correct. The clerk will read the bill for the second time.

The legislative clerk read as follows:

A bill (H.R. 6) to reduce our Nation's dependency on foreign oil by investing in clean, renewable, and alternative energy resources, promoting new emerging energy technologies, developing greater efficiency, and creating a Strategic Energy Efficiency and Renewables Reserve to invest in alternative energy, and for other purposes.

Mr. REID. Mr. President, I now object to any further proceedings at this time.

The ACTING PRESIDENT pro tempore. Objection is heard. The bill will be placed on the calendar.

AMENDMENT NO. 51, AS MODIFIED TO AMENDMENT NO. 3, TO S. 1

Mr. REID. Mr. President, I ask unanimous consent that amendment No. 51, previously agreed to, to the bill S. 1 be modified with the technical modification which is at the desk. This is strictly a technical modification to allow for the proper placement of the amendment in the bill.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The amendment (No. 51), as modified, is as follows:

(Purpose: To prohibit Members from requesting earmarks that may financially benefit that Member or immediate family member of that Member, and for other purposes)

At the appropriate place, insert the following:

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

SEC. 116. PROHIBITION ON FINANCIAL GAIN FROM EARMARKS BY MEMBERS, IMMEDIATE FAMILY OF MEMBERS, STAFF OF MEMBERS, OR IMMEDIATE FAMILY OF STAFF OF MEMBERS.

Rule XXXVII of the Standing Rules of the Senate is amended by adding at the end the following:

''15. (a) No Member shall use his official position to introduce, request, or otherwise aid the progress or passage of a congressional earmark that will financially benefit or otherwise further the pecuniary interest of such Member, the spouse of such Member, the immediate family member of such Member, any employee on the staff of such Member, the spouse of an employee on the staff of such Member, or immediate family member of an employee on the staff of such Member.

''(b) For purposes of this paragraph—

''(1) the term 'immediate family member' means the son, daughter, stepson, stepdaughter, son-in-law, daughter-in-law, mother, father, stepmother, stepfather, mother-in-law, father-in-law, brother, sister, stepbrother, or stepsister of a Member or any employee on the staff (including staff in personal, committee and leadership offices) of a Member; and

''(2) the term 'congressional earmark' means—

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

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

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

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

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

''(D) any provision modifying the Harmonized Tariff Schedule of the United States in a manner that benefits 10 or fewer entities.''.

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that there be a full hour of morning business following my remarks.

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

Mr. REID. Mr. President, also, we are going to take up the minimum wage bill this afternoon. I hope we can finish it this week. There are a lot of things going on. There is a conference going on someplace outside the boundary of the United States. We have a lot of work to do. We are going to have votes throughout this bill. It will be a little complicated because of cloture being involved, but I will be meeting with the Republican leader later today, and we will talk about ways we can move forward on this minimum wage legislation, perhaps in a more timely fashion. Again, it would be nice to finish the bill this week. It will be difficult to do, but we would like to work it out so that we won't have a series of votes on Friday.

RECOGNITION OF THE REPUBLICAN LEADER

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

GETTING STARTED

Mr. MCCONNELL. Once again, I thank Senators BENNETT and FEINSTEIN for their efforts last week on the lobbying reform bill. I think the 96-to-2 vote Thursday night pretty well sums up the broad bipartisan support we had for this important legislation.

With regard to the minimum wage, I encourage Members on our side to come to the floor today not only to debate the package but to also offer their amendments. I hope we can have a full, constructive debate as Members offer their various proposals to the bill.

Let me ask my friend, the majority leader, did he indicate that the first vote will probably be before the policy luncheons?

Mr. REID. Yes.

Mr. MCCONNELL. As the majority leader indicated, we have a number of different interruptions this week, not the least of which is the State of the Union tomorrow night, which will truncate the amount of time we have on the floor. I think the best way to get started is for Members to come over and offer their amendments, get them in the queue, and let's get started.

I yield the floor.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business until 2 p.m., with Senators permitted to speak therein for up to 10 minutes each.

The Senator from Arizona is recognized.

THE PRESIDENT'S NEW STRATEGY IN IRAQ

Mr. KYL. Mr. President, I wish to address recent changes in the situation in Iraq and the possibility that resolutions of disapproval to the President's new strategy will be offered in the near future—a possibility which I believe would be very dangerous to the success of our military efforts.

I will make three points this afternoon.

The first is that it is important for us to give the newly announced strategy of the President an opportunity to succeed. That makes sense not only because everyone recognized that the President needed to announce a new strategy—he has done that, and it seems to me he should be accorded that courtesy—but also because, from a military standpoint, it is the only thing that makes sense.

The key to the new strategy announced by the President is not the addition of new troops. We have had far more in terms of numbers of troops in Iraq than the increase that will be provided by this latest plan. No, the primary change in the strategy is the actions of the Iraqi Government—in particular, Prime Minister al-Maliki's commitment to begin doing things we wanted him to do a long time ago but which he was unwilling to do—to hold people after being arrested rather than releasing them on the streets, to allow curfews and checkpoints to work, to allow the control of the Mahdi army, which is under the leadership of Sadr, the Shiite leader in Iraq, who has confronted al-Maliki and his government.

It appears this new strategy is beginning to work even after only a few days of its announcement. People have asked: Can we trust al-Maliki? The answer is that no one knows. But actions speak louder than words. Apparently, he has made good—at least initially—on his commitment to confront the Mahdi army and to stop Sadr and that army from continuing the sectarian violence against Sunnis in Baghdad. Apparently, there have been a lot of arrests made, and the United States is going to be able to now conduct the type of hold operations, after they have cleared an area, that would be necessary to create stability for an ultimate peace in Iraq.

So the first point is we do need to give this new strategy a chance to succeed. The very early returns suggest that it just might be having that effect.

In addition, it is important for us to be able to regain control of the Anbar Province. Almost a third of the western part of Iraq is under attack by al-Qaida and other terrorists who mean to create their own little fiefdom—called a caliphate—in that part of the country. Clearly, we cannot allow al-Qaida to have a terrorist base in Iraq. The additional battalion of marines who are committed to clearing this area is critical to the stability in Iraq and the defeat of the terrorists there.

The second reason we should give this strategy a chance is that the nonbinding resolution which has already been offered and will apparently be brought before the Senate within a week or so is wrong for two reasons: First of all, it presents no credible alternative, and secondly, it is dangerous. It presents no credible alternative, just mere criticism. Albeit in a nonbinding way, it is still criticism without any kind of an alternative.

The resolution itself doesn't contain an alternative except the following: ''The primary objective of the United States''—I am really listening at this point—''strategy in Iraq''—I am looking for a verb here but instead here are the four words—''should be to have the Iraqi political leaders make the political compromises necessary to end violence in Iraq.''

''Should be to have'' them. Well, if I had a magic wand, maybe I could make this happen. But the reality is that it is not the lack of political compromise, it is the lack of peace that is enabling them to make the political compromise. As long as the Mahdi army is controlling Sadr City and Sadr is confronting al-Maliki and fomenting violence—Shiite and Sunni and vice versa—the political compromises are going to be impossible to make. That is why the President and al-Maliki understood you have to first create peaceful conditions, change the conditions on the ground. If the Mahdi army is going to have death squads foment this kind of violence, you will never have those political compromises. If al-Maliki can control Sadr and eliminate the threat, political compromise is possible. So there is no alternative to the President's strategy in the nonbinding resolution that was filed.

Secondly, it would be dangerous. To pass a nonbinding resolution in the United States is for effect. What is the effect? Well, the effect theoretically is to try to get the President to change policy. This strategy isn't going to change in the near term. Troops are on the way. Al-Maliki made his commitment and is apparently making good on the commitment, so the new strategy is working out right now. So a nonbinding resolution passed in a week or two is not going to change this. Instead, its effect is a pernicious one. What kind of a message does it send, first of all, to our troops that Congress doesn't support what the President and they are trying to accomplish here; that the Congress thinks we should be going in some other direction, albeit there is no alternative being presented, just in a resolution of criticism? What kind of a message does it send to the allies that the President's policy is going to be undercut to the point that it will not be carried out, and therefore they better begin to hedge their bets? And most important, what message does it send to our enemies? Can they simply decide that in a matter of time, support for the President's policies will have diminished to the point that they won't have to concern themselves with this new strategy anymore if they can wait it out, and they will have an opportunity for success? So it is not going to work, No. 1, and secondly, it is dangerous.

That brings me to the third and final point. It seems to me that those people in favor of sending a message without presenting an alternative have an obligation to consider what will occur if the President's policy doesn't succeed. Almost everybody recognizes that the Iraqi Army is not able to defend this country and create a peaceful stability in the country at this point.

So the question is: What would happen if we leave Iraq a failed state? Most agree, and the intelligence community has recently testified, that it would be disastrous, not only for the people in Iraq but for our allies in the region and for our long-term national security interests, both because of the ability of al-Qaida and other terrorists to consolidate their gains in the area and use that as a place from which to operate, and secondly, because all of the momentum we have gained in getting support, more or less, from countries such as Afghanistan, Pakistan, Saudi Arabia, Yemen, Egypt, Jordan—all of the countries in the region—that have helped in the war against the terrorists will switch the other way as they realize America will not stay in the fight, that they have to begin hedging their bets with the other powers in the region which include the sectarian killers and the terrorists.

What is the consequence of a failed Iraq? It seems to me that for those who present no alternative other than Iraq needs to get its act together and provide for its own security, a policy which I don't know of anyone who agrees would succeed at this point in time, if that is not going to succeed, then what is the consequence of a failed Iraq and what is the consequence of the President's strategy failing?

It all gets back to what I said in the beginning, and that is, it seems to me all Americans should want this strategy to succeed. Why would anyone want the strategy to fail? Just to prove a political point? That doesn't make sense when we have young men and women in harm's way and a lot riding on it not just for Iraqis but also for our national security. We should all want this strategy to work. We should do everything in our power to help make it work, and that begins by giving the plan a chance and not criticizing it before the strategy even has a few days to work out. That is why the possibility of a resolution, which is highly critical of the President's strategy and suggests a different course of action, a timeline for leaving, is the wrong strategy.

What is that alternative in terms of timeline? It simply reads as follows:

> The United States should transfer under an appropriately expedited time line responsibility for internal security and halting sectarian violence in Iraq to the Government of Iraq and Government security forces.

That is the alternative, in an appropriately expedited timeline. That is no alternative at all. That doesn't direct anybody to provide for security in Iraq on any faster basis than we are already attempting. I have heard no one criticize our training of the Iraqi forces or finding or suggesting there is some other way to train them in a better way, in a faster way. It takes time. We are doing the best we can.

The general who was in charge of creating that program, General Petraeus, will be our general in charge again. I think, by all accounts, he did a terrific job of setting up the program. We know it takes a certain amount of time to train these Iraqi forces. We know the country is not in a position to defend itself at this point. Why would we want to set ourselves on a course to leave when we know they cannot defend themselves?

The truth is, for the time being, we are going to have to remain there to help secure the peace in Iraq, and that means we ought to give the President's policy a chance to succeed, and all of us hope it will succeed.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota.

IRAQ

Mr. DORGAN. Mr. President, my distinguished colleague from Arizona is speaking about a very important issue and one that we certainly will have a discussion about and a debate about in this Congress in the coming days, and that is as it should be. We are a democracy with divided branches of Government, separation of powers. We have a President, a legislative branch, a judicial branch, and there is a role here for the legislative branch.

My colleague suggested this was a circumstance where some were simply willing to criticize the President but offer no plan of their own. Then he subsequently said the resolution that some of my colleagues will offer in the Senate will advocate a different course of action. That is a plan, I guess, isn't it? If one advocates a different course of action than the President is advocating, it seems to me that is a plan.

I don't disagree with much of what those who have a different view would say about these issues. Most of us want peace in Iraq. We want the Iraqis to control their own destiny. We want the Iraqi troops to be sufficiently trained so they can provide their own security. We all share that goal. We all want our country to succeed in the missions.

Let me make one very important point. My colleague alluded to it in a way different than I would respond to it. During the debate on the floor of the Senate I don't think there will be a single Senator who stands up and in any way says he wants us to withdraw support for American troops. Speaking for myself—and I think for most other Senators, perhaps every other Senator—I think Members who serve in this Congress believe it is critically important to support our troops. When we send men and women in our uniform to go to war, we are obligated, it seems to me, to do everything to support them in their mission.

So this debate is not about whether we will support those troops whom we have asked to go to war in behalf of our country; we certainly will do that. The debate will be about the President's

plan for a surge in troops or a deepening involvement in Iraq. It is a worthy debate for us to have because I think this is obviously a conflict that has gone on a long while, longer now than the Second World War. We have had a lot of discussion with the military leaders in the field about training Iraqi troops to provide for their own security.

Let's review what has happened in Iraq.

Saddam Hussein ran Iraq. We now know he was a butcher. We knew it then; we know it now. There are hundreds of thousands of skeletons in mass graves, of the victims murdered by Saddam Hussein. But Saddam Hussein doesn't exist anymore. He was executed. He has been buried.

There is a new constitution in Iraq, voted for by the Iraqi people. There is a new government in Iraq selected by the Iraqi people. This country belongs to Iraq, not to us. It is their country, not ours. The security for their country is their responsibility, not ours. The question for all of us is: When will the Iraqi people decide they are able to provide for their own security?

My colleague says it is a matter of being patient with training the Iraqi troops. Perhaps today there is going to be a young man or woman who is going to enlist in the Marines and the Army and they will go to training. It won't be very many months before they are fully trained and maybe committed to the battlefield—6 months, 7 months, 8 months. The question is: How long does it take to train an Iraqi army and Iraqi security forces to provide security for their own country? Years? Can they be trained, as American troops are trained, in months rather than years? The answer, at least in the last several years, seems to have been no.

It is very important for us to debate this question of our deepening involvement in Iraq. We all know what is going on there. It is sectarian violence, Shia on Sunni, Sunni on Shia. Seventy-five more people were killed today in Shia neighborhoods, multiple bombings, we are told by the news today, 160 wounded. The day before, dozens of Iraqis were killed, and 25 American troops were killed in numerous attacks. Our hearts break for all of them, particularly the American troops, but also for everyone who is losing their life in this conflict.

Suicide car bombers, simultaneous car bombings, beheaded bodies floating in the Tigris River, bodies with holes drilled in the heads and knees with electric drills, tortured, tortured bodies swinging from lampposts in Iraq, we read. It is a cycle of grim violence, unlike any most of us have ever seen. It is unbelievable.

Let me tell you what General Abizaid, who is in charge of CENTCOM, said about 6 weeks ago. He came to the Congress—and this relates to what my colleague had said and the debate we will have. General Abizaid said this:

I met with every divisional commander, General Casey, the Corps commander, General Dempsey . . . and I said, in your professional opinion, if we were to bring in more American troops now, does it add considerably to the ability to achieve success in Iraq? And they said no.

This isn't an approximation of what the top general said; it is exactly what he told the Congress: I met with all of my top generals, and I asked them the question, if we were to bring in more troops now, does it add to our ability to achieve success? They said no. That's what General Abizaid said.

Let me describe to you what General Abizaid said following that comment. Again, this is 2 months ago in testimony before the Senate:

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.

Less than 2 months ago, the top general said his top commanders in Iraq all said no to bringing in more troops. Why? Because it will say to the Iraqis: We will do the job. We will do what we would expect you to do.

As we talk about deepening the American involvement in Iraq and the issue of how many troops we are going to have in that battlefield, let me turn to another issue. If we have 20,000-plus troops to send to Iraq, what about Afghanistan?

Our military is, as all of us know, fairly overstretched. We are calling up guardsmen and reservists and some of them second deployments, some of them third deployments all across this country. But in Afghanistan, which was the home of al-Qaida, where the Taliban ruled and where we went first to route the Taliban and create a democracy in Afghanistan, the Taliban, by all accounts, are now taking hold once again and creating an even greater threat.

They are fighting hard to destabilize the Government of Afghanistan. That was our first battle, to go into Afghanistan and kick the Taliban out. We need more troops in Afghanistan now, not less, and yet my understanding is the President's plan would divert troops we have in Afghanistan to go to Iraq.

Let me read something that Mr. John Negroponte, the Director of National Intelligence said last week. He testified before the Select Committee on Intelligence, and here is what he said:

Al Qaeda is the terrorist organization that poses the greatest threat to U.S. interests, including to the homeland.

Al-Qaida is what poses the greatest threat to our interests, including our homeland. Then he went on to say this. This is again John Negroponte, Director of National Intelligence.

Al Qaeda continues to plot attacks against our homeland and other targets with the objective of inflicting mass casualties. And they continue to maintain active connections and relationships that radiate outward from their leaders' secure hideout in Pakistan.

Let me reemphasize:

And they continue to maintain active connections and relationships that radiate outward from their leaders' secure hideout in Pakistan to affiliates throughout the Middle East, northern Africa, and Europe.

What does that mean? Osama bin Laden, do we know him? Yes. He is the person who ordered—claimed and boasted—he ordered the attacks against this country, killing thousands of innocent Americans. He still lives, apparently, in a secure hideout, according to the top intelligence chief in this country, in Pakistan. It seems to me the elimination of the leadership of al-Qaida, the organization that attacked this country, that murdered thousands of innocent Americans, ought to be the primary interest of this country. That is why moving away from Afghanistan and the related activities that ought to exist in Pakistan to deal with what are called ''secure hideouts,'' the secure hideout from which al-Qaida operates, that ought to be job No. 1 for this country.

I don't understand. My colleague Senator CONRAD and I offered an amendment to the Defense appropriations bill last year on this subject. Does anybody hear anybody talking about Osama bin Laden anymore? Or perhaps better described ''Osama been forgotten'' these days? Nobody wants to talk about it.

Finally, last week the Director of our intelligence in this country said al-Qaida is the most significant threat to this country. The most significant terrorist threat to this country is al-Qaida, and it operates from a secure hideout in Pakistan. If that is true, what are we doing, deciding to find 20,000 troops by pulling some of them out of Afghanistan and moving them to Iraq? If those troops are available, they ought to be dedicated to dealing with al-Qaida and bringing to justice those who committed the attacks against this country. I will have more to say about that at some point, but I did want to make note of what the Director of Intelligence said last week that seems to be almost ignored in this debate about Iraq.

I am going to be talking as well this week about the minimum wage. We will have an aggressive discussion about that. That is going to be the pending issue of the day.

HEALTH CARE FOR THE FIRST AMERICANS

Mr. DORGAN. Mr. President, I want for a moment this afternoon to talk about another issue that is of great importance to me and I think to a number of our colleagues here in the Senate as well. I am going to chair the Indian Affairs Committee in this session of Congress. I will be working with my colleague Senator CRAIG Thomas from the State of Wyoming. I am pleased to do that.

I want to mention that this week my colleagues here in the Senate are likely to see members of Indian tribes who are coming to town from all over the country. They will likely see them here

on Capitol Hill, perhaps in the halls of the Senate and the House. They are here to attend the ''State of Indian Nations'' address by the President of the National Congress of American Indians. They will come from across the country to hear this ''State of the Indian Nations'' address and they will probably also drop in some offices and meet with some Senators and Congressmen.

Let me talk about one of the things I am sure they will talk about in virtually every office, and that is the issue of Indian health care. I have seen hearings where, talking about Indian health care, very powerful tribal leaders have been brought to tears when they talk about family members who have taken their own lives because of depression or drug abuse, or family members who needed medical attention desperately and did not get it.

Let me talk a minute about the first Americans, those who were here first. American Indians and Alaska Natives die at a higher rate than other Americans from tuberculosis. There is a 600-percent higher incidence of tuberculosis than the American population as a whole; alcoholism, 510 percent higher than the population at a whole; diabetes, 189 percent higher than the American population as a whole. Let me say, in many areas it is quadruple, 8 times or 10 times higher than the population as a whole, in terms of the incidence of diabetes. Indian youth and teenage suicide on reservations in the northern Great Plains is 10 times higher than the national average. There are fewer than 90 doctors for every 100,000 Indians compared to 230 doctors for every 100,000 people nationwide. It is almost unbelievable to see what the Indian community faces with respect to the health care issues.

The Indian Health Service expenditure for each American Indian in 2005 was $2,130, compared to $3,900 that we spend for health care for Federal prisoners. We have a responsibility for the health care of Federal prisoners because we incarcerate them. If they get sick, it is our responsibility to provide for their health care. We have a trust responsibility for American Indians, and if they get sick—or in order to keep them well—it is our responsibility. Yet we spend almost twice as much money for health care for Federal prisoners as we do to meet our trust responsibility for American Indians.

I hope my colleagues will have a chance to talk to some of the Indian leaders who come to the Capitol this particular week and visit about these issues.

I want to show a picture of Ardel Hale Baker, to talk a little about what some people face. It is easy to talk about the statistics. Let me talk about the humanity of this issue. This is Ardel Hale Baker. She is a member of the Three Affiliated Tribes in my State. Ms. Baker had sudden and severe chest pains. Her blood pressure was off the charts and she felt she was having a heart attack. So she went to the Indian Health Service clinic of the Three Affiliated Tribes in New Town, ND, and she was diagnosed as having a heart attack. At the insistence of the Indian Health Service staff on that reservation, she was sent by ambulance to the nearest hospital, 80 miles away in Minot, ND. When she got to the hospital, Ardel was being lifted off of a gurney from the ambulance to be taken into the hospital, and the nurse noticed a piece of paper taped to her leg. Curious about this woman, with chest pains, likely having a heart attack—curious about what kind of piece of paper was taped to this woman's leg, the nurse looked and it was a letter. It was a letter from the Indian Health Service, warning that both Ms. Baker and the hospital should understand the Indian Health Service had no funds with which to pay for the health care she needed, because this was not considered a ''life or limb'' medical condition. Ms. Ardel Hale Baker later, after she survived, received a bill for $10,000.

Let me recreate that again. This is a Native American, living on a reservation. She was having severe chest pains, clearly a heart attack, put in an ambulance and driven 80 miles, and when they pulled her out of the gurney to run her in to the hospital, they noticed a letter taped to her leg in which the Indian Health Service says: ''Understand, we don't have the money. Both Ms. Baker and the hospital should understand they may have to assume the cost because we don't have the money to pay for this. It is not life or limb.'' So this woman gets a bill for $10,000.

Her life was saved, but it was saved notwithstanding a letter taped to her leg saying: ''Admit this woman at your own cost.''

This is called rationing. It is called health care rationing. If health care rationing existed in this country, there would be an outrage, and it does exist and nobody says much. There is a quiet yawn; somewhere between daydreaming and thumbsucking. People sit around and hardly even think of the fact that when they are sick, it is OK because they can get health care. But when this woman is sick, she might get a letter taped to her leg saying: ''Yes, she is having a heart attack, but understand if you admit her, it is at your own expense.''

An Indian tribal chief told us once that on his reservation everyone understood the admonition: ''Don't get sick after June.'' Do not get sick after June, because June is the time of the fiscal year when they run out of money for contract health care on the reservations. The Indian Health Service runs out of money after June. If you get sick after June, I am sorry, they might tape a letter to your leg. It is ''life or limb.'' If your illness is not threatening your life or your limb, you are out of luck. That is rationing. That is health care rationing, and it is an outrage in this country. It is happening in a quiet way, inflicting misery all across this country on the first Americans, those who expect we would meet our trust responsibility to provide health care for Native Americans.

We are going to try very hard to see if we can rectify that. I understand the Indian Health Service is staffed with some committed and wonderful doctors, nurses, and administrators. They are understaffed in a dramatic way, underfunded and understaffed. They tell us their budget allows them to treat about 60 percent of the health care needs of the Indian community. That means 40 percent is not dealt with.

One of the things I would have us consider is a new model for delivery of health care, particularly on Indian reservations, that tracks what is happening in some other parts of the country where there are the kinds of low-cost, walk-in clinics open at all hours, where you can get the routine health care, routine diagnosis. I hope the Indian Health Service could do that at no charge. But what is happening now is not working at all. Often health care is not available.

On one reservation of which I am aware, the clinic there is open 5 days a week. After 4:30 or 5 o'clock on Friday: So long, tough luck. You are 80 miles from the nearest major city hospital, and if you get sick, that is where you are going to have to look for some health care. We need to do better than that. I hope we can succeed in talking to the Indian Health Service about a new model, a new approach.

This is only one issue of many. We have a full-scale crisis, I believe, in Indian health care, Indian education, and Indian housing.

I have spoken previously about a woman who died lying in bed in her house, who froze to death in this country. A woman named Swift Hawk froze to death when she lay down and went to bed, living in a climate with 35 degrees below zero weather with, instead of windows in their dwelling, plain plastic sheeting. This grandmother went to bed and didn't wake up because she froze to death. If you saw that in the paper, you would think it was a Third World country, but no, it is not. It is this country and it relates to a health care crisis we need to address. It is not about statistics. It is about the humanity of understanding what is happening and a responsibility to do something about it.

I look forward to working with my colleague on the Indian Affairs Committee, Republicans and Democrats, who I think are of a like mind, that we have a responsibility here and we need to meet it, and we will.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, what is the regular order?

The ACTING PRESIDENT pro tempore. The Senate is in morning business.

Mr. INHOFE. I ask unanimous consent I be recognized for up to 25 minutes in morning business.

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

BANNING JROTC

Mr. INHOFE. Mr. President, on Tuesday, November 14, 2006, members of the San Francisco School Board voted 4 to 2 to eliminate over the course of 2 years the San Francisco School District's Junior Reserve Officers' Training Corps. We call this JROTC. This was an arrogant, mean-spirited, absolutely foolish decision. The decision was a disservice to children of every socioeconomic and racial background, and it reveals a gangrenous, antimilitary bigotry that festers in some circles of the United States today. The vote deprives hundreds of children of a safe, extremely popular, and cost-effective program that provides structure and enjoyment to the lives of children through an emphasis on physical activity, responsibility, self-discipline, and teamwork.

The merits of the JROTC program alone compel a reversal of this decision, but it is more than that. It is only the latest antimilitary decision in the Bay City. The antimilitary counterrecruitment movement is undertaken by activists and groups who have moved beyond simple disagreement with foreign policies to the outright opposition to the military as an institution. They explicitly deprecate basic civic service and exhibit an utter lack of respect for the sacrifices of men and women which they have made in the defense of our country.

Allow me to offer a statement of one such activist before moving on, to get the sense of the nature of the movement behind the JROTC decision. This is:

> When soldiers are really hurt because there are no new recruits, then we are getting somewhere.

According to the San Francisco Chronicle, when the school board announced its vote to eliminate the 90-year-old program in which 1,600 children participated, the dozens of children and their families gathered at the board meeting were absolutely stunned. Many cadets burst into tears, their faces in their hands, in silent bewilderment. ''It provides me a place to go,'' said a fourth-year cadet, Eric Chu, as he began to cry. At the same time, the board's decision was loudly cheered by JROTC opponents and counterrecruitment activists. Former teacher Nance Manchias summarized the reason behind their jubilation by declaring, ''We need to teach a curriculum of peace.''

Arguments marshalled in support of this kind of antimilitary activity are not generally arguments of outright opposition to the military. Counterrecruitment activists you usually hear cloak their opposition to the military in discussions about discrimination, about the military's ''don't ask, don't tell'' policy regarding homosexuals. But in this case these arguments do not apply—not to the JROTC. You don't believe me? The editorial board of the San Francisco Chronicle, which is not really a bastion of conservatism, explains. They say:

> The high-flown arguments fall apart when the drill-and-discipline JROTC basics are examined.

The San Francisco Chronicle's board, writing in support of the JROTC program, continues by explaining the nature and specifics of the program:

> Sorry, adults, but kids love this program as if it's family. There are 1,600 students enrolled in the classes, which fulfill physical-ed requirements. Punctuality, team work, camaraderie are the hallmarks. There, military drill competitions are as popular as football games. There are no weapons, just sticks and flags used in marching. Some ROTC members go on to serve in the military, but the vast majority don't, seeing classes as an enjoyable experience and a chance to learn new things: map-reading, leadership skills and self-discipline that goes with military-style assignments and crisp uniforms.

I am quoting from the San Francisco Chronicle's editorial board.

What were the reasons, then, for the elimination of this program? Were there safety concerns, a lack of interest in the program, budgetary issues, problems with poor management, or a troubling lack of diversity? In fact, none of these factors were at issue in the decision.

The program was popular. More than 1,600 kids were active participants in the JROTC program. Finances were not a problem. The program enjoyed a modest $1 million budget from a school district budget of $365 million. That is $1 million out of $365 million, or a cost of just under three one-thousandths of the entire budget. Was the program poorly managed? The San Francisco Chronicle answers:

> No one has offered an alternative as coherent and well-run as the JROTC.

How about safety? Not a problem. There are no weapons involved. The programs are nonviolent; they are simply character-building exercises which emphasize leadership and self-discipline.

And what about the big one, diversity? For this, I repeat the words of the Chronicle reporter, Jill Tucker, in a story she wrote about the JROTC cadets at Galileo High School:

> These students are 4-foot-10 to 6-foot-4, athletic and disabled, college-bound and barely graduating, gay and straight, white, black, and brown. Some leave for large homes with ocean views. Others board buses for Bayview-Hunter's Point.

Many of the students were immigrants, and one is autistic.

According to the San Francisco Chronicle:

> Opponents acknowledge the program is popular and helps some students stay in school and out of trouble.

So, again, why eliminate a school program in which students simply receive phys-ed and elective credits required for graduation? Sandra Schwartz of the American Friends Service Committee, an organization dedicated to active opposition to the JROTC program, explains:

> We don't want the military ruining our civilian institutions. In a healthy democracy, you contain the military. You must contain the military.

So we have an answer to the question as to why this program was eliminated. It wasn't because of any practical consideration such as cost, interest, or safety, nor was it opposition to a specific policy of the Government. It was opposition to the military as an institution.

But the JROTC decision in San Francisco should come as no surprise. It comes on the heels of two other antimilitary decisions in the Bay City which have taken place over the past year or so. Last year, San Francisco city supervisors refused to allow a ship to dock in the city's port. The ship was a historic World War II battleship, the USS *Iowa*. Just as in the JROTC decision, there were no practical considerations which necessitated refusal of the USS *Iowa*. Supervisor Chris Daly explained the reason for his vote:

> I am not proud of the history of the United States of America since the 1940s.

The decision was intended to be an insult to our Armed Forces.

Also, last year, San Francisco passed measure 1, dubbed ''College, Not Combat,'' which was a symbolic measure to ban all military recruiters in the city's public schools. ''College, Not Combat'' was the first local success of the counterrecruitment movement. Examples of other counterrecruitment slogans include ''Don't die for recruiter's lies,'' and my personal favorite, ''An army of none.''

This decision enjoyed the support of many extreme antiwar groups, including ANSWER, Not In Our Name, Ralph Nader's Green Party, American Friends Service Committee, Code Pink, Cindy Sheehan, and the International Socialist Organization.

These decisions to denigrate the Armed Forces are the latest tactics of the antiwar counterrecruitment movement. But, again, make no mistake about the basis or the purpose of this movement. Ignore all the rhetoric about discrimination in the Armed Forces and ''don't ask, don't tell.'' Forget about arguments that this is simply opposition to the Iraq war, to George Bush, or to some other specific policy.

The counterrecruitment movement opposes the military as an institution. Counterrecruitment activists and measure 1 supporter April Owens admit the purpose of her movement, and she is speaking in behalf of measure 1:

When soldiers are really hurting because there are no new recruits, then we are getting somewhere.

Speaker PELOSI is on record as saying that she was not behind measure 1 100 percent. I think the American people would be interested to know what percentage of her support the measure is enjoying. But at least some political leaders in San Francisco are speaking out about these topics and decisions and this type of attitude toward the American soldiers.

Regarding the school board decision—and this took a lot of courage for him to do it, I might add—San Francisco Mayor Gavin Newsom said:

This move sends the wrong message. It's important for the city not to be identified with disrespecting the sacrifices of men and women in uniform.

Yes, it is—especially now. Do we really need to remind people that men and women are fighting and dying because they heeded the call of their country? Do we need to remind people that families are grieving?

One wonders whether these activists understand that the only reason they have the freedoms to dedicate their time and energy to opposing the U.S. Armed Forces is because of the very existence of the U.S. Armed Forces. One wonders whether they have ever realized that the Armed Forces have dedicated far more of their time and efforts to establishing and ensuring the continuation of peace rather than launching wars. And when wars are fought, they are done so at the behest of democratically elected civilian leaders.

If they have a problem with any specific policy, they should take it up with the civilians who made the policy, not the soldiers doing their duty and carrying out that policy in the service of their country.

They certainly should not take their frustrations out on schoolchildren who enjoy a structured, character-building, afterschool program such as the JROTC program. But they believe the program exists to trick youngsters into joining the military. School board member Dan Kelly says the JROTC is ''basically a branding program, or a recruiting program for the military.'' Well, Mr. Kelly, if that is the case, that the JROTC is a recruiting vehicle, then the JROTC should enjoy the same protections military recruiters receive. This is what I am getting to now.

San Francisco's measure 1, which tells all military recruiters to stay away from schools, was only symbolic for a reason. San Francisco banned military recruiters in their schools for over a decade, until the No Child Left Behind Act was passed into law in 2001. Under provisions of No Child Left Behind, schools can only prevent military recruitment if they are willing to forgo their Federal funding. Unfortunately, the JROTC is not currently included in the recruiting program under the act. However, as board member Dan Kelly admits, the JROTC program was banned simply because it was perceived as a recruiting program.

Let's make that perception a reality. Let's amend the appropriate laws and give the JROTC the same protection that military recruiters enjoy. The program, as I have illustrated, is clearly a valued program in many communities. It deserves our support. The JROTC program in San Francisco, as well as those in communities all across the nation, deserve our support. Sadly, they need our protection, too.

At this time I would like to announce that I will soon be introducing legislation to afford the same protection to the JROTC programs as the other military recruiters enjoy. I look forward to bipartisan support of that program.

U.N. GLOBAL TAXES

Mr. INHOFE. Mr. President, last session of the Congress, I introduced a bill, along with 30 other Senators, to prevent the imposition of global taxes on the United States. The bill would withhold 20 percent of our contributions to the United Nations' budget should the organization continue in advancing its global tax goals.

There are a lot of things they do. I know this body is divided in support of the United Nations. I, frankly, don't see a lot of good that they do. In fact, many of the things I find offensive all get started in the United Nations. But the fact is, there is an effort to get out from under any type of supervision from any of the member states of the United Nations.

The current efforts of the United Nations—and we are talking about organizations which are trying to replace the dues system so that we can no longer threaten to withhold 20 percent of our dues and come up with some type of a global tax independent funding system so they don't have to answer to anyone. The current efforts of the United Nations and other international organizations to develop, advocate, endorse, promote, and publicize proposals to raise revenue by instituting international taxes are unacceptable.

Last year, United Nations Ambassador John Bolton summarized the U.S. position in stating that although the U.S. fully supports increased development assistance, ''the U.S. does not accept global aid targets or global taxes.''

My bill is the latest development in a decade-long struggle against the desire of the United Nations to implement a global tax regime.

First, to articulate openly the U.N.'s movement toward global taxes was none other than Boutros-Boutros Ghali, and that was in 1996 in a speech he made at Oxford University in which he hopefully embraced the consent of global taxes and authoritarian world government. The then-Secretary General expressed the U.N.'s desire not to ''be under the daily financial will of member states.'' Now, what he is talking about is the United States.

This statement warranted and resulted in congressional action, and I cosponsored Senator DOLE's bill at that time—this is 1996—to prevent U.N. global taxes, which passed both Houses of Congress and became law.

Our efforts were met with continued resistance and arrogance on the part of the United Nations. In that same year, the concept of global taxes was fully debated. That was after we passed our legislation.

A little later, the U.N. Development Programme Research Project resulted in a push for the Tobin Tax, which is a tax on international monetary transactions to go directly to the United Nations. This tax would net trillions of dollars annually.

The 2001 Zedillo report concluded that ''there is a genuine need to establish, by international consensus, stable and contractual new sources of multilateral finance''—world taxes.

Over the next few years, the U.N. pushed for a tax on international arms sales and military expenditures, taxes on international airline tickets, taxes on international trade through an ocean freight tax, a global environmental levy, and all other types of global taxes.

The list goes on and on, but here are just the most recent examples of this movement: A 2004 United Nations University study on global taxation; the U.N.'s 2005 book called ''New Sources of Development Finance'' edited by A.B. Atkinson; a September 2005, United Nations ''Millennium Development Goals'' meeting addresses international airline ticket tax; Peter Wahl of the German organization, WEED, says international currency transactions taxes are ''ready,''; and International Confederation of Free Trade Unions, which is an affiliation of the AFL–CIO, supports international taxes. The Clinton, Ford, and Gates Foundations participated in U.N. conferences pushing global taxes. George Soros's Open Society Institute and Oxfam America met at the ''New Rules for Global Finance Coalition.''

The U.N. is fascinated with these global tax schemes. It would be an unprecedented accumulation of power for the United Nations. We cannot concede any ground on this issue. Conceding on even one of these initiatives will only embolden the United Nations to go for more.

The same rules that apply to bureaucracies in the United States—gradual accumulation of more and more power and resources and coercive ability—apply to the United Nations in an even more dramatic manner. The IRS is a model of confidence, moderation, and responsibility when compared to the United Nations.

Unfortunately, the United Nations enjoys support from another international bureaucracy which has endorsed global tax efforts. It is the Paris-based Organization for Economic Cooperation and Development. In addition to its support of U.N. global tax schemes, the OECD, which receives 25 percent of its budget from the United

States, has used U.S. taxpayer money in turn to encourage and support higher taxes on U.S. taxpayers.

Now, keep in mind, this is something we are supporting, to encourage increasing U.S. taxes. For these reasons, I had the following language included in the Foreign Operations appropriations bill:

None of the funds made available in this act may be used to fund activities or projects undertaken by the Organization for Economic Cooperation and Development that are designed to hinder the flow of capital and jobs from high-tax jurisdictions to low-tax jurisdictions, or to infringe on the sovereign right of jurisdictions to determine their own domestic policies.

Of course, we know what has happened to the appropriations bills currently. It is very simple and straightforward. If you want to advocate for higher taxes and global taxes on U.S. taxpayers, U.S. taxpayers would not be forced to foot the bill.

Let's quickly look at some of the reasons for this language and the case against the OECD. The OECD has endorsed and encouraged higher taxes, new taxes, and global taxes no fewer than 24 times in reports with titles such as ''Toward Global Tax Cooperation'' in which the OECD identifies 35 nations guilty of harmful tax competition. I am quoting there: ''Guilty of harmful tax competition.''

In other words, they want us to have taxes as high as any of the other countries have.

They have advocated that the U.S. adopt a costly and bureaucratic value added tax, a 40-cent increase in the gas tax, a carbon tax, a fertilizer tax, ending the deductibility of state and local taxes from federal taxes, new taxes at the state level, and a host of other new and innovative taxes on U.S. citizens.

It's not only the recommending of higher taxes which concerns us; the ultimate concern is the movement towards undermining U.S. sovereignty. Ecogroups such as the Friends of the Earth want the OECD to declare that dam building for flood control and electronic power is unacceptable as sustainable energy. In May 2005, the OECD ministers endorsed a proposal at the UN to create a system of global taxes.

The OECD has stated explicitly that low-tax policies unfairly erode the tax bases of other countries and distort the location of capital and services.

What we have here are Paris-based bureaucrats seeking to protect high tax welfare states from the free market.

That's why the OECD goes on to say that free-market tax competition may hamper the application of progressive tax rates and the achievement of redistributive goals. Clearly, free market tax competition makes it harder to implement socialistic welfare states. The free market evidently hasn't been fair to socialistic welfare states. Well, it is a good thing that they have the OECD and nearly $100 million in U.S. taxpayer money to protect them.

Noted economist Walter Williams clearly sees the direction in which this is headed when he says that the bottom line agenda for the OECD is to establish a tax cartel where nations get together and collude on taxes.

Treasury secretary Paul O'Neill seconded that when he said that he was troubled by the underlying premise that low tax rates are somehow suspect and by the notion that any country . . . should interfere in any other country's tax policy.

And John Bolton argued that the OECD represents a kind of worldwide centralization of governments and interest groups. Who do you think bears the costs for all this? Mr. Bolton answers and you probably guessed it—the United States.

America's proud history of independence was driven in no small part by the desire for sovereignty over taxation powers. In this context, it makes no sense to relegate our sovereignty over tax policy, in any way, to international bureaucrats.

It's very simple. U.S. taxpayers are being forced to fund a bunch of international bureaucrats who write, speak, organize, and advocate in support of higher taxes, global taxes, and the gradual erosion of American sovereignty over its domestic fiscal policies.

If individual Americans want to give their money to an organization which is dedicated to raising taxes, they can. It is called the Democratic Party. But most Americans would be outraged to learn that they are forced to subsidize these types of activities with their tax dollars.

I yield the floor.

The PRESIDING OFFICER (Mr. PRYOR). The Senator from Montana.

HONORING LES SKRAMSTAD

Mr. BAUCUS. Mr. President, I rise today to pay tribute to a Montanan who died Saturday night at his home in Libby, MT. Libby is a small town up in the northwest corner of my State.

Les Skramstad was not only an outspoken advocate for his town, which was horribly wronged at the hands of W.R. Grace, but he was also my friend.

I first met Les in Libby in the year 2000, shortly after news reports attributed hundreds of deaths to asbestos exposure from decades of vermiculite mining there.

We sat down in Gayla Benefield's living room. There were about 25 people who were very ill. Over huckleberry pie and coffee, the group explained to me the horrific legacy Grace had left behind. And although I had read the reports and briefing papers on the situation, that was the first time I had seen asbestos exposure up close. And, it was gut wrenching. I will never forget it—as long as I live.

They opened their hearts and poured out unimaginable stories of suffering and tragedy. I was absolutely stunned. It was at that moment that I vowed to myself that I'll do whatever it takes to help Libby become whole again.

Entire families—fathers, mothers, uncles, aunts, sons and daughters are all sick. Hundreds are dead.

They are bound together by one thing: their exposure to tremolite asbestos, mined by W.R. Grace.

That night at Gayla's, when I first met Les, he watched me closely all evening. He was wary and came up to me after his friends and neighbors had finished speaking.

Les said to me, ''Senator, a lot of people have come to Libby and told us they would help, then they leave and we never hear from them again.''

''Max,'' he said, ''please, as a man like me—as someone's father too, as someone's husband, as someone's son, help me. Help us. Help us make this town safe for Libby's sons and daughters not even born yet.''

Les worked at the vermiculite mine starting in 1959. He told me about the dust he swept every day—off of three separate floors at the mine. And although company officials said the dust was harmless, that's what ultimately took his life. And that dust is what has made his wife and children sick, too.

You see, that dust was laden with tremolite asbestos fibers. When he got home, he would hug his wife. His kids would jump up in his lap.

I think he was less worried about his own fate. It was as if Les had accepted that he was going to die. But the thing that got to him most was that he brought that dust home with him. He wanted justice for his family and friends. That night I told him I would do all that I could. That I wouldn't back down. That I wouldn't give up.

Les accepted my offer and then pointed his finger and said to me, ''I'll be watching Senator.''

I knew Les would. I also knew he didn't have to because I had already vowed to myself I would do all I could, even without Les' encouragement.

Over the years Les and I worked together to help Libby. We became friends in the process. I counted on seeing him every time I went to Libby. I have been up to Libby almost 20 times since then. I talked to Les on the phone. I visited him in the hospital.

Les is my inspiration in the fight to get Libby a clean bill of health and justice for its residents. He is the face of hundreds and thousands of sick and exposed folks in this tiny Montana community.

Les—working with others in the community—became an outspoken advocate for Libby. He put a personal face on asbestos contamination. He provided a straightforward look into the lives of people hurt by Grace and the poisonous asbestos fibers they left behind. Les was a true Western gentleman. And he was very effective.

It has been 8 years since this tragedy first came to light. We have made a lot of progress in Libby.

We launched the Center for Asbestos Related Diseases, which has screened and provided health care to thousands of Libby residents.

We kicked the EPA into gear and got Libby listed as a national Superfund site.

We secured millions for cleanup, health care, and economic development in Libby.

But sadly, there is still much more to do. Much more. Libby residents deserve compensation for their injuries. They deserve health care. They deserve to see those responsible go to prison for what they did. They deserve to know that their town is clean of asbestos.

What I knew about Les makes this news very sad to me, personally. I am sad for his family. I am sad for his friends. I am sad for Libby.

I am also angry at W.R. Grace, which knowingly poisoned its workers. I am angry that justice still has not been done in Libby. I am angry that we haven't been able to do more.

But we won't give up. We will keep fighting for Les and Libby. Les' passing only furthers my resolve to try harder. To do more. We won't let up. We will not stop.

When I get tired, I think of Les. And I can't shake what he asked me to do.

In all of my years as an elected official, helping Libby is among the most personally compelling things I have ever been called on to do.

I will keep the promise I made to Les that night at Gayla's house.

Les was a fighter to the end. He recently minced no words about his feelings towards Grace.

He told the Missoulian newspaper, quote: ''There's not a doubt in my mind that [they] are guilty of murder.''

''I started in 1959 and I was as healthy as a horse,'' he said. ''I knew all the guys that worked there, 135 employees when I was there. And there's five of us left alive. Five. The rest of them are gone.''

Now, sadly, so is Les.

The Book of Proverbs says: ''righteousness delivers from death.'' And if that is true, then Les will certainly be delivered.

My prayers are with Les' wife Norita, his family and friends, and the people of Libby.

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. 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.

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 hour of 2 p.m. having arrived, the Senate will proceed to the consideration of H.R. 2, which the clerk will report by title.

The assistant legislative clerk read as follows:

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

The PRESIDING OFFICER. The majority leader is recognized.

AMENDMENT NO. 100

(Purpose: In the nature of a substitute)

Mr. REID. Mr. President, I send a substitute to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. BAUCUS, proposes an amendment numbered 100.

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

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

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

Mr. REID. Mr. President, that amendment is on behalf of Senator BAUCUS. I failed to mention that.

The PRESIDING OFFICER. The Republican leader is recognized.

AMENDMENT NO. 101 TO AMENDMENT NO. 100

(Purpose: To provide Congress a second look at wasteful spending by establishing enhanced rescission authority under fast-track procedures)

Mr. MCCONNELL. Mr. President, I believe there is an amendment of Senator GREGG's at the desk. I call it up for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows

The Senator from Kentucky [Mr. MCCONNELL], for Mr. GREGG, for himself, Mr. DEMINT, Mr. MCCONNELL, Mr. LOTT, Mr. KYL, Mrs. HUTCHISON, Mr. CORNYN, Mr. ALLARD, Mr. CRAPO, Mr. BUNNING, Mr. VITTER, Mr. BROWNBACK, Mrs. DOLE, Mr. ALEXANDER, Mr. THOMAS, Mr. CRAIG, Mr. BURR, Mr. MCCAIN, Mr. SUNUNU, Mr. ENZI, Mr. MARTINEZ, Mr. CHAMBLISS, Mr. SESSIONS, Mr. COLEMAN, Mr. GRAHAM, Mr. VOINOVICH, Mr. ISAKSON, Mr. COBURN, Mr. ENSIGN, and Mr. THUNE, proposes an amendment numbered 101 to amendment No. 100.

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

The PRESIDING OFFICER. The majority leader.

CLOTURE MOTION

Mr. REID. Mr. President, I send to the desk a motion to invoke cloture.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the pending Gregg amendment No. 101 to the substitute amendment 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.

Harry Reid, Mitch McConnell, Judd Gregg, Craig Thomas, John E. Sununu, James Inhofe, Jon Kyl, Johnny Isakson, Tom Coburn, Mike Crapo, Wayne Allard, Lamar Alexander, John Cornyn, Jim Bunning, John Ensign, David Vitter, Bob Corker.

Mr. REID. Mr. President, let me say briefly, we are now at the point where we said we would be last week. Again, I have said on a number of occasions that I appreciate the courtesy of the Senator from New Hampshire. This is an issue which he believes in very strongly. I just finished a conversation with Senator BYRD in his office a short time ago, and he does not believe in it. This is what legislation is all about, and we look forward to voting on this amendment. We will vote on it Wednesday, or we will, as I said, meet with the distinguished Republican leader later today and we will decide if we need to vote on it more quickly or we need to take all that time—whatever the rules call for, unless we are able to work with Senator GREGG and Senator MCCONNELL to move that more quickly.

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. Yes. Let me indicate my admiration for Senator GREGG in persisting in offering this very important amendment.

I thank the majority leader for working with us to get consideration of this extremely important measure, and we look forward to beginning the debate.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, if the leaders have completed their statements, I would ask for recognition.

Mr. President, first, let me begin by thanking the majority leader and the Republican leader for their efforts here in allowing me to bring forward this amendment at this time. As we know, 2 weeks ago I offered this amendment. At the time, I offered it because I felt it was appropriate to the lobbying reform vehicle, as the lobbying reform vehicle had been greatly involved in the issue of what is known as earmarks. Earmarks are where certain Senators put specific language into a bill which allows spending to occur for a specific item.

I am not inherently opposed to earmarks. Many are very genuinely of good purpose. And I have used it in cases to benefit programs which I thought were appropriate. In fact, I think the legislative branch has a right to direct spending. If you do not direct spending as a legislative branch, then the executive branch has the authority to direct spending, and the practical effect of that is the legislative branch is giving up one of its key powers, which is the power over spending.

However, there have, over the years, been abuses of the earmark process. We all know that. We have seen it. And there have actually been abuses which have been unethical. We have seen that

in recent times. So the key, I believe, to earmark reform is transparency and allowing the Congress and the people we represent to see what is being earmarked, and allow the Congress to actually have to vote on it.

The idea of the enhanced rescission proposal, which I have here—and I call it a second-look-at-waste proposal—is to allow the President to send back to the Congress items which he or she feels were inappropriately put in some other bill and which did not receive an up-or-down vote.

Now, how could that happen, people might ask? It happens very simply. A lot of vehicles we pass here, a lot of laws we pass here, a lot of spending proposals we pass here involve literally tens of billions, sometimes hundreds of billions of dollars in spending. What will happen is these bills, which have these huge conglomerates of spending activity in them—which are known as omnibus bills—sometimes we find embedded in them little items, smaller items of spending which were put in there for the purposes of accomplishing specific activity by Members of the Congress, sometimes at the specific request of people who have been asking for those programs.

The President, of course, does not have the choice of going in and saying: Well, that is a bad program or that is an inappropriate program. He or she must sign the entire bill, the whole bill—a $10 billion bill, $100 billion bill, $300 billion bill. That bill must be signed in its entirety. Pieces of it cannot be separated out.

So what this second-look-at-waste amendment does is allow the President, on four different occasions, to send back to the Congress a group of what would be earmarks in most instances for the Congress to vote on again, and essentially say to the Congress: Well, those items which were buried in this great big bill—those specific little items—should be reviewed and Congress should have to vote them up or down.

Congress then, by a majority vote, must vote on whether it approves those specific spending items. That is called enhanced rescission. It is not a line-item veto. A line-item veto is where the President can go in and line-item out a specific item and then send it back to the Congress, and the Congress by a two-thirds vote must vote to override the President's proposal to eliminate the spending. In this instance, the Congress retains the right to spend this money if a majority of the Congress decides to spend the money in either House—in either House.

So as a practical matter, it is a much weaker—dramatically weaker—proposal than what is known as the line-item veto, which passed here in the early 1990s and was ruled unconstitutional. In fact, this amendment has been drafted so it will be constitutional. And, in fact, it has been drafted in a way that basically tracks rather precisely and very closely the language that was offered by Senator Daschle and Senator BYRD back in 1995 and was then called enhanced rescission.

We made one major change in the initiative which we proposed last week to make it even closer to the language of Senator Daschle and Senator BYRD in that we have included in this proposal, which has been filed here today, enhanced rescission which includes the right to strike. What does that mean? That means the Senate will have the right to look at the package of rescissions sent up by the President, which might be two, it might be three, it might be 10, and the Senate does not have to vote up or down the entire package; the Senate can actually go in and vote up or down specific items within that. So it even gives the Senate, and the House for that matter, significantly more authority over this process.

The proposal we are putting forward is what we call second look at waste, what was called, back in 1995 when it was offered by Senator Daschle and Senator BYRD, fast-track rescission. It is not a line-item veto.

I want to reinforce this point because what is shown on this chart references the Daschle language of 1995 and the amendment which we have offered today. You can see that the two agree on almost all the key elements.

The Daschle language established a fast-track process for consideration of Presidential rescissions. We do the same thing. The Daschle language required congressional affirmation of the rescissions. We do the same thing. The Daschle language allowed the President to suspend funds for a maximum of 45 days. We do the same thing.

On the left side of the chart are Senator Daschle's proposals, supported by Senator BYRD and 20 other Members on that side of the aisle. It did not permit the President to resubmit a submitted rescission request. We do the same thing.

It allowed for the rescission of discretionary funding and targeted tax benefits. We do the same thing—only allowed motions to strike, no amendments. So you can move to strike, the same thing as the Daschle amendment. It required rescinded savings to go to the deficit so it could not be respent. That also we do.

Now, the two big changes we have from Senator Daschle's proposal: We allow rescissions of new mandatory programs, not existing mandatory programs. You cannot go in and rescind a farm program that already exists or a VA program that exists. No. A new mandatory program. And we do not allow the rescissions to occur as often, or the President to send up as many rescissions as he could have under Senator Daschle's and Senator BYRD's amendment. We only allow the President to send up four rescission requests. Under Senator Daschle's and Senator BYRD's amendment, you could arguably send up 13 rescission requests. So we have significantly limited the ability of the President to sort of game the system and also tie up the Congress.

It is important to understand this change we have made actually significantly increases congressional authority over the rescission process, as does this one. This other change gives the President additional activity on congressional mandatory spending. Why did we put that in there? Well, because today 60 percent of Federal spending is mandatory spending. The simple fact is that if you do not address mandatory spending in new mandatory programs, then you are taking out the ability to address the budget in a significant way.

Now, I noticed Senator CONRAD, in one of his very well-stated statements in regard to this enhanced rescission, second-look-at-waste program, said: Well, this puts a gaping hole in any agreement that would be reached between the Senate and the President on how to handle even entitlements. I do not believe that. I do not believe that. I think if the Senate and the President reach an agreement on how to handle entitlements, part of that agreement is going to be that the enhanced rescission program that is proposed here is not going to apply. That is logical, reasonable, and the way it is going to work.

Obviously, the Congress is not going to give up that much authority if we are going to reach that type of agreement, and I do hope we reach such agreement. That would be good for us as a Nation.

Again, I emphasize we have put in this new amendment, as it has been sent up, the motion to strike. This was an issue of considerable disagreement on the floor. A lot of Members believed that by not giving us a motion to strike, we were giving too much power to the executive on the issue of enhanced rescission. Senator Daschle and Senator BYRD, in their amendment in 1995, had that language. The administration is not happy with that language. I can argue it both ways. But I think in order to have consistency between both and because it is a significant right to retain with the legislative branch, we have put it back in.

I also think it is important to note that any savings go to deficit reduction. Deficit reduction should be our goal. If the President sends up something he thinks is wasteful and we agree, let's rescind it and send it to reduce the deficit rather than rescinding it and sending it on to be spent. That makes a lot of sense.

To show you how different this is than the line-item veto, back in 1995, when we had the line-item veto—and remember, when we passed it, 11 members of the other party who are presently serving in the Senate voted for the line-item veto: Senators BAUCUS, BIDEN, DORGAN, FEINGOLD, FEINSTEIN, HARKIN, KENNEDY, KERRY, KOHL, LIEBERMAN, and WYDEN; I voted for the line-item veto—that was ruled unconstitutional. That was dramatically

more power given to the executive. This basically gives no power to the executive other than to ask the Congress to take another look and vote again. So one would presume that the folks who voted for the line-item veto back in 1995, unless they have changed their view, would be supportive of a much more weaker fast-track rescission approach in 2007.

In addition, the Daschle amendment, which was supported by Senator BYRD and others, had 20 Democratic cosponsors—and it was essentially the same amendment we are offering today—Senators AKAKA, BAUCUS, BIDEN, BINGAMAN, BOXER, BYRD, CONRAD, DODD, DORGAN, FEINGOLD, HARKIN, INOUYE, KOHL, LAUTENBERG, LEAHY, LEVIN, MIKULSKI, MURRAY, REID, and ROCKEFELLER. All supported the Daschle rescission language, which is essentially the language we have offered today, especially now that we put in language relative to a motion to strike.

To read a couple quotes that I believe are informative and accurate, back in 1995, Senator FEINSTEIN said about the proposal:

Really, what a line-item veto is all about is deterrence, and that deterrence is aimed at pork barrel [spending]. I sincerely believe that a line-item veto will work.

Senator FEINGOLD said:

The line-item veto is about getting rid of those items after the President has them on his desk. I think this will prove to be a useful tool in eliminating some of the things that have happened in the Congress that have been held up really to public ridicule.

That is the line-item veto they were talking about, a much stronger language than this enhanced rescission language.

Senator BYRD on the Daschle language said:

The Daschle substitute does not result in any shift of power from the legislative branch to the executive. It is clear cut. It gives the President the opportunity to get a vote . . . So I am 100 percent behind the substitute by Mr. Daschle.

Senator DODD said:

I support the substitute offered by Senator Daschle. I believe it is a reasonable line-item veto alternative. It requires both houses of Congress to vote on the President's rescission list and sets up a fast-track procedure to ensure that a vote occurs in a prompt and timely manner.

That is an accurate statement as to what it does.

Then, Senator LEVIN, in March 1996—all these quotes are from 1995–96—

I, for instance, very much favor the version which the Senator from West Virginia has offered, which will be voted upon later this afternoon. That so-called expedited rescission process, it seems to me, is constitutional and is something which we can in good conscience, at least I can in good conscience, support.

Senator LEVIN is one of our true constitutional scholars in this institution.

And Senator BIDEN, in 1996, said:

Mr. President, I have long supported an experiment with a line-item veto power for the President.

So he supported the line-item veto. Again, I note that this is nowhere near the line-item veto language.

In fact, this language has been vetted, vetted aggressively, not only by Senator Daschle when he offered it back in 1995 but since then with a variety of individuals who are constitutional scholars, to make sure it settles the issue and does not, in any way, take from the Congress the power of the purse, which is the issue that, of course, was raised against the line-item veto in Clinton v. The City of New York, which struck down the line-item veto on the grounds that it did go too far in violating the presentment clause. This language does not do that because it retains to the Senate and to the House absolute authority over spending. It simply asks them, through the Executive, to take a second look at an item that might otherwise—and, in fact, for all practical purposes—never get a clear vote. It was something that was buried in some larger bill. Because we have retained the right to strike, we have even gone further by saying that the entire package which the President sends up, assuming he sent up more than one item to rescind, would be subject to a right to strike.

So the Congress has the ability to pick and choose in its second-look process as to what it thinks makes sense and what it doesn't think makes sense. There is probably going to be a lot of stuff sent up that the Congress agrees with, because some things happen in these major bills where items get in that people don't notice, and certainly a majority of the Congress feels, if they took another look at it, they would not be inclined to support.

Equally important is the restriction on the President, which is different from the Daschle-Byrd amendment, which is that we only allow him to do this four times. That is important. I am willing to go back from four and maybe take it back further. Senator LOTT came to the floor and said he didn't like the idea of four. If we get this thing moving along, I am willing to take a look at less rescission packages. But the President, under the original Daschle amendment in 1995, had 13 shots at the apple because he could do it on each appropriations bill. At that time, we had 13 appropriations bills; now we have 12. But today, under this amendment, he will only have four chances to package ideas, initiatives he thinks were inappropriately buried in some bill, send them back up and say: Take another look at this. I have to get 51 votes to support taking out this item.

What is the purpose of all this? That is the technical purpose in describing it, but what is the real purpose of all this? The real purpose is to get to the issue of managing the Federal purse. Congress has the right to the Federal purse. That is the most important power Congress has. I have listened to the explanation of the Senator from West Virginia on this for many years, and he says it more eloquently than anyone else. Everyone has to agree with his position. The power of the purse is the power of the legislative branch. But this is about managing that power. This is about when a bill comes roaring through that has $300 or $400, $500 billion of initiative in it, called an omnibus bill usually, and you have to pass it because the Government closes if you don't. This is about saying: All right, there is going to be a process where we can take another look at some specific items in that bill without giving up to the Executive power which the Executive should not have, which is the capacity to line item something and force us into a supermajority.

That is what this is about. That is why I presume Senator Daschle offered it back in 1995, and that is why I offer it today. In the end, it is going to give us better discipline over our own fiscal house. It is going to make us better stewards of the taxpayers' dollars. We will be able to say to the taxpayer: Yes, that bill may have been a $500 billion bill. Maybe there were some things in there that we shouldn't have done. We are going take a second look at it to make sure those things were not wasteful. We are going to pass the bill because we need to pass the bill to keep the Government going, but we will have a chance to take a second look. It is just good management, without giving up the authority of the legislative branch, in my humble opinion.

I hope that Members who take a look at this will consider it carefully. I know it has been caught up in the dialog of politics. I regret that. I regret that last week it got caught up and was represented by some as being an attempt to poison the lobbying bill.

That was never my intention. I didn't even think of that, quite honestly, when I offered this amendment. I didn't know it was going to be so controversial. I thought I would just get a vote. That was not my intention, and I don't think it was anybody's intention on our side. It got caught up in the broader fight of what we do sometimes around here. We let process overwhelm substance. It got characterized by the talking head community out there as both a legislative attempt to kill the lobbying bill and a legislative attempt to show the power of the minority. It wasn't any of that. It was simply an attempt by me to bring forward what I thought was good legislation which would be constructive to our process of fiscal discipline, which happens to be one of my high priorities.

Now it is on the minimum wage bill. I greatly appreciate the Senator from Nevada and especially the Senator from Massachusetts and the Senator from Wyoming, who have to manage this bill, being courteous enough to allow their bill to already have an amendment on it that maybe isn't immediately related to their bill. This, however, was not my choice. I would have preferred to have it on the lobbying bill, which it was immediately

related to. That was an earmark bill. That had a lot to do with earmarks. This has a lot to do with earmarks. But nobody can argue that this is the wrong vehicle because I didn't choose this vehicle. This vehicle was chosen for me. That is why we are doing it here.

When we get to the motion on cloture, I hope people will vote for it on its merits and will not vote for it on some procedural argument, such as this is the wrong vehicle. Because I think people are sort of estopped, to use one of our legal phrases—I remember that phrase from law school—from claiming that this is the wrong vehicle. Because as a practical matter, I was told to put it on this vehicle. I didn't choose it. I was told. I am trying to be helpful. So that is why it is here.

That is the presentation in brief. There will be more discussion as we move down the road. I look forward to hearing from everyone. I hope people will take a hard look at the actual substance of the amendment. Substantively, it is not a line-item veto. It is essentially the ''daughter of Daschle,'' for lack of a better term. I would hope that we would consider it on its merits as such. It will give us a chance to govern better and to handle the purse, which we are charged with by our constituents, more frugally and efficiently.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I thank the Chair.

Mr. President, may I ask the Chair, there is no time limitation on speeches at this point, is there?

The PRESIDING OFFICER. There is no time limit in effect.

Mr. BYRD. Mr. President, the very able and distinguished Senator from Kansas wants to speak for 5 minutes or more. I ask unanimous consent that I may yield to the distinguished Senator for 5 minutes or 6 or 7 minutes or whatever he wants at this time, without losing my right to the floor.

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

Mr. BYRD. Mr. President, how much time does the Senator want?

Mr. ROBERTS. Mr. President, I believe I can get my remarks done in 5 or 6 minutes.

Mr. BYRD. The Senator doesn't have to be in a great hurry. I know the Senator is reasonable and he will take such time as he may desire and it is not going to be too much. I yield to the Senator for that purpose without losing my right to the floor.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

WESTERN KANSAS SNOWSTORMS

Mr. ROBERTS. Mr. President, I am going to address a decision that has just been announced by FEMA regarding emergency assistance to the citizens of my State of Kansas.

I rise today to thank all those who have aided thousands and thousands of Kansans stranded by snow and ice over the course of the past few weeks. I want to give them some much needed good news.

First, let us remember the situation. Late last month, a large winter storm spread over 30 inches of very heavy snow and up to 3 inches of ice on top of that over much of my State. Fifteen-foot drifts were very common in western Kansas. At the time, 65,000 Kansans were without power. Snow blocked all major roadways, and many impacted Kansans, many people in small communities, were able to survive only because their friends and neighbors pitched in to help each other.

I came to the Chamber in the aftermath of the storm with charts showing the damage—11,000 utility poles down, transmission lines down—and some very pertinent charts in regard to stranded livestock. I was worried about the state of assistance in our country out on the High Plains. Many financial and economic livelihoods were in danger. In Kansas, farmers remained unable to reach their herds of cattle and keep them fed and watered.

Quite frankly, I was a little worried about the Federal response. I know when we have disasters, FEMA responds as best they possibly can. We have heard a lot about Katrina and forest fires and floods and other situations, but here we had a record disaster in regard to a blizzard and ice in communities that were isolated. I was a little concerned about it. In the midst of this record destruction, let me say that the National Guard, the Department of Transportation, local emergency responders, nonprofit organizations, and regional FEMA representatives really stepped to the plate. Frankly, the swift and selfless response of so many has been almost overwhelming.

Almost immediately, in the wake of this storm, our Governor, Kathleen Sebelius, declared a state of emergency, and we all got to work. The National Guard, at the direction of GEN Tod Bunting, sprung to action, and they delivered bales of hay and generators to those with stranded cattle and also aided in emergency services with helicopters and any other equipment that would work under the circumstances.

The Red Cross, the Salvation Army, and the Association of General Contractors from the private sector also proved vital in providing Kansans simply a place to stay warm. I must particularly thank the State's emergency management officials, working with the regional FEMA office, for the countless hours they worked to expedite the requests for public assistance.

FEMA workers get a lot of brickbat when things get very tough and complicated and difficult. This time, they certainly deserve a great deal of credit. Over the course of the past few weeks, local governments and certain nonprofits serving Kansans needed their Federal Government desperately, and the cry for help was answered. But the best news came a few moments ago when I received a call from the FEMA office here in Washington. I received notice that all remaining categories of public assistance have been approved for the State of Kansas. This is the news we have been waiting for. This gives the State reimbursement for a large portion of the $360 million in damage that has been documented to date. It includes such vital assistance for public buildings and utility and road repair.

Mr. President, we believe in self-help in Kansas, and most of the time we can handle our own problems. But in working through this disaster, we desperately needed Federal help. Federal help came, and Federal help came in record time, and it came because of the cooperation of local and State and national organizations—primarily FEMA—and it was a situation where everybody worked together and got the job done.

On this particular occasion, let me say thank you to all of those people who worked so hard and all of the people in Kansas whom I am so proud to represent. I look forward to the receipt of this assistance and the continued support that our communities in Kansas have seen from all levels of government.

I yield the floor, and I yield my time back to the Senator from West Virginia. I thank him for allowing me to make this statement.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I ask unanimous consent that at the conclusion of the remarks of the Senator from West Virginia, the Senator from North Dakota, Mr. CONRAD, be recognized for 15 minutes, and then after Senator CONRAD, I be recognized, and after I am recognized, the Senator from Wyoming be recognized.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I very much admire the able Senator from New Hampshire. I like him. As Shakespeare said, ''He's a man after my own kidney.'' That about says it all, I guess. That is the way I feel about the Senator from New Hampshire. He and I served together in the last Congress as chairman and ranking member, respectively, of the Senate Appropriations Homeland Security Subcommittee. I also have the pleasure of serving with him on the Senate Budget Committee, where he has been chairman—and I mean chairman—and is now the ranking member.

The Senator from New Hampshire is one of the finest, one of the brightest, one of the most illustrious Senators serving today. I want Senators to know—and, of course, the CONGRESSIONAL RECORD will reflect—that as much as I oppose the line-item veto—and that is saying a mouthful—I very

much respect the Senator from New Hampshire who has attached his name to it.

In his remarks last week on his line-item veto amendment, the very able Senator from New Hampshire, Mr. GREGG, noted that this is not a new issue before the Senate. He correctly noted that the Senate passed a line-item veto measure in 1996, which was later nullified by the U.S. Supreme Court—the highest court of the land—in 1998.

It is appropriate, very appropriate, that Senators know something about the history of this issue, particularly those Senators who were not here when the Senate last considered this piece of garbage called the line-item veto. I can say plenty about this line-item veto. I call it garbage. I can call it worst things than that, but I won't right now.

Senators will recall, I believe, that the House of Representatives in the early 1990s passed a series of legislative line-item vetoes, or expedited rescissions, like the one now before this body. Because of constitutional concerns and a lack of support, none of those bills ever passed the Senate.

Senators will recall that in the summer of 1993, I delivered 14 speeches—I mean, they were cracker jacks, and, man, that is not the end of the line, either—later published as ''The Senate of the Roman Republic.'' They were addresses on the history of Roman constitutionalism on this very topic. Senators will recall that when the 104th Congress passed the Line-Item Veto Act of 1996, I was one of the most outspoken opponents.

I argued against giving any President—any President, any President, even a Democratic President; that makes no difference, even a Democratic President—a line-item veto or a or so-called enhanced rescission authority.

Senators will recall that after President Clinton signed into law the Line-Item Veto Act of 1996 I, ROBERT C. BYRD, a Senator from the State of West Virginia, joined with Senator CARL LEVIN and the late, God bless his name, Daniel Patrick Moynihan—oh, were he here today—in bringing suit—get that—in bringing suit in Federal court against the Director of the Office of Management and Budget, then Franklin Raines, arguing that the act unconstitutionally authorized the President to cancel certain spending and revenue measures without observing the procedures outlined in the presentment clause of article I, section 7.

That suit, Raines v. Byrd, was dismissed by the U.S. Supreme Court for lack of standing, but the arguments, I say, but the arguments were later validated in 1998, when the Court nullified the Line-Item Veto Act in Clinton v. City of New York.

Now, I am no stranger to this issue. I am no stranger to this issue. I have served with the eight Democratic and Republican Presidents since Harry Truman who have asked for line-item veto authority. And I have watched, as the Senate has said ''no,'' n-o, no—the hardest word in the English language to say—I watched as the Senate has said ''no'' to all but one. And where the Senate erred in yielding to a President's request for such power, I was there when the Supreme Court nullified the Senate's actions. I was there.

The first question ever asked was asked of Adam. The first question ever asked—I hope the Chair is listening closely, my friend in the chair—in all of the centuries of the human race, the first question ever asked was: Adam, where art thou? I won't go into the time and place where that was asked. Everybody ought to know it. Adam, where art thou?

Well, where was ROBERT C. BYRD when the Supreme Court nullified the Senate's actions? I was there when the Supreme Court nullified the Senate's actions.

I do not speak lightly about this subject—hear me now, if you want to take me on, on this question—and to refer Shakespeare:

> And damned be him that first cries, ''Hold, enough!''

I do not say it is a proposal that stands in stark defiance of the Constitution without many decades of congressional experience and a deep, deep reverence for the Constitution of the United States, and when I speak about line-item veto today, and in the coming days, if necessary, I speak to all Senators of both parties about the oaths we swear and particularly the one we take upon entry into this office.

We take an oath before God and man to support and defend the Constitution of the United States of America.

I speak today on a subject that broaches the most serious of constitutional questions. Now pending before the Senate is a legislative line-item veto proposal offered as an amendment by Senator GREGG and others to the minimum wage bill. The amendment would alter by statute the constitutional role of the President of the United States in the legislative process. The President does have a role in the legislative process. The amendment would alter by statute the constitutional role of the President in the legislative process. It would allow the President to sign a spending bill into law and then to strip from that bill any spending items he dislikes. Let me say that again.

I have already said that the amendment would alter by statute the constitutional role of the President in the legislative process. It would allow the President, one man, to sign a spending bill into law and then—get this—strip from that bill any spending items he dislikes.

Through a process known as expedited rescission, the President could force an additional vote by the Congress on spending items that do not mimic his budget request and impound the funding that he, the President of the United States, does not like until the Congress votes again.

Such a proposal is a lethal, aggrandizement of the Chief Executive's role in the legislative process. Lethal, deadly. Such a proposal is a lethal aggrandizement of the Chief Executive's role in the legislative process. It is a gross, colossal distortion of the congressional power of the purse. It is a dangerous, dangerous proposition, a wolf in sheep's clothing of fiscal responsibility. Wolf, wolf, wolf, that's what it is.

The Constitution, I say to Senators—hear me out there, my friends in West Virginia and throughout the land—the Constitution is explicit and precise about the role of the President in the legislative process. The President has a role in the legislative process. Read the Constitution, article I, section 7. Here is what it says:

> Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his Objections. . . .

The President must act within 10 days, Sundays excepted. And once he, the President, has decided to forgo a veto, it is his constitutional responsibility under article II to ''take care that the laws be faithfully executed.''

President George Washington interpreted his responsibility this way, and I quote the immortal first President of this land, the Father of our Country, the Commander in Chief at Valley Forge, George Washington. President George Washington interpreted his responsibility this way: ''I''—meaning George Washington, the President of the United States—''must approve all the parts of a bill or reject it in toto''—totally. No other way. Take it or leave it.

> I must approve all the parts of a bill, or reject it in toto.

The Father of our Country was right. It isn't ROBERT BYRD talking. That was George Washington. Now come to ROBERT BYRD. I continue:

A legislative line-item veto effectively creates a third option for the President of the United States—a third option, talking about the line-item veto. It adds a new dimension to executive power, one that is not found in the Constitution. Instead of vetoing and returning a whole bill to the Congress before it becomes law, under the Gregg amendment, under the amendment by my distinguished friend Senator GREGG, the President can resubmit only those provisions he opposes, and he can do so after a bill becomes law. Did you get that? Instead of vetoing and returning a whole bill to the Congress before it becomes law, under the Gregg amendment—and I speak with great respect—the President can submit only those provisions he opposes and do so after a bill becomes law.

What are we doing here? The President can sign a bill into law and then strip it of the provisions that he

doesn't like. Let me say that again. Are you hearing me? What am I doing? What am I saying here? I can't believe it. The President can sign a bill into law and then, after he has signed the bill into law, he can strip it of the provisions he does not like.

Have you ever heard of anything so radical? Instead of the President weighing in before a bill becomes law, he can ignore the pros and cons of debate and wait until well after it has become law. Am I in my senses when I read this? Can you believe it? He can literally ignore both public opinion and congressional debate and deliberation. He can pull out anything he does not like from legislation passed by both Houses of Congress—get that, now. This is one man downtown. He may be a Republican, he may be a Democrat, he may be a Socialist or whatever—whatever the people elect down there at the White House in the future. He can pull out anything he doesn't like from legislation that has been passed by both Houses of Congress and insist on a second run through the legislative process.

The Gregg amendment allows the President to decide what is in a bill considered by the Senate or not in a bill after it has become law. It would allow the President to decide when the Senate considers a spending or revenue item and under what political conditions the Senate considers these measures. Such a proposal is a dangerous departure from the separation of powers doctrine, which aims to prevent any one branch of the Government from seizing both the power to make and to execute a law. The separation of powers dividing inherently legislative and executive functions between two separate and equal branches is a fundamental defense against overzealous and unwise acts by either the President of the United States or the Congress of the United States.

In Federalist No. 51 James Madison writes—this is not ROBERT C. BYRD who wrote it. In Federalist No. 51, James Madison writes:

> But the great security against a gradual concentration of the several powers in the same department consists in giving to those who administer each department the necessary constitutional means and personal motives to resist encroachments of the others . . . Ambition must be made to counteract ambition. . . .

So by empowering the President to craft legislation, the Congress would be ceding the constitutional means of the people to resist executive encroachments.

Let me say that again. By empowering the President of the United States to craft legislation, the Congress would be ceding the constitutional means of the people to resist executive encroachments. For up to 1 year after every bill is passed and signed into law—get this—the President could use this power to manipulate Senators—how about that—or advance his political agenda. Any President. I am not just referring to Mr. Bush. I am starting with him, but I am talking about any President, Republican or Democrat. The President could use this power that Mr. GREGG's amendment would give to the President—remember, this isn't the last President, Mr. Bush. There will be others. The President could use this power to manipulate Senators or advance his political agenda. Under the Gregg amendment, a President could punish or reward recalcitrant Members of Congress by targeting or sparing their interests under the expedited rescission process.

Every debate between the Congress and the White House could be swayed, influenced, by this new power of the President of the United States to influence Senators: You, Mr. CONRAD; you, Mr. BYRD; you, Mr. and Mrs. or Miss Senator—he can use this power over Senators to influence them. What kind of power are we talking about? It would subject every Member and the interests of their constituents and States to the political capricious and unchecked whims of a Chief Executive.

You better think about this. You better think about it. The Gregg amendment provides the President, any President—Democratic, Republican or otherwise—with a mechanism to rewrite legislation after it has passed the Congress. Where are we going? Instead of 10 days to act on a bill, the Gregg amendment would provide the President with up to 365 days. Hear me, friends, Romans, countrymen. Friends, Americans, countrymen, lend me your ears. Instead of 10 days to act on a bill, the Gregg amendment would provide the President with up to 365 days to act on a bill. This is a provision that is unconstitutional on its face. I don't believe that Senator over there sitting in the chair, in the chair to my left, would go along with that. That is Senator CONRAD, for the record.

Within 10 days of the Congress submitting a bill to the President, we know if it has become the law of the land. Under the Gregg measure, nobody—except the President—for up to 1 year after an act is signed into law, will know if all of the provisions of a bill will be carried into effect. One can imagine the confusion of not knowing, for up to 1 year, whether all of the provisions of a single bill will become law. Imagine what happens if the Congress passes a major legislative package such as a Social Security and Medicare reform package, which affects the retirement and health care benefits of many millions of people and the payroll taxes of many millions more. Imagine the President dismantling that package, listen now. Imagine the President dismantling that package months after it has been passed by the Congress. Are you listening? Hear me. How wise and practical will this line-item veto seem then? This line-item veto is an anathema to the Framers' careful balancing of powers within the legislative process because it allows the President, any President, to aggressively—listen to me, my friends on the other side of the aisle; I am not just talking about Mr. Bush or Mr. Republican President—allows a President to aggressively impose his will on the legislative branch in regard to budgetary matters. I will say that once again. This line-item veto is an anathema to the Framers' careful balancing of powers within the legislative process because it allows a President, any President, to aggressively—and I mean aggressively—impose his, the President's, will, be he Republican or Democratic, on the legislative branch in regard to budgetary matters.

This line-item veto amendment goes far—and I mean far—beyond the President simply making recommendations to the Congress. It makes the President, any President, a lawmaker. It is a complete reversal of the legislative process. We do not need to rewrite the Constitution in order to legislate. We do not need to defer extraordinary and unconstitutional powers to the President, any President, in order to ensure that Congress uses its power of the purse in an ethical and rational and wise manner.

We should remember that the President has not exercised his existing constitutional authorities. The President—this President—has only vetoed one authorization bill, and he has never, never vetoed a spending or revenue bill. The President has not submitted a single rescission proposal as currently allowed under the Budget Act. Rather than dealing with the President's failed budget choices, the suggestion here today is that enlarging the President's power in the budget process will somehow magically—somehow magically—reduce these foreboding and menacing deficits. It will not. The suggestion here today is that handing the power to make laws to the President will somehow improve the quality of congressional budget decisions. This suggestion is without foundation. This nefarious line-item veto will only further politicize and degrade a process which is already too much of a political football.

Senators—Senator BYRD being one—take an oath—yes, an oath before God. The ancient Romans felt that an oath was sacred. They would give their lives—I won't go into Roman history at this point—they would give their lives to preserve an oath. Senators take an oath to preserve and protect the Constitution. A lack of understanding about the reasons for entrusting the purse strings to the hands of the Congress, and the unwise tax and spending decisions of this administration, must never, never be allowed to propel such an unconstitutional and dangerous as the legislative line-item veto.

I tell you, ladies and gentlemen, I will stand here until my bones crumble under me, until I have no further breath, if necessary, to let such a proposal become law. Why would we ever want to hand more power to a President who has already grabbed far too much power—any President? Why would we ever want to bargain away our most important tool for protecting the liberties of the people or for derailing a disastrous war? Why would we

ever want to fall for this legislative pig-in-a-poke that could cripple this body, the Congress of the United States?

So I urge Senators to listen. This isn't the last word by any means that I could have, let alone many other Senators here. Resist this assault on the Constitution and the Congress. I urge Senators—yes, I urge Senators—Senators—there is no greater name under the Constitution. Who was that great Roman Emperor who said, when he was about to become the Emperor ''I still revere the name of Senator.'' That is 476, I believe, A.D. It was Majorian, I believe, who said, ''I still revere the name of Senator.'' Senator. Did you hear that?

I urge Senators to resist this assault. I am talking about a line-item veto now. You ain't heard nothing yet. I urge Senators to resist this assault on the Congress and on the Constitution of the United States and on the people, the people of the United States.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, I hope colleagues have been listening to the Senator from West Virginia, Mr. BYRD. He is a wise man. He is an experienced man. And what he has been warning this body about this amendment is the truth. This is a dangerous amendment. It is offered by somebody with whom I work closely. Senator GREGG is the former chairman of the Budget Committee. As the incoming chairman of the Budget Committee, we work together virtually every day. I respect him. I like him. But I believe this amendment is profoundly dangerous.

It is suggested that this amendment will help deal with our budget shortfall. It will not. Virtually everyone who has examined it will say it makes virtually no difference with respect to our deficits and debt. What it will do, without question, is transfer power to the President of the United States. Senator BYRD has made it clear that it is not a question of this President; it is a question of any President. Make no mistake, I believe this measure and any measure like it is unconstitutional.

The Founding Fathers had great wisdom. They did not want to repeat the abuses of the King, so they wanted the spending to be in the hands of the bodies closest to the people—the House of Representatives and the U.S. Senate. They did not want any individual, any President, to have the power of the purse because they recognized the inherent dangers in concentrating power in the hands of one person.

Anybody who has any doubt about how this would be used—perhaps by this President but certainly by some President—only needs to reflect on what has happened in the past when people had this kind of unchecked power. I was told by a colleague of ours who served in a State legislature about a situation where the Governor had this kind of power. She got legislation passed that was very important to her. She was called to the Governor's office, and the Governor had her legislation on one side of his desk and a bill he wanted on the other side of his desk. He told her: You know, I am probably going to have to line-item veto your legislation. But I have this bill which is important to me, and if you could see your way clear on that, I might be able to help you on your legislation.

Anyone who doubts this President or a future President would use that power on Members of this body ought to think again.

The problems with this line-item veto proposal—and we know line-item veto proposals in the past have been declared unconstitutional by the Supreme Court. I believe this measure would be declared unconstitutional, but we shouldn't abdicate our responsibility. We shouldn't wait for the Supreme Court to make a judgment. We should make this judgment. This line-item veto proposal represents an abdication of congressional responsibility. It shifts too much power to the executive branch, and with very little impact on the deficit. It provides a President up to 1 year to submit rescission requests. It requires Congress to vote within 10 days. It provides no opportunity to filibuster proposed rescissions. And it allows a President to cancel new mandatory spending proposals passed by Congress, such as those dealing with Social Security, Medicare, veterans, and agriculture. Colleagues, that is an extraordinary grant of power to any President. Just with this final piece on mandatory spending, we know we have big problems in the future with Medicare and Social Security. We might labor for months to come to an agreement with the President on the future of those programs, and then under this amendment, after the difficult compromises had been reached, this President or a future President could go back and cherry-pick the provisions he or she did not like. I hope colleagues are listening. That is truly an extraordinary grant of power to this President or any President.

Here is what USA Today said last year in reference to line-item veto. They called it a convenient distraction.

> The vast bulk of the deficit is not the result of self-aggrandizing line items, infuriating as they are. The deficit is primarily caused by unwillingness to make hard choices on benefit programs or to levy the taxes to pay for the true cost of government.

A convenient distraction.

This is what the Roanoke Times said last year with respect to this or a similar proposal:

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

Here is what the former Acting CBO Director, Mr. Marron, said in testimony before the House last year about line-item veto:

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

The proponent of this amendment said this last year:

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

This is the statement of the author of this amendment last year.

He went on to say further:

> It would have ''very little impact'' on the budget deficit.

He was telling the truth.

Here is what a conservative columnist said about the line-item veto proposal, George Will.

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

I hope colleagues are listening. I truly believe this is a dangerous amendment.

A scholar at the American Enterprise Institute went even further and called the proposal ''shameful.'' This is what he said:

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

I hope colleagues are listening. We are going to have a change in President in 2 years. This amendment might live forever and fundamentally erode the basic concept of a House and a Senate and the division of powers between the legislative branch and the executive branch.

Mr. Ornstein, from the American Enterprise Institute, went on to say:

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

That was last year.

Senator GREGG has indicated his proposal closely tracks the proposal of our colleague, Senator Daschle, from 1995. It does not. There are significant differences.

Can the President propose to rescind a few mandatory items, such as Social Security and Medicare reforms? The Gregg proposal, yes; Senator Daschle, no. That is a profound difference. Mandatory proposals would be subject to the President's line-item veto under the Gregg amendment, not under the

Daschle amendment. That proposal alone is enough to lead anyone who supported the Daschle proposal to oppose this one.

Second, can the President propose rescissions from multiple bills in one rescissions package? Under the Gregg measure, yes; under the Daschle proposal, no.

What difference does that make? Let me give an example. Remember the bridge to nowhere? That was something that people responded to, depending on its merits. A lot of people thought it was a waste of money. The President could couple that measure, which many would have supported in terms of elimination, with something that was less well-known that really had merit. Under the Gregg proposal, you could jackpot unpopular things with popular things and get them eliminated, giving the President an extraordinary power to leverage individual Members of Congress to get votes from them on completely unrelated matters.

For example, maybe the President puts up a controversial judge and then uses this power to leverage a Senator to vote for a judge that he might not otherwise support in exchange for allowing that Senator's spending proposal to go forward. That is a dangerous power.

Finally, how long does the President have to propose rescissions? Under the Daschle proposal, 20 days, or in the next budget; under the Gregg proposal, 1 year.

I truly believe this is an extraordinarily dangerous amendment. It is dangerous to the balance of powers between the executive branch and the legislative branch of Government. It is an extraordinary granting of power to a President. Remember, the next President might be of a different party. I would make this same speech if a Democrat were advancing it. I would make this same speech if a Democrat were the President of the United States.

This is a dangerous amendment. It will do virtually nothing about our deficit, but it will transfer power to a President who already has too much power.

I hope my colleagues pay very close attention to this debate. I hope they reject the Gregg amendment.

I thank the chairman and ranking member for their extraordinary courtesy today to allow this discussion to go forward before they have even given their opening remarks. That is truly extraordinary in terms of their graciousness. And we appreciate Senator KENNEDY and Senator ENZI.

Mr. BYRD. Will the Senator yield?

Mr. CONRAD. Yes.

Mr. BYRD. Let me thank him for this magnificent speech. Let me thank Senator KENNEDY and Senator ENZI for their remarkable patience and their consideration always. I thank the distinguished Senator for this magnificent speech.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, what is the business now before the Senate?

The PRESIDING OFFICER. Amendment No. 101, the McConnell for Gregg amendment to the Reid substitute to H.R. 2.

Mr. KENNEDY. The Reid substitute effectively is the increase in the minimum wage; am I correct?

The PRESIDING OFFICER (Mr. DURBIN). That is correct.

Mr. KENNEDY. Mr. President, I say to the Senator from West Virginia and to the Senator from North Dakota as well as the Senator from New Hampshire, this has been an enormously important 2 hours in terms of the discussion and debate about the proposal of the Senator from New Hampshire. Over this period of time I am very hopeful our colleagues paid close attention to this debate because it is an extremely important issue that stretches the whole question of constitutional powers, the relationship between the Executive and the Congress.

We have had these individuals speak to this issue. They are knowledgeable, thoughtful colleagues who have spent a good deal of time on this matter.

It is of enormous consequence, the outcome of this proposal. I am enormously appreciative particularly of Senator BYRD and Senator CONRAD for the excellence of their presentation and for the extremely convincing arguments they have made. The power of their arguments I find enormously compelling, and I hope our colleagues will consider it favorably as they make up their minds when we vote on this issue on Wednesday, the day after tomorrow.

This has been an extremely important debate. I am grateful to those who have participated in it. I thank, in particular, again, the Senator from West Virginia who is constant in his commitment and protection of the Constitution and the protection of the Senate as our Founding Fathers saw it and believed in it and chartered it in the Constitution. We are extremely grateful for this debate and discussion. I personally thank the Senator from West Virginia for bringing such clarity and recall of historical importance to this debate and discussion over the period of the last 2 hours. We are very grateful to him as we always are when he talks about the role of the Senate and also about the division of powers under the Constitution. We thank the Senator.

Mr. BYRD. Will the Senator yield?

Mr. KENNEDY. I am happy to yield.

Mr. BYRD. Mr. President, I thank the very able and highly respected Senator from Massachusetts, my favorite Senator of this age, for what he has said.

I thank the distinguished Senator from North Dakota for his remarkable statement. It will be in the RECORD for 1,000 years. There is nothing I could say to embellish it, to add to it, to subtract from it, or to comment on except to say it is one of the great speeches I have heard in this Senate. And I have heard a lot. I have been here a long time. Next year will be my 50th year. The Senator from North Dakota is a leader among men, a leader among Senators. I commend him. I thank him.

I thank all Senators, and I thank the Chair.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, we now bring the focus and attention of the Senate on an issue of enormous importance and consequence to working families in this country. Americans understand the issues of fairness. They understand the importance of work. Americans have believed, for a long period of time, if you work hard and play by the rules, you should not have to live in poverty in the United States of America. They have supported, Republicans and Democrats alike, a fair minimum wage over the period of the last 70 years. Republicans and Democrats alike have supported that concept, which is basic and fundamental in terms of a free society and a free economy. That is the issue we are going to address today because over the period of these last 10 years, we have had intense opposition from Republican leadership over an increase in the minimum wage.

Now, with the change of leadership in the House of Representatives and the Senate of the United States, our Democratic colleagues, with Speaker PELOSI, and now with Senator REID, have put this issue of fairness before the Senate as a priority issue.

We welcome the opportunity to address it. It is one that is easily comprehensible, and it should not take a long time to debate. There are still those in this body who oppose it, and we expect to have amendments to try to undermine this very simple and fundamental concept of saying to those individuals who are at the bottom rung of the economic ladder: If you work hard and play by the rules 40 hours a week in the United States of America, you ought to at least be able to have a wage so you are not going to continue to live in poverty. We are also trying to say, if you have a minimum wage job, that should not condemn you to a life in poverty.

Now, let me go back over what this minimum wage is all about and give some sense about who is affected by the minimum wage and what has happened to it in recent times.

This chart reflects where the minimum wage has been in terms of its purchasing power from 1960 to 2005. If you look at where we are, as of 2005, you see a steady decrease in the purchasing power of the minimum wage worker, who today earns $5.15 an hour. If you look back, again, in terms of the purchasing power of the minimum wage worker in the 1960s, it was about $7 an hour. It was close to $9 in 1967,

1968. And then it went along, and still the purchasing power was about $7 an hour. Then we saw the gradual decline through the 1980s. In spite of our efforts to get President Reagan to increase the minimum wage, we were unable to do so.

Then, we had two times where we got a very modest increase in the minimum wage, in 1991 and then again in 1997. But we have not seen an increase in the minimum wage in the last 10 years, and we have seen the purchasing power of the minimum wage worker reach perhaps its all-time low at the present time.

This red line on the chart indicates, with the passage of the increase in the minimum wage over a 2-year period, bringing it to $7.25, it would still be below the purchasing power of the 20 years between 1960 and 1980, but at least it would give increasing hope to millions of Americans who are working at the minimum wage.

This issue of the minimum wage is a women's issue because so many of those who receive the minimum wage are women. So it is a women's issue. So many of those women have children, so it is a children's issue and a women's issue. It is a family issue because how that family is going to live, depending upon where the minimum wage is, how that child is going to be brought up, is going to depend on what that parent is able to provide for that child.

So it is a women's issue. It is a children's issue. It is a civil rights issue because so many of those who enter the job market, who enter it at the minimum wage, are men and women of color. So it is a civil rights issue, a children's issue, a women's issue, and, most of all, a fairness issue. That is something the American people can understand.

This chart shows what has happened to productivity in the United States. Generally speaking, if you look back over the years of 1960, 1965, 1970, 1975, we see that the minimum wage related to the increase in productivity. As workers became more productive, an important part of that increased productivity was passed on to the workers themselves, as it should be in a fair society.

But what we see at the present time is that the productivity has increased 165 percent over the period of the last 45 years, and the minimum wage, in terms of the total purchasing power over that period of time, has actually gone down. The minimum wage has not only not kept up with productivity, it has even fallen further behind. Productivity was always the issue to be judged when we had debates on the minimum wage years ago that asked: What has happened to the increase in productivity? We can justify an increase in the minimum wage in terms of wages if they produce more. We have seen a dramatic increase in productivity but virtually no increase and a decline in the purchasing power of minimum wage workers.

Here we see the real minimum wage decline: Twenty percent in the 10 years of Republican opposition. The value of it in 1997, $13,448; in 2007, $10,700—$6,000 below the poverty level for a family of three.

And this chart shows the Federal poverty level in this country in 1960, 1965, 1970, 1975, all the way through 1980. For 20 years, this country said: OK, we will have a minimum wage, and we will keep it at least at the poverty level so individuals will not fall behind. If they work hard and play by the rules, they at least will not have to live in poverty. As this chart shows, we see now it is $6,000 below the poverty level for a family of three who is earning the minimum wage.

Since 1980, we have only had two increases in the minimum wage. Now, in the last 10 years, we have had none. That is the issue. Having to take the time to try to go through this and explain why we need an increase in the minimum wage, and why we are going to hear from the other side, those who are in opposition to it, is extraordinary to me with these figures.

Look what has happened. If we try to measure poverty in the Bush economy between 2000 and 2005, there are 5.4 million more people living in poverty today than in the year 2000, largely because of the failure of the Congress to increase the minimum wage. These are the figures. These are the statistics. They do not talk about real lives, how these people struggle. They do not tell about the lost dreams of these families. They do not talk about the shattered conditions of the children who are in these kinds of conditions.

There are 5½ million new people who have gone into poverty in the United States of America, the strongest economy in the world, basically as a result of the failure to increase the minimum wage.

Look what has happened to children. There are 1.3 million more children in poverty today than we had 5 years ago—1.3 million more children in poverty today—primarily because of the failure to increase the minimum wage.

Well, we have to ask ourselves: Where are we as a country and a nation in terms of child poverty? Look at this chart. Of all the industrialized nations of the world, the United States has the highest child poverty rate—the highest poverty rate for children in the industrialized world. There are the figures. There are the statistics. It is not even close, and it is going up.

While we are having the extraordinary profits on Wall Street, what is happening on Main Street? What is happening in the small communities, small farms, small towns, and in the major urban areas of this country? What is happening to the children of this Nation? There is not a person in this Chamber who, in the last 5 days, has not made a speech about how our future is about our children. Everyone goes out and talks about the importance of our children in our democracy and our country. Look what is happening. They talk about it and refuse to do something that can make a big difference. That is child poverty.

When you look at child poverty and look over the figures and statistics, there is nothing terribly surprising about this, with a national average of 17.6 percent. We see who takes the major burdens, the Latinos and African Americans, those women and children of color. We are trying to talk about one country and one society, one history, and, nonetheless, we see the growing disparity in the increased number of families in poverty, the disparity with the increased number of children in poverty, and the disparity between the various communities in our Nation.

Is this what this country wants? We are not saying that the total answer is the increase in the minimum wage, but it makes a major difference. And we can show you, and will show you, why that is so.

We see the figures now in terms of what has happened in terms of statistics. But what does this mean on some of the issues that relate to the conditions of our fellow citizens? Let's take the issue of hunger. Not many people are talking about the challenges and the problems of hunger in our society. This is from the USDA, household food security in the United States, pointing out the increasing number of families who are on the verge of hunger in our economy has increased by 2 million. In the industrialized world, we are No. 1 in child poverty, and we see an increasing number of our fellow citizens in terms of hunger.

How does that impact in terms of children? Mr. President, 12.4 million children are hungry now every single day in the United States of America, and that number is growing. We can look at the number of children who go to bed hungry at night. This quote is from Lisa Hamler-Fugitt, who is the executive director of the Ohio Association of Second Harvest Foodbanks:

> Thirty-five percent of the people that we serve are children.
>
> Thirty-five percent are children.
>
> I see these children, and I think what are we teaching them? That in America, you can work 40 hours a week and still not earn enough to buy food?

That is what is happening. That is what is happening in the United States of America now, today. And we have to spend hours in this body, after we have had the adequate pay increases of $30,000 for Members of Congress in the last 10 years, and try to convince people to go to a $7.25 minimum wage? And we are going to hear opposition to this? This is what is happening out across this country.

So we know what is out there in terms of hunger, how this reflects itself, the fact that they are not getting the adequate income, how it impacts particular children in our society.

This reflects, at no surprise to anyone—this is the National Low Income

Housing Coalition—about how many hours you have to work at the minimum wage to be able to afford a two-bedroom apartment. This is for an average family of three. These are the hours you have to work in 1 week. You would have to work 229 hours a week in my State of Massachusetts at the minimum wage to be able to afford it; 140 hours a week down in Louisiana. Across the country, out in the Southwest, we are looking at New Mexico; Arizona, 149 hours a week; Missouri, 119 hours a week; even Wyoming, 112 hours a week.

This illustrates pressures on these families, their difficulty to be able to provide food for their children, let alone providing for their housing.

The increase, this is how it reflects itself. We propose an increase in the minimum wage to $7.25. This is what it means. It means 2 years of childcare for a minimum wage family. It means full tuition at a community college. This is what it could mean to a family. It means a year and a half of heat and electricity. We have seen the reductions in the fuel assistance programs in the recent times, which has been devastating in my part of the country. It means more than a year of groceries. It means more than 8 months of rent.

This might not make a big deal of difference to a lot of people, but it makes an enormous amount of difference to these families who are earning the minimum wage. This is how it reflects itself: a year of groceries, 8 months of rent, a year and a half of heat and electricity, tuition at a community college—an opportunity for hope for some of these individuals—and also 2 years of childcare, to help with the problems in terms of childcare, the difficulty that these families have in trying to work for the minimum wage and have someone who is going to care and look out for their children. There are heartrending stories to that effect.

This chart reiterates the fact that the great majority, 60, 61 percent, of those working are women, so it is primarily a women's issue. Great numbers of those women have children, so this is a special issue for women.

Here we show that about 1.4 million single parents, most of whom are women, would benefit from an increase in the minimum wage. Some will say, on the one hand, it doesn't affect all that many people. Then why not have an increase in the minimum wage? It doesn't, in terms of the percentage increase in the total payroll of this country, it is infinitesimal, an increase in the minimum wage. I will come to that in a minute. But don't tell me it doesn't make a great deal of difference to the over 1 million single parents, most of whom are women, who would benefit from an increase in the minimum wage.

This tells the story of Diana, a single mother of three from Buffalo, who works for a childcare center, making the minimum wage. She has to rely on food stamps and Medicaid to provide for her family. Increasing the minimum wage will allow her to ''decrease her reliance on government subsidies and . . . pursue her dream of self-sufficiency and a better life for herself and her family.''

It is interesting, the fact that if we do not increase the minimum wage, we are effectively subsidizing many businesses. Because these families are eligible for food stamps or maybe some could get some fuel assistance, other kinds of support services, who do you think is paying for those programs? Working families. So you get a decent minimum wage out there, and it reduces the pressure on those programs. That means less pressure on our working families who are going to have to pay in.

The increase in the minimum wage will benefit more than 6 million children whose parents will receive a raise. Six million children in this country will benefit because of the increase in the minimum wage. It is a children's issue, a women's issue. This is what this is about.

What happens when children are living a better quality life? Look at this chart: Better attendance, concentration and performance at school, higher test scores and graduation rates. We are going to be debating No Child Left Behind. We are going to be wondering how we can make a difference in terms of children in our schools. There are a number of things that can make a difference to the children: a qualified teacher, classrooms where children can learn, supplementary services, parental involvement. A number of things can make a difference to the children. But one thing we know for sure: If the children can't see the blackboard, if they need glasses, or they can't hear a teacher because they need some kind of help, we tried to do this with the CHIP program to help them. In the CHIP program, it is not required, but a lot of States do provide those. But if the child is going to be hungry, the child is not going to pay attention. We have all kinds of examples for that. We will mention that at another time.

But 6.4 million children will benefit from an increase in the minimum wage: better concentration, performance at school, higher test scores, higher graduation rates, stronger immune systems, better health, fewer expensive hospital visits, fewer run-ins in the juvenile justice system—investing in the children. Again, 6.4 million will benefit from an increase in the minimum wage, and this will be part of the benefits that will come from those increases.

We have seen a higher minimum wage improves children's futures. For families living in poverty, a $400 increase in family income will dramatically increase children's test scores. This is from the Institute of Research on Poverty, on reading and math. This shows the difference in terms of the test scores. Children who are going to be fed, children who are going to have the kind of support do better in schools.

We mentioned earlier the problems of poverty falling disproportionately on those individuals of color. This chart shows that individuals of color benefit from the higher minimum wage. People of color make up 36 percent of all minimum wage workers. If we are able to get an increase in that, it will obviously benefit them.

We talked about children for a time and the impact it has on children. I will spend a few minutes talking about the number of elderly struggling with the problems of poverty. The number of elderly struggling will increase dramatically over the next several years. The best estimate—and this is by the Nation's poor, near-poor older population; it is a very important and significant study—shows the number of elderly who are going to live in poverty, increasing some 41 percent over the period of the next years. And we can understand that because we see the decline in wages according to age. This chart shows declining wages for men as well as women, all set in motion, again, by the issue about where they are going to start off on the minimum wage. So we are going to have significant increases.

This is the RAND study in terms of our seniors who are going to be living in poverty. They will certainly benefit from this.

Here is an elderly worker, Peggy Fraley, a 60-year-old grandmother from Wichita, KS, who works as a receptionist for $5.15 an hour. She lives with her daughter, who also earns the minimum wage, and her five grandchildren. She says: We can barely make it, but we have each other. That is richer sometimes.

This has a real impact. We have been talking a lot about statistics, but it affects people in the most basic and fundamental ways.

Over the period of these recent years where the Senate has failed to act, a number of States have moved ahead. You will see on this chart the red States are the States where they have a minimum wage which is higher than the Federal. These are red States as well as the blue States, with the minimum wage at or below the Federal level. This is what has happened in the country over the period of the last 10 years.

Now let's see, we have pointed out what has been happening in terms of children, people living in poverty, children in poverty. High minimum wage States, meaning those we have just mentioned here that have had some increase in the minimum wage, have lower poverty rates. That should not be surprising. It is all true. You can take it right across the line. The States that have increased their minimum wage are all below the national average in terms of the poverty rate, 12.7 percent. So this has a real impact. And look at what it has with regard to child poverty rates. Remember, I mentioned we

are the No. 1 industrial society with the number of children living in poverty. Look what happens in the States where we have actually increased the minimum wage. Just about every one of those is below the national average on child poverty. Increasing the minimum wage has a real impact in terms of child poverty in this country.

I will show what has happened in some other countries. I will show what has happened in other States. Let's see what happened in other countries. We always hear, well, if we do this, it is going to be a disaster to the economy and, therefore, we can't afford to have that because we are going to lose jobs or we will slow down the economy. We are going to throw those people out of work we are trying to help. We are going to hurt their community and we will hurt their families. Right? Wrong.

Let's look at the two countries which have raised their minimum wage the most over the last 5 years. That is Great Britain and Ireland. What are the two countries in Europe that have the best economies? Britain and Ireland. What are their minimum wages? Great Britain is now $10.57 an hour. Ireland is $10.80 an hour. And what has been the result? They have the strongest economies and the second strongest economy, and Britain has brought 2 million children out of poverty. Ireland has reduced its number of children who are in poverty by 40 percent. Look at this: Child poverty, dramatic increase in the minimum wage. They have a strong economy and a dramatic reduction in child poverty. And here we have an increase in child poverty, keeping the minimum wage.

Look at what has happened in terms of Great Britain. They have taken 2 million children out of poverty, and we have seen 1.4 million children go into poverty. Five years ago, Great Britain had the highest number of children in poverty of any of the European countries. And Tony Blair, to his credit, said: We are going to do something about it, and we are going to effectively eliminate child poverty in this decade. They are well on the way to doing so, demonstrating what we have said. That is, you can make a difference with regard to children. You can make a difference in terms of the issues of poverty by increasing the minimum wage.

Now let me take the States. What has happened to the States? You can say that is interesting, what has happened in those countries. But let's take a look at the States that have had an increase in the minimum wage. States with higher minimum wages create more jobs. This is from the Fiscal Policy Institute, March 30, 2006, overall employment growth from January 1998 to January 2006. In the 11 States with a minimum wage higher than $5.15, it has been 9.7 percent. In States with the minimum wage at $5.15, it is 7.5 percent. I thought if you raised the minimum wage, it was supposed to go down. You weren't supposed to grow as fast. And you weren't supposed to have increasing employment. But quite clearly, this isn't the fact.

Let's take the States where they are creating businesses. People say, if you raise the minimum wage, we are going to put a lot of businesses out of work. Is that right? No, that is wrong, too. Here are the 10 States with a minimum wage higher than $5.15. States with higher minimum wages create more small businesses. Overall growth in the number of small businesses, 1998 to 2003, 5.4 percent where you get a minimum wage higher than $5.15, and 4.2 percent where they have had $5.15—more employment, more growth of businesses. This is the result, if you look in other areas as well.

This is States with higher minimum wages on retail jobs. In States with a minimum wage higher than $5.15 an hour, the employment growth is 10 percent in retail jobs; 3.7 percent where the minimum wage is $5.15.

We don't expect the NFIB to support this proposal. But what we do find is that many employers and small businesses do. Malcolm Davis supports raising the minimum wage. This was in the News Observer, a newspaper. He is a small business owner, is proud to say:

> My lowest paid employee makes $8 per hour. With only 11 employees, things are tight, to say the least. If I can find a way to be fair with my employees in rural eastern North Carolina, why can't our government? Try driving to work and raising a family on the minimum wage.

This is more typical than not, Mr. President. Look at this. This is a Gallup Poll of May 9, 2006. Eighty-six percent of small business owners say the minimum wage doesn't affect their businesses. Question: How does the minimum wage affect your business? Eighty-six percent say no effect. Gallup Poll, 2006. Positive effect, 5; negative effect, 8 percent.

Let's look at what has been happening in our country over the period of the recent years in terms of the tax incentives. I think we ought to have an increase. I am going to vote to increase the minimum wage without providing additional kinds of tax incentives. All this proposal does basically is recover the purchasing power we had 10 years ago. There is no reason—we have seen countries that have raised the minimum wage doing very well—why we should add more tax breaks and increase the deficit. Businesses receive billions of dollars while minimum wage workers receive nothing.

This chart is from Citizens for Tax Justice. That is over the last 10 years. There has been $276 billion in tax incentives for corporations—small businesses, $36 billion—and we have had no raise for the minimum wage workers. We are still being asked now to do more when we have seen these kinds of tax breaks for corporations and businesses. I don't think it is necessary that we provide the additional tax breaks. Here we have seen productivity and profits skyrocket while the minimum wage plummets.

This comes from the Bureau of Labor Statistics. Profits are up over 45 percent; productivity, total 29 percent; and the minimum wage and output per hours are down 20 percent. So it gives you an idea about what has been happening out in the economy just generally.

Mr. President, I think this is, above all, a moral issue. The members of our great faiths have all spoken clearly about this issue. Here is the quote from Justice Roll, January 2007:

> More than 1,000 Christian, Jewish, and Muslim faith leaders say minimum wage workers deserve a prompt, clean minimum wage increase with no strings attached.

They make an excellent statement, and it is a convincing one.

Mr. President, these give you at least some idea of what is at issue. We have tried over the few minutes that we have had to point out where the trend lines are, to show the statistics that show that an increase in the minimum wage is morally correct. It will strengthen our economy, and it will make a difference to children and to women and make a difference to men and women of color. It is basically a fairness issue. It will strengthen our economy. It is the right thing to do. It is long overdue.

I thank our Democratic leaders, Speaker PELOSI and Senator REID, for giving it the high priority it deserves. We ought to get about the business of getting this legislation enacted, and enacted speedily, for those individuals who are out there day in and day out, men and women of dignity and men and women of pride, who take a sense of pride in the job they do, even though the jobs are very menial. Maybe it is a teacher's aide or someone looking out after the elderly in elderly homes or someone cleaning out the buildings of American commerce. They are men and women of dignity, and they take pride in the jobs that they do.

America has said it values work, and America says it values individuals who want to work hard and play by the rules. We are calling upon this Senate now to say these working families have waited long enough. Those individuals who work 40 hours a week, 52 weeks of the year in this Nation of ours should not have to be condemned to living a life in poverty.

That is the issue. Does work pay? Do we recognize our fellow citizens and say that we are going to respect them and we want to be one country with one history and one destiny, one Nation? Let's pass the increase in the minimum wage.

Mr. President, I thank my friend and colleague, Senator ENZI, for all of his good work. There are a great many issues on which we agree; there are some on which we differ. I always value his insight on any of these issues and, needless to say, we enjoy working together. I thank him for all of his cooperation on this issue, as on many other issues. We give assurance to our friends in the Senate that we are going

to get a lot of good work done for the people of this country in this session.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I thank the Chairman for his kind words. I admire him for the passion he puts into every issue he works on, and people will notice that he works on a lot of issues. He and I have had this debate three times over the last 2 years. We have varied a little bit on the amount of the increase, and I have always tried to get something in there for small businesses to take care of the increase, or to offset the increase a little so that these small businesses can continue to function and provide employment opportunities.

I come from a small business background. But not from small business as defined by the Federal government. The Federal definition is a business with less than 500 employees. Any business that we had in our State that was that large—and I am not sure we have any headquartered in our State—would be considered big business. I am talking about the mom-and-pop shops where the person who does the accounting also sweeps the sidewalks and cleans the toilets and waits on customers—definitely not in that order. This is a significant segment of small business across this country. They generate 60 to 80 percent of the net new jobs annually over the last decade. Raising the minimum wage will affect them more substantially than businesses with as many as 500 or more employees.

In the context of a minimum wage increase, I have always asked that actions be taken to offset the impact of an increase for small businesses. I want to thank Senator BAUCUS and Senator GRASSLEY for their work in the Finance Committee to come up with such a package. That package is now contained in the Reid amendment that has been submitted. I think this package makes a substantial difference and makes a raise in the minimum wage possible. I think had we worked toward this kind of a situation earlier, the minimum wage might have happened earlier. Unfortunately, the times that the minimum wage issue arose in the past 2 years were situations where it was unamendable. It had to be a take-it-or-leave-it—my proposal or Senator KENNEDY's proposal, and we left them both.

Any proposal on which the two of us have been able to reach agreement has been very successful in making it through the Senate and the House and getting signed by the President. It is not an easy task to pass a bill. I don't have to tell the Senator from Massachusetts that. He has been around here practicing the art of legislating a long time. I am one of the newcomers; I have only been here 10 years. I have noticed, however, that legislating means either finding a compromise, or finding a third way.

On this particular bill, we may find that third way. There will no doubt be additional amendments to this bill. I like situations where bills can be amended. I have been in situations where they could not. I have been on the side with the majority of votes in those situations and have not always felt comfortable. So I thank Majority Leader REID for having a situation where there can be amendments.

I ask my side of the aisle not to make amendments that are onerous or wide-ranging but that stick to the subject and see what the best possible package is that we can come up with.

I will speak first to the underlying substitute that has been laid down on this bill. There hasn't been any comment on that yet, even though we have had 2 hours 40 minutes worth of debate. Of course, we started first with Senator GREGG's amendment. I want to mention that this first amendment was an agreement to keep the ethics bill from having a different approach. I appreciate the effort of both parties to allow that to come up. While that will be voted on as a part of the minimum wage, it is not a part of the minimum wage. It allows a vote on that as an up-or-down vote. I am pleased there was some compromise on that and some ability to do that.

I listened to the hour and a half of debate on that amendment and the concern over whether trading votes would happen. Something this body ought to consider, perhaps, is a law that we have in Wyoming that prohibits the trading of votes on any issue and makes it a felony that has to be reported by both sides if an offer is made. It makes each issue stand on its own.

So I will speak first to the underlying substitute that was laid down on this bill because it provides the tax relief we have been talking about for a long time, and this is tax relief that has been agreed upon in a very bipartisan way. Senator GRASSLEY and Senator BAUCUS often work together, and that is why the Finance Committee is so successful in moving things along. They have come up with tax relief for very small businesses that will aid them in meeting their burden of a minimum wage increase. I have long advocated that we must provide a measure of tax and regulatory relief to businesses that will face these higher mandated costs.

The substitute amendment consists of the following provisions: First, it would increase current section 179 expensing by extending the increased expensing of qualified business property allowed for small businesses until 2011. Without an extension, the amount which may be expensed will drop by more than 75 percent. If we pass this extension, we will allow small business owners who are making investments in the future of their business to retain more of their earnings, and these additional funds can be used to retain and hire new employees, thereby balancing out the effect of the minimum wage increase.

Now, we have talked about families and children, and I want to tell you the small businesses that we are talking about are the small businesses that are run by families that, in most instances, have children. Quite often, the small businesses are run by young people. In my own case, I got married, and a week later we started a shoe store. We had kids, and the kids got to learn a little about the retail trade by having to work and help us out. So I have some personal background and experience in running a small business.

Second, the amendment would provide a 15-year recovery period for leasehold improvements and certain restaurant buildings and related improvements. This provision improves current law by including new restaurants, retail space, and improvements by extending the broadened provision. Restaurants and retail employ a very large percentage of minimum wage workers and are most impacted by mandated increases in the Federal wage. This portion of the amendment extends relief to these businesses and seeks to avoid dislocation and decreased employment opportunities for restaurant and other workers.

Third, the amendment would allow noncorporate taxpayers with annual gross receipts of less than $10 million to use the cash method of accounting for purchases and sales of merchandise.

Under current law, those small business taxpayers are generally required to use the accrual method for such purchases and sales, even though they may use the cash accounting method for overall accounting. This simplification and clarification of accounting methods would assist small businesses by reducing their administrative costs, which would free up more resources to maintain employment levels.

I realize most people in America may not know the difference between cash accounting and accrual accounting. I can tell them, accrual accounting is a lot more complicated because one has to guess on the percentages of expenditures and then later make corrections for actual amount, whereas under cash accounting, one takes the actual money coming in and the actual money that goes out. It is a much simpler accounting system. We want to make sure those small businesses have that opportunity.

Fourth, the amendment expands work opportunity tax incentives. This allows employers credit against wages for targeted individuals, including those on welfare, qualified veterans, and high-risk youth. These populations, again, are most likely to lose jobs in an environment where employers are forced to bear increased salary costs. This program would be extended for 5 years.

Fifth, the substitute also creates a voluntary certification program for professional employer organizations that meet the standards of solvency and responsibility and that maintain ongoing certification by the IRS.

Lastly, the amendment provides for a series of clarifications and modifications to the tax and accounting provisions that govern subchapter S corporations. Many small businesses are organized under the provisions of subchapter S of the Internal Revenue Code. Incidentally, the ones that are organized under subchapter S pay taxes on the earnings each and every year as opposed to a corporation that only pays some corporate taxes and then on distribution has to pay the rest of the taxes.

I can't leave this topic of small businesses without commenting briefly on a matter of great concern to these businesses, the employees, and the families that depend on them. I am speaking, of course, about the rise in cost of small business health insurance.

Although cost growth has begun to slow a bit, premiums for small businesses have been rising unsustainably at near double-digit rates for more than half a decade, which is more than double the rate of inflation of wage growth. For much of the last Congress, my colleagues and I engaged in an aggressive and bipartisan effort to tackle this problem. Indeed, the small business health plan legislation I authored with Senator BEN NELSON came within just a few votes of overcoming a filibuster last May. Our legislation would enable small businesses to pool their negotiating across State borders to have a big enough pool to effectively negotiate against the big insurance companies and thus hold down costs and widen access to coverage while preserving the strong role for State oversight and consumer protection.

Progress on this critical issue is moving forward. I have had interesting discussions with people from both sides of the aisle. I think the discussions have been promising. There is a long way to go, but I think we have built a solid foundation, and that foundation continues to grow as we move into a new year and a new Congress.

Small business health insurance reform is vitally important, and I realize there may be some sentiment that the issue should be resolved in the context of the minimum wage debate. However, I firmly believe that offering a version of last year's small business health plan as an amendment to the pending minimum wage legislation would be premature and would not help us move forward toward securing meaningful small group health insurance relief in this Congress or minimum wage or help for small businesses. Rather, the best way to achieve real small business health care reform is to proceed forcefully to build on the significant progress we made last year.

Development of small business health legislation is a process that is well along, and I believe success is in sight. We are on a promising track, and we should stick with it. That promising track, of course, is having bipartisan discussions about what needs to be done in health to keep the insurance rates down, to provide better access to people.

Senator KENNEDY and I have been having some discussions on principles. That is the way we have been attacking the pieces of legislation we do around here. We set down principles and then meet with stakeholders and talk about what difficulties those principles provide for them. Then we come up with a bill that will hopefully find a way through the maze. It is extremely difficult, but the increase in interest in health insurance has risen so greatly that I think this will be a prime topic for people in the next year and hopefully a solution within the next year.

I would also be remiss if I didn't mention, as I have many times in the past, that while an increase in the minimum wage will be a kick-start for some workers, it doesn't address the fundamental issue of chronic low wage earners. Regardless of how we increase the minimum wage today, those who earn it will still be the lowest paid tomorrow. The minimum wage needs to be for all workers what it is for most—a starting point. Our policy should be directed at giving all workers the opportunity to move up the wage ladder, not merely moving the ladder's lowest rung up.

As a former small business owner, I know these entry-level jobs are a gateway into the workforce for people without skills and without experience. Minimum wage usually goes to those with minimum skills. These skills-based wage jobs can open the door to better jobs and better lives for low-skilled workers if we give them the tools they need to succeed. My colleagues know that I strongly believe we must do more in this department. For the past two Congresses, one of my major priorities has been reauthorizing and improving the Nation's job-training system that was created by the Workforce Investment Act. This law will help to provide American workers with the skills they need to compete in the global economy. Education and the acquisition of job skills represent the surest path to economic opportunity and security in the global job market. Increasing skills increases jobs, increases wages, and lifts the lowest boat into a bigger boat.

Over the past few years, this bill has received unanimous support in both the HELP Committee, which has reported it out twice, and the full Senate, which has passed it twice. But I have to say that election-year politics and political positioning have prevented this important bill from becoming law.

We tried to preconference a lot of the bills that came out of the HELP Committee last Congress. We were successful on many. That means the House agreed with the Senate position with some changes prior even to the time the Senate passed a bill, and then the House would pass the same bill, and as a result, the Health, Education, Labor, and Pensions Committee got 27 bills through the legislative process and signed by the President. That is quite a contrast to what happens with most committees.

The Workforce Investment Act was not able to be preconferenced. I hope it can be now. I believe there is a little better understanding of some of the objections and also some of the benefits. I believe this bill will make it through the process and will start an estimated 900,000 people a year on a better career path. It can only happen if it is not a casualty of Congress's inability to overcome its worst partisan instincts. That would be inexcusable.

Outside the glare of election-year politics, I hope we can quickly pass this job-training bill that will truly improve the wages and lives of workers in this country. The Senate has passed it twice. We have spent 4 years working on it.

The potential skills gap facing American workers only deepens when we are compared to our competitors around the world. As chairman of the committee, I was able to travel to some of the foreign countries which are among some of our toughest competitors in the world market. I came home believing strongly that we must focus more seriously on the acquisition and improvement of job and job-related skills. While many of us feel good about what we are doing today when we raise the minimum wage, I intend to make sure we do not neglect to address the far more pressing concerns for American workers: the increasing skills gap and the availability of health insurance. I anticipate we will get to work on these issues at a separate time.

AMENDMENT NO. 103 TO AMENDMENT NO. 100

Mr. ENZI. Mr. President, at this point, I have permission to lay down an amendment on behalf of Senator SNOWE. I send an amendment to the desk.

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

The bill clerk read as follows:

The Senator from Wyoming [Mr. ENZI], for Ms. SNOWE, for herself, Mr. ENZI, and Ms. LANDRIEU, proposes an amendment numbered 103 to amendment No. 100.

The amendment is as follows:

(Purpose: To enhance compliance assistance for small businesses)

At the appropriate place, insert the following:

SEC. ___. ENHANCED COMPLIANCE ASSISTANCE FOR SMALL BUSINESSES.

(a) IN GENERAL.—Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) is amended by striking subsection (a) and inserting the following:

''(a) COMPLIANCE GUIDE.—

''(1) IN GENERAL.—For each rule or group of related rules for which an agency is required to prepare a final regulatory flexibility analysis under section 605(b) of title 5, United States Code, the agency shall publish 1 or more guides to assist small entities in complying with the rule and shall entitle such

publications 'small entity compliance guides'.

''(2) PUBLICATION OF GUIDES.—The publication of each guide under this subsection shall include—

''(A) the posting of the guide in an easily identified location on the website of the agency; and

''(B) distribution of the guide to known industry contacts, such as small entities, associations, or industry leaders affected by the rule.

''(3) PUBLICATION DATE.—An agency shall publish each guide (including the posting and distribution of the guide as described under paragraph (2))—

''(A) on the same date as the date of publication of the final rule (or as soon as possible after that date); and

''(B) not later than the date on which the requirements of that rule become effective.

''(4) COMPLIANCE ACTIONS.—

''(A) IN GENERAL.—Each guide shall explain the actions a small entity is required to take to comply with a rule.

''(B) EXPLANATION.—The explanation under subparagraph (A)—

''(i) shall include a description of actions needed to meet the requirements of a rule, to enable a small entity to know when such requirements are met; and

''(ii) if determined appropriate by the agency, may include a description of possible procedures, such as conducting tests, that may assist a small entity in meeting such requirements.

''(C) PROCEDURES.—Procedures described under subparagraph (B)(ii)—

''(i) shall be suggestions to assist small entities; and

''(ii) shall not be additional requirements relating to the rule.

''(5) AGENCY PREPARATION OF GUIDES.—The agency shall, in its sole discretion, taking into account the subject matter of the rule and the language of relevant statutes, ensure that the guide is written using sufficiently plain language likely to be understood by affected small entities. Agencies may prepare separate guides covering groups or classes of similarly affected small entities and may cooperate with associations of small entities to develop and distribute such guides. An agency may prepare guides and apply this section with respect to a rule or a group of related rules.

''(6) REPORTING.—Not later than 1 year after the date of enactment of the Small Business Compliance Assistance Enhancement Act of 2007, and annually thereafter, the head of each agency shall submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives describing the status of the agency's compliance with paragraphs (1) through (5).''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 211(3) of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) is amended by inserting ''and entitled'' after ''designated''.

Mr. ENZI. Mr. President, I rise today in support of the amendment offered by Senator SNOWE. This amendment would provide some measure of relief to those small businesses which bear the economic burden of nearly 41 percent of the increase in the Federal minimum wage. Small businesses not only employ the bulk of the minimum wage workers, they have also been the engine for economic growth.

Small business has been responsible for the majority of new job creation, generating between 60 and 80 percent of the net new jobs annually over the last decade, and it is small businesses which have traditionally provided the only entry port for new workers into the job market.

I congratulate Senator SNOWE for her persistence on this amendment. She has worked on it a number of times and revised it to the present situation. I suspect if there are any objections, we would be willing to work on it additionally.

But we must recognize that raising the Federal minimum wage, whatever else effects there may be, significantly increases the costs for many of these businesses. I mentioned that an increase of 41 percent in labor costs has to be accounted for somehow. Curtailing services, reducing employee complements, and forgoing expansions are some of the many options considered by these businesses in the face of increased costs. The inescapable fact is that increased labor costs heighten the risk of both employment dislocation and decreased job opportunity for the very individuals an increase in the minimum wage is designed to benefit. Unless we are prudent and balance such mandated cost increases for some measure of relief for affected small businesses, we risk serious unintended consequences. Simply put, an increase in the minimum wage is of no value at all to a worker who does not have a job or a job seeker who has no prospects of employment.

As a Senator from a rural, low-population State, I would like to point out another reality. In many cases, heavily populated areas with high costs of living have already, in fact, adjusted their minimum wage levels either by law or by market forces, which actually work.

The town I am from is a boomtown, it is an energy center. If one drives by the Arby's restaurant, the lit-up moving marque sign says: Now hiring, $9.50 an hour plus benefits; you name the hours. If you go in and apply, they will tell you that if they can pick the hours, it is $10.50 an hour.

In many areas, market forces are working. There are construction companies that go from one site to another hiring people away from other construction companies. We have a shortage of people to work in Wyoming. Of course, that requires relocating to the frontier, which is what a lot of people consider Wyoming. Horace Greeley said: Go west, young man. I would say: Go west, young man and young woman. There are coal operations out there, primarily surface mines. They need people to drive coal, or haul trucks. These trucks are 28 feet long, 28 feet wide, and 28 feet tall. They haul a lot of coal. We move 1 million tons of coal a day out of our county. How can we do that? We have a coal seam that is 50- to 90-feet thick, and it is only under 60 to 90 feet of dirt.

When I was mayor and Senator ROCKEFELLER was Governor, he came out to see our mines. Taking him back out to the airport, I always remember what he said: You folks don't mine coal here.

I said: What do you mean?

He said: You just back up trains and you load them.

We have coal which is low in sulfur and other chemicals, which makes it useful across the United States. Some of the States also known as coal States take our coal and mix it with their coal, and they can help meet the clean air standards that way. We are low in Btu, so they increase the Btu by using their coal. If someone has a clean drug record and no experience and can drive anything, they can be trained to drive one of these coal haul trucks and make $60,000 to $80,000 a year, and even more with overtime. It is a very flexible market. So there are job opportunities out there. But they may be nontraditional jobs, and they may require moving to another part of the country.

One will find Wyoming can use a little bit more population. We are trying to reach a population of half a million people. We are 350 miles a side on our State, so we are bigger than most of the States.

At any rate, there are areas which would be most dramatically affected by the minimum wage increase and those are lower cost of living areas. They are often rural and sparsely populated. In those areas, employers will feel the most pressure on their bottom lines. In those areas, employees will have the fewest opportunities to find other employment if they are let go. So a reasonable approach to the minimum wage issue must take those realities into account. If we are going to dramatically increase the costs for some businesses by a wage mandate, we should provide some measure of relief to those same businesses. If we do not, we harm not only those small businesses, we ultimately harm the individuals they employ.

The sound and well-reasoned amendment that is offered by Senator SNOWE accomplishes these ends through reasonable and targeted regulatory relief for those small businesses that are most negatively impacted by a wage increase mandate. I am pleased to be a cosponsor of the amendment along with Senator LANDRIEU. The Snowe amendment provides some regulatory relief by requiring that the Federal agencies which issue new rules and regulations which impact small businesses also provide those employers with plainly written and readily available guidance that explains what employers must do to be in compliance with these rules and regulations.

All employers incur costs keeping up with the obligations Government imposes on them and determining how to meet those obligations. Small businesses regularly incur administrative costs in monitoring Federal regulatory changes and developing compliance programs. There is no question that the burden of Federal regulations falls more heavily on small business. This chart shows the cost of complying with

Federal regulations. The per-employee compliance cost for firms with 20 or fewer employees is $7,647. The per-employee compliance cost for firms with 500 or more employees is only $5,282.

So the per-employee compliance costs are 45 percent more for our smallest employers than they are for our largest. Congress has previously recognized the necessity of providing small businesses relief from those compliance and monitoring costs, yet a GAO study has shown the goal of providing small businesses relief from high compliance monitoring costs is far from fully met. The regulatory provision in this amendment seeks to ensure that goal is finally realized. The need for this type of compliance assistance was recognized by my colleague from Maine, Senator SNOWE, the author of this amendment and proponent of this proposal in this Congress as well as the last two Congresses. I am pleased to again cosponsor the bill authored by Senator SNOWE. The bill continues to enjoy broad bipartisan support from our colleagues, including Senators KERRY and LANDRIEU. This regulatory amendment will not only have the benefit of decreasing administrative costs for small employers, it also has the further benefit of increasing compliance levels by ensuring that all employers know the rules of the road and the means to comply with them.

Through the Banking Committee, on which I also serve, we have been able to suggest and get several advisory committees started. Those advisory committees have small businesspeople on them who advise how different statutes as well as rules and regulations affect them, and their input has had considerable impact. This amendment is one of the type things those groups would suggest.

When we write Federal regulation, we often make it very complicated and it is in a very legalistic form. I helped Senator Sarbanes on the Sarbanes-Oxley bill. I brought an accounting perspective to that. I was pleased he listened to it. But one of the factors we missed in that legislation, or you cannot cover in that broad of a bill, is the impact of small business versus big business.

Again, the advisory committees have said what is needed is a better explanation for small business that they can understand. They do not have the specialists big business has. They can't afford them. Consequently, they do not have easy accessible advice on how these legalistic terms actually work. It is the significant difference in cost that we are concerned about here.

It is a relatively simple amendment, but one that could make a significant difference. The substitute amendment to the underlying bill, as I mentioned, went through the Finance Committee. It did not go through the Health, Education, Labor and Pensions Committee, and it did not go through the Banking Committee, so there was no opportunity to suggest this kind of amendment at either of those points. But it is something the Small Business Committee has worked on a number of times. Senator SNOWE has been the chairman and is now the ranking member of the Small Business Committee. I hope we will recognize her effort as well as the bipartisan effort coming out of that committee to provide this kind of a change.

I think when the week is done, or maybe even less time than that, we will be at a point where there will be both a minimum wage increase and some help for small businesses that will offset the impact and keep the economy moving.

I yield the floor.

Mr. SESSIONS. Madam President, is there an order of business?

The PRESIDING OFFICER (Ms. STABENOW). There is no order at this time.

Mr. SESSIONS. I yield to the Senator from Maryland to discuss this order of business. I wish to discuss that a little bit.

Mr. CARDIN. If the Senator will yield, I am prepared to make a unanimous consent request that after I complete my comments, Senator BINGAMAN will be recognized for 10 minutes, and then the Senator will be recognized for up to 15 minutes, and then Senator MENENDEZ for up to 15 minutes.

Mr. SESSIONS. How long does the Senator expect to be?

Mr. CARDIN. No more than 5 to 7 minutes.

Mr. SESSIONS. That is fine from my perspective.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Maryland is recognized.

Mr. CARDIN. Madam President, I take this time in support of the increase of the minimum wage to $7.25. I compliment Senator KENNEDY for his leadership on this issue. I agree with Senator ENZI that this needs to be done in a bipartisan manner, and I am pleased by the way we are proceeding in the consideration of the increase in the minimum wage.

I would first make the point that increasing the minimum wage will have a positive impact on small business. I agree with the comments that have been made that small business is the economic engine of our Nation and we need to do everything we can to make it healthier for small businesses in this country, but increasing the minimum wage will have a positive effect. I say that because when you look at the total impact on payrolls in this country, by increasing the minimum wage to $7.25 per hour, it represents about one-fifth of 1 percent of the entire payroll of our Nation. It is not going to have a dramatic impact on the cost of labor. What it does is try to help wage earners in this country who are suffering.

I believe in a liveable wage. I believe we need to do much better than a minimum wage, but you need to increase the minimum wage if we are going to be able to get to a liveable wage in this country. We need to do something about the disparities among the incomes of wage earners of America.

We had a hearing in the Budget Committee not long ago. The Chairman of the Federal Reserve System talked about the fact that this Nation among the industrial nations in the world has the largest disparity among wealth in wage earners. We need to do something about that. Increasing the minimum wage will have a positive impact on those issues.

The fiscal policy group looked at the effect of minimum wage increases of States that have gone above the Federal minimum wage. I represent one of those States. Maryland has increased its minimum wage to $6.15 per hour. The growth rates in the States that have increased the minimum wage are actually higher than those that have the Federal minimum wage, a growth rate of 9.4 percent versus a growth rate of 6.6 percent.

Every time Congress has increased the minimum wage in prior Congresses, it has had a positive impact on the overall growth of our economy. When you look at the minimum wage increases, if wage earners at the minimum wage had received the same increase in the minimum wage that the CEOs have received over the last 15 years, the minimum wage earners in fast food restaurants today would be making over $23 an hour.

This is an issue that needs to be addressed. Who is affected by it? There are 6.6 million Americans who make the minimum wage. It disproportionately affects women. Although women represent 48 percent of the workforce of America, they represent 61 percent of those who are at the minimum wage. Over 70 percent of the people receiving minimum wage are over 20 years of age, and over one-third are parents—760,000 are single moms.

I mention that because today, if you work 52 weeks a year, 40 hours a week, and you are a family of 2, you live below the poverty rate. You are doing everything right, working 40 hours a week, don't take a day off for the entire year, yet you are still below the Federal poverty rate.

That should not be in America. We can do better than that. Since the last time we increased the minimum wage, the per capita cost of health care has risen by 60 percent, college costs have increased by 51 percent for public schools, debts for students graduated from college have more than doubled, credit debt has increased by 46 percent, and we have the lowest effective minimum wage in 50 years. The last time we increased the minimum wage was 10 years ago. I was proud to have voted for that when I was in the other body. It is now time that we follow or pass what the other body has done and increase the minimum wage to $7.25 an hour over a three-stage process. It is the right thing to do.

It is not only right for our economy, it is not only the right thing to do as far as how it affects the individual wage earner in trying to bring about some fairness, but it is the right thing to do in regard to what is correct for our country on civil rights.

Let me quote a famous American who said:

We know of no more critical civil rights issue facing Congress today than the need to increase the Federal minimum wage and extend its coverage.

That was stated by Dr. Martin Luther King, Jr., March 18, 1966, when the minimum wage was comparable in purchasing power to what it is today when Congress finally increased the minimum wage. We should have increased the minimum wage before now. We have the opportunity to do this in this Congress. Now is the time for us to act. Now is the time for us to work in a bipartisan manner as we have on previous increases in the minimum wage. I hope my colleagues will work on this bill and get it done this week. It is the right thing to do. It will help our economy, and it is long overdue.

I yield the floor.

The PRESIDING OFFICER. The distinguished Senator from New Mexico.

Mr. BINGAMAN. Madam President, I ask unanimous consent that I be allowed to speak as in morning business for 10 minutes.

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

GLOBAL WARMING

Mr. BINGAMAN. Madam President, the issue of global warming is more and more on the minds of Americans. There is good reason why it is. I think we are familiar now with the litany of adverse consequences that is associated with unlimited release of greenhouse gases into the atmosphere. The scientific reports are warning us about rising sea levels, about dangerous heat waves, about increasingly devastating hurricanes and other weather events. There are always uncertainties about understanding the Earth's climate, but one thing is clear: Uncontrolled release of greenhouse gases into the atmosphere with no real strategy to reduce those gases is irresponsible and dangerous at this point in our history. It is a great challenge that we face to reduce these emissions in this country and countries around the world. Even individual States within the United States, and regions of this country, are leading the way in dealing with this issue.

The truth is, unless the United States as a whole and the developing countries that have rapidly growing economies find a way to reduce emissions, we are likely to see this entire planet covered with a blanket of gases that will take centuries to dissipate.

In 2005 the Senate passed a resolution setting forth an approach to tackling the challenges of climate change. That resolution called for adoption of a mandatory, economy-wide program that will slow, stop, and then reverse greenhouse gas emissions without harming the economy and that will encourage action by developing nations. Meeting those various tests set out in that resolution will require a bipartisan commitment to understand the impact of any legislative approach.

Today I am joining with my colleague, Senator SPECTER from Pennsylvania, in circulating a bipartisan discussion draft on global warming legislation. The choice to release this discussion draft reflects our desire to modify or approve that legislation in the coming months before it is introduced. This is our commitment to create a bipartisan process that will focus discussion in a constructive direction.

I see three main challenges that we face in this process. First, we need to persuade our colleagues on the program that we have chosen; that is, a cap and trade proposal that incorporates market-based mechanisms and funding for technology development. In 2005 over 53 Members of the Senate went on record in support of such a proposal by defending that sense-of-the-Senate resolution and voting for it. We need to continue to expand that number. We need to engage the administration, which has refused to support such measures for reducing greenhouse gases.

To begin to meet this first challenge, I would like to call the attention of my colleagues to two documents. The first is an analysis by the Department of Energy's Energy Information Administration, or EIA. This was in September of last year. I joined with five other Senators in submitting a request, a discussion draft to the Energy Information Administration asking them to analyze it. Earlier this month, they returned with very favorable results, showing that it is possible to implement a cap-and-trade proposal that begins to reduce the growth of greenhouse gas emissions without harming the economy. The Energy Information Administration of this administration showed that the program has only minor impacts on gross domestic product—a quarter of 1 percent by 2030. That is equal to slowing the rate of economic growth by roughly 1 month over the next 20-plus years.

I ask unanimous consent to have printed in the RECORD the executive summary of this EIA analysis following the completion of my remarks.

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

(See Exhibit 1.)

Mr. BINGAMAN. The second document to which I wish to call attention is a study by the nonpartisan Congressional Budget Office. In October of 2005, Senator JEFFORDS and I asked CBO to address a debate that has been occurring in the Senate. Most experts agree that significant cuts in fossil fuel use is required if we are to reduce greenhouse gas emissions. But there has been a debate about whether the appropriate strategy was to exclusively fund technology development through tax incentives and through Federal programs or, on the contrary, to put a price on carbon by implementing a cap-and-trade proposal. CBO's analysis demonstrated that the most effective policy was a combination of these two.

I ask unanimous consent to have printed in the RECORD the summary of that CBO report following the completion of my remarks as well.

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

(See Exhibit 2.)

Mr. BINGAMAN. Madam President, the second challenge we face in this debate is to figure out the appropriate way to structure a cap-and-trade program. Putting targets and timetables aside for a moment and determining the appropriate structure of a cap-and-trade system in order that it functions properly will require an enormous amount of focus and attention. For over a year, I have worked in a bipartisan manner with my colleague from New Mexico, Senator Domenici, to explore many of these issues. In February of last year we released a white paper from the Energy Committee entitled, ''Design Elements of a Mandatory Market-Based Greenhouse Gas Regulatory System.'' That white paper laid out four basic questions about the design of the cap-and-trade proposal. I was very encouraged that we received detailed and constructive comments from over 150 major companies, NGOs, and individuals.

On April 4, 2006, we hosted a day-long workshop with 29 of these respondents talking about their reaction to the white paper. This was the first such discussion in Congress to have taken place. My colleagues can find a transcript of this conference on the U.S. Government Printing Office Web site. I also ask unanimous consent to have printed in the RECORD a joint statement from my colleague, Senator DOMENICI, and myself that summarized the conference.

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

(See Exhibit 3.)

Mr. BINGAMAN. Madam President, the third challenge we face in making progress on this issue is getting political consensus on the right levels of control. Here I am talking about the level of stringency and the aggressiveness of the program. There have already been a number of bills introduced this year. I commend all my colleagues who dedicated their time and effort to addressing this issue. First and foremost, of course, Senators LIEBERMAN and MCCAIN have reintroduced their legislation. These two Senators have been leaders on the issue from the beginning. Also, Senators SANDERS and BOXER have reintroduced legislation that Senator JEFFORDS drafted last year, and I commend them for their leadership and their bold vision. As chairs of the two committees engage in the debate on global warming issues, I plan to work very closely with Senator BOXER to ensure that everything we do

will keep momentum on global warming legislation moving forward.

I also commend Senators FEINSTEIN and CARPER for working together to introduce legislation last week. Senator FEINSTEIN was on our Energy Committee. She is not on that committee in this Congress, and she will be missed. But her leadership in this area is very important.

I also would like to acknowledge and congratulate the efforts of the U.S. Climate Action Partnership. This is a unique and diverse group of industry and NGOs that have come together to offer principles on global warming legislation and recommendations for that legislation.

With all these bills and strategies for reducing greenhouse gases on the table, it is vital that we work together to craft sensible policy that can be enacted sooner rather than later. The science tells us that action is needed immediately and that the longer we delay the more difficult the problem will be. I believe the modest impacts that are identified from our proposal, the one Senator SPECTER and I are circulating, as shown by the Energy Information Administration analysis, will provide a basis to explore somewhat more aggressive reduction targets. It is for this reason that we do not want to introduce our bill without first giving great deliberation to different targets and approaches that could gain political consensus in passing legislation.

One thing is clear: We cannot delay. For this reason, I hope to promote a legislative approach that will reflect a constructive center in this often polarized debate.

In circulating this discussion draft, Senator SPECTER and I are setting forth a process. The first step of the process is to invite Senate offices to a series of workshops with experts on the issue to educate and understand the impacts of the legislation. These sessions will be open to Senate staff. We also, of course, want to invite participation or observation by representatives from the administration. The first of the workshops will be February 2 in the afternoon.

We also need to hear from the public and interested stakeholders. In the coming weeks, Senator SPECTER and I will be outlining a process to meet with stakeholders from industry, labor, environmental groups, and others. We plan to solicit their comments on the legislative text. A copy of the discussion draft and supporting documents will be posted on the Energy Committee Web site—energy.senate.gov. I encourage interested parties to look at that draft and to monitor the Web site for further developments.

Madam President, following all of the other items that I have mentioned to be printed in the RECORD, I ask unanimous consent that the discussion draft that Senator SPECTER and I are circulating also be printed in the RECORD following the other documents.

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

(See Exhibit 4.)

EXHIBIT 1

ENERGY MARKET AND ECONOMIC IMPACTS OF A PROPOSAL TO REDUCE GREENHOUSE GAS INTENSITY WITH A CAP AND TRADE SYSTEM, JANUARY 2007

(Energy Information Administration, Office of Integrated Analysis and Forecasting, U.S. Department of Energy, Washington, DC)

EXECUTIVE SUMMARY

BACKGROUND

This report responds to a request from Senators Bingaman, Landrieu, Murkowski, Specter, Salazar, and Lugar for an analysis of a proposal that would regulate emissions of greenhouse gases (GHGs) through a national allowance cap-and-trade system. Under this proposal, suppliers of fossil fuel and other covered sources of GHGs would be required to submit government-issued allowances based on the emissions of their respective products. The gases covered in this analysis of the proposal include energy-related carbon dioxide, methane from coal mining, nitrous oxide from nitric acid and adipic acid production, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

The program would establish annual emissions caps based on targeted reductions in greenhouse gas intensity, defined as emissions per dollar of Gross Domestic Product (GDP). The targeted reduction in GHG intensity would be 2.6 percent annually between 2012 and 2021, then increase to 3.0 percent per year beginning in 2022. To limit its potential cost, the program includes a ''safety-valve'' provision that allows regulated entities to pay a pre-established emissions fee in lieu of submitting an allowance. The safety-valve price is initially set at $7 (in nominal dollars) per metric ton of carbon dioxide equivalent ($MMTCO_2e$) in 2012 and increases each year by 5 percent over the projected rate of inflation, as measured by the projected increase in the implicit GDP price deflator. In 2004 dollars, the safety valve rises from $5.89 in 2012 to $14.18 in 2030.

The proposal calls for initially allocating 90 percent of the allowances for free to various affected groups, but the proportion of allowances to be auctioned grows from 10 percent in 2012 to 38 percent in 2030. The revenue from the auctions and any safety-valve payments are accumulated into a ''Climate Change Trust Fund,'' capped at $50 billion, to provide incentives and pay for research, development, and deployment of technologies to reduce greenhouse gas emissions. The U.S. Treasury would retain any revenue collected in excess of the $50-billion limit.

As specified in the request for the analysis, EIA considered both a Phased Auction case, which allocates allowances as specified in the proposal, and a Full Auction case, in which all allowances are assumed to be auctioned beginning in 2012. Because they share the same emissions targets and safety valve prices, the energy sector impacts in the Phased and Full Auction cases are very similar. The only areas where the impacts in the two cases differ are for electricity prices and the economic impacts associated with collection and use of revenue from the sale of allowances. Several additional sensitivity cases examine the impacts of higher and lower safety valves and limiting the use of emission reduction credits, or offsets, from noncovered entities. The proposal and its variants were modeled using the National Energy Modeling System and compared to the reference case projections from the Annual Energy Outlook 2006 (AEO2006).

The analysis presented in this report builds on previous EIA analyses addressing GHG limitation, including earlier EIA reports requested by Senator Bingaman, Senator Salazar, and Senators Inhofe, McCain, and Lieberman. All of the analysis cases incorporate the economic and technology assumptions used in the AEO2006 reference case. While increased expenditures for research and development (R&D) resulting from the creation of the Climate Change Trust Fund are expected to lead to some technology improvements, a statistically reliable relationship between the level of R&D spending for specific technologies and the impacts of those expenditures has not been developed. Furthermore, the impact of Federal R&D is also difficult to assess, because the levels of private sector R&D expenditures usually are unknown and often far exceed R&D spending by the Federal Government.

However, the recent reports for Senators Bingaman and Salazar include additional sensitivity analyses on the assumptions made regarding the availability of GHG emissions reductions outside the energy sector and the pace of advances in technology used to produce and consume energy. The report for Senators Inhofe, McCain, and Lieberman also examines the economic implications of possible alternative approaches to recycling revenues collected by government under a cap-and-trade program in which significant amounts of government revenue is collected from allowance auctions. Alternative assumptions in these areas can have a major impact on the results obtained, and the insights from those prior sensitivity cases would also be applicable to the proposal analyzed this report. Readers interested in how the results reported below might be affected by different assumptions in these areas are encouraged to review the earlier reports.

The modeled impacts of the proposal are summarized below. Reported results apply for the $7 Phased Auction case, unless otherwise stated. Energy and allowance prices are reported in 2004 dollars for compatibility with AEO2006. Macroeconomic time series such as GDP and consumption expenditures are reported in 2000 chain-weighted dollars to maintain consistency with standard reports of U.S. economic statistics. Projections of the aggregate value of allowances and auction revenues and fiscal impacts on the budget surplus are reported in nominal dollars, as are deposits relating to the Climate Change Trust Fund.

RESULTS

Emissions and Allowance Prices

The proposal leads to lower GHG emissions than in the reference case, but the intensity reduction targets are not fully achieved after 2025. Some regulated entities would opt to make safety-valve payments beginning in 2026, the year in which the market value of allowances is projected to reach the safety-valve level (Table ES1). With the higher safety-valve prices in the $9 Phased Auction sensitivity case, the intensity targets are attained through 2029.

Relative to the reference case, covered GHG emissions less offsets are 562 $MMTCO_2e$ (7.4 percent) lower in 2020 and 1,259 $MMTCO_2e$ (14.4 percent) lower in 2030 in the Phased Auction case. Covered GHG emissions grow by 24 percent between 2004 and 2030, about half the increase in the reference case.

In the early years of the program, when allowance prices are relatively low, reductions in GHG emissions outside the energy sector are the predominant source of emissions reductions. In 2020, reductions of GHGs other than energy-related CO_2, estimated based on information provided by the Environmental Protection Agency, account for nearly 66 percent of the total reductions. By 2030, however, the higher allowance prices lead to a

significant shift in energy decisions, particularly in the electricity sector, and the reduction in energy-related CO_2 emissions account for almost 58 percent of total GHG emissions reductions.

An allowance allocation incentive for carbon sequestration, available only in the Phased Auction case, is projected to result in an additional emissions impact of 296 $MMTCO_2e$ in 2020 and 311 $MMTCO_2e$ in 2030, or about 4 percent of covered emissions.

In 2004 dollars, the allowance prices rise from just over $3.70 per metric tons CO_2 equivalent in 2012 to the safety valve price of $14.18 metric tons CO_2 equivalent in 2030.

Energy Markets

The cost of GHG allowances is passed through to consumers, raising the price of fossil fuels charged and providing an incentive to lower energy use and shift away from fossil fuels, particularly in the electric power sector.

When allowance costs are included, the average delivered price of coal to power plants in 2020 increases from $1.39 per million Btu in the reference case to $2.06, an increase of 48 percent. By 2030 the change grows from $1.51 per million Btu in the reference case to $2.73 per million Btu, an increase of 81 percent.

Electricity prices are somewhat lower in the Phased Auction case than in the Full Auction case because the Phased Auction provides a portion of the allowances to the electric power sector for free, a benefit that is passed on to ratepayers where the recipients are subject to cost-of-service regulation. Electricity prices in 2020 are 3.6 and 5.6 percent higher than in the reference case in the Phased and Full Auction cases, respectively. In 2030, electricity prices are 11 and 13 percent above the reference case level. Electricity price impacts are likely to vary across states and regions due to differences in State regulatory regimes and in the fuel mix used for generation in each area.

Relative to the reference case, annual per household energy expenditures in 2020 are 2.6 percent ($41) higher in the Phased Auction case and 3.6 percent ($58) higher in the Full Auction case. By 2030, projected annual per household energy expenditures range from 7.0 percent to 8.1 percent ($118 to $136) higher in the two cases. The difference primarily reflects the lower electricity prices in the Phased Auction case.

Coal use is projected to continue to grow, but at a much slower rate than in the reference case. Total energy from coal increases by 23 percent between 2004 and 2030, less than half the 53–percent increase projected in the reference case over the same time period.

The proposal significantly boosts nuclear capacity additions and generation. The projected 47-gigawatt increase in nuclear capacity between 2004 and 2030 allows nuclear to continue to provide about 20 percent of the Nation's electricity in 2030. In the reference case, nuclear capacity increases by only 9 gigawatts between 2005 and 2030.

The proposal also adds significantly to renewable generation. In the reference case, renewable generation is projected to increase from 358 billion kilowatt hours in 2004 to 559 billion kilowatt hours in 2030. In the Phased Auction case, renewable generation increases to 572 billion kilowatt hours by 2020 and 823 billion kilowatt hours by 2030. Most of the increase in renewable generation is expected to be from non-hydroelectric renewable generators, mainly biomass and wind.

Retail gasoline prices in 2030 are $0.11 per gallon higher in 2030 compared to the AE02006 reference case, leading to modest changes in vehicle purchase and travel decisions. The transportation sector provides only a small amount of emissions reduction.

Economy

While the Phased Auction and Full Auction cases have similar energy market impacts, the macroeconomic impacts of the two cases differ because of differences in the revenue flows associated with emission allowances.

In the Phased Auction case, the $50-billion cap (nominal dollars) on the maximum cumulative deposits to the Climate Change Trust Fund is reached in 2017, and all subsequent revenues from allowance sales or safety valve payments go to the U.S. Treasury. This leads to a $59-billion reduction in the Federal deficit by 2030. However, in the Full Auction case, the revenues flowing to the government are much larger, resulting in a $200-billion reduction in the Federal deficit in 2030.

In the Phased Auction case, wholesale energy prices rise steadily and, by 2030, are approximately 12 percent above the reference case levels (after inflation). This translates into 8–percent higher energy prices at the consumer level by 2030 and a 1-percent increase in the All-Urban Consumer Price Index (CPI) above the reference case level.

In the Phased Auction case, discounted total GDP (in 2000 dollars) over the 2009–2030 time period is $232 billion (0.10 percent) lower than in the reference case, while discounted real consumer spending is $236 billion (0.14 percent) lower. In 2030, in the Phased Auction case, real GDP is projected to be $59 billion (0.26 percent) lower than in the reference case, while aggregate consumption expenditures, which relate more directly to impacts on consumers, are $55 billion (0.36 percent) lower. The reductions in GDP and consumption reflect the rise in energy prices and the resulting decline in personal disposable income.

While higher energy costs and lower consumption expenditures tend to discourage investment, many provisions of the bill help to support investment activity. The value of allowances allocated to States is substantial, and some portion of the allowance revenue would likely result in increased investment. In addition, the portion of the allowance allocated to the private sector generates funds which would help spur private investment in energy saving technologies.

TABLE ES1.—SUMMARY ENERGY MARKET RESULTS FOR THE REFERENCE AND $7 PHASED AUCTION CASES

Projection	2004	2020		2030	
		AE02006 reference	Phased auction	AE02006 reference	Phased auction
Emissions of Greenhouse Gases (million metric tons CO_2 equivalent)					
Energy-Related Carbon Dioxide	5,900	7,119	6,926	8,114	7,387
Other Covered Emissions	259	452	195	627	235
Total Covered emissions	6,159	7,571	7,121	8,742	7,622
Total Greenhouse Gases	7,122	8,649	8,087	9,930	8,671
Emissions Reduction from Reference Case (million metric tons CO_2 equivalent					
Energy-Related Carbon Dioxide	—	—	193	—	727
Other Covered Emissions	—	—	258	—	392
Nonenergy Offset Credits	—	—	111	—	140
Carbon Sequestration	—	—	296	—	311
Total Emission Reductions	—	—	562	—	1,259
Total (including sequestration)	—	—	858	—	1,570
Allowance Price (2004 Dollars per metric ton CO_2 equivalent)	—	—	7.15	—	14.18
Delivered Energy Prices (2004 dollars per unit indicated) (includes allowance costs)					
Motor Gasoline (per gallon)	1.90	2.08	2.14	2.19	2.30
Jet Fuel (per gallon)	1.22	1.42	1.50	1.56	1.69
Distillate (per gallon)	1.74	1.93	2.04	2.06	2.25
Natural Gas (per thousand cubic feet)	7.74	7.14	7.55	8.22	9.10
Residential	10.72	10.48	10.87	11.67	12.59
Electric Power	6.07	5.53	5.99	6.41	7.39
Coal, Electric Power (per million Btu)	1.39	1.39	2.06	1.51	2.73
Electricity (cents per kilowatthour)	7.57	7.25	7.51	7.51	8.31
Fossil Energy Consumption quadrillion Btu)					
Petroleum	40.1	48.1	47.2	53.6	52.0
Natural Gas	23.1	27.7	27.4	27.7	27.9
Coal	22.5	27.6	26.4	34.5	27.7
Electricity Generation (billion kilowatthours)					
Petroleum	120	107	49	115	49
Natural Gas	702	1,103	1,184	993	1,190
Coal	1,977	2,505	2,370	3,381	2,530
Nuclear	789	871	871	871	1,168
Renewable	358	515	572	559	823
Total	3,955	5,108	5,055	5,926	5,768

Source: National Energy Modeling System runs AE02006.DIII905A and BL__PHASED7.D112006B.

GDP and consumption impacts in the Full Auction case are substantially larger than those in the Phased Auction case. Relative to the reference case, discounted total GDP (in 2000 dollars) over the 2009–2030 time period in the Full Auction case is $462 billion (0.19 percent lower), while discounted real consumer spending is $483 billion (0.29 percent) lower. In 2030, projected real GDP in the Full Auction case is $94 billion (0.41 percent) lower than in the reference case, while aggregate consumption is $106 billion (0.69 percent) lower, almost twice the estimated consumption loss in the Phased Auction case. These results reflect the substantially higher level of auction revenues under the Full Auction case, which, by assumption, are not re-circulated into the economy beyond the $50 billion in expenditures from the Climate Change Trust Fund. Because these estimated impacts could change significantly under alternative revenue recycling assumptions, these results do not imply a general conclusion that a Phased Auction will necessarily result in lesser impacts on GDP and consumption than a Full Auction.

EXHIBIT 2

A CBO PAPER, SEPTEMBER 2006: EVALUATING THE ROLE OF PRICES AND R&D IN REDUCING CARBON DIOXIDE EMISSIONS

SUMMARY AND INTRODUCTION

Several important human activities—most notably the worldwide burning of coal, oil, and natural gas—are gradually increasing the concentrations of carbon dioxide and other greenhouse gases in the atmosphere and, in the view of many climate scientists, are gradually warming the global climate. That warming, and any long-term damage that might result from it, could be reduced by restraining the growth of greenhouse gas emissions and ultimately limiting them to a level that stabilized atmospheric concentrations.

The magnitude of warming and the damages that might result are highly uncertain, in part because they depend on the amount of emissions that will occur both now and in the future, how the global climate system will respond to rising concentrations of greenhouse gases in the atmosphere, and how changes in climate will affect the health of human and natural systems. The costs of restraining emissions are also highly uncertain, in part because they will depend on the development of new technologies. From an economic point of view, the challenge to policymakers is to implement policies that balance the uncertain costs of restraining emissions against the benefits of avoiding uncertain damages from global warming or that minimize the cost of achieving a target level of concentrations or level of annual emissions.

Researchers have studied the relative efficacy—as well as the appropriate timing—of various policies that might discourage emissions of carbon dioxide (referred to as carbon emissions in the rest of this paper), which makes up the vast majority of greenhouse gases, and restrain the growth of its atmospheric concentration. This paper presents qualitative findings from that research, which are largely dependent of any particular estimate of the costs or benefits of reducing emissions. The paper's conclusions are summarized below.

Policies for reducing carbon emissions

The possibility of climate change involves two distinct ''market failures'' that prevent unregulated markets from achieving the appropriate balance between fossil fuel use and changes in the climate. One market failure involves the external effects of emissions from the combustion of fossil fuels—that is, the costs that are imposed on society by the use of fossil fuels but that are not reflected in the prices paid for them. The other market failure is a general underinvestment in research and development (R&D) that occurs because investments in innovation may yield ''spillover'' benefits to society that do not translate into profits for the innovating firm. The first market failure yields inefficiently high use of fossil fuels; the second yields inefficiently low R&D.

Because there are two separate market failures, an efficient response is likely to involve two separate types of policies:

One type of policy would reduce carbon emissions by increasing the costs of emitting carbon, both in the near term and in the future, to reflect the damages that those emissions are expected to cause.

The other type of policy would increase federal support for R&D on various technologies that could help restrain the growth of carbon emissions and would create spillover benefits.

Policymakers could increase the cost of emitting carbon by setting a price on those emissions. That could be accomplished by taxing fossil fuels in proportion to their carbon content (which is released when the fuels are burned) or by establishing a ''cap-and-trade'' program under which policymakers would set an overall cap on emissions but allow fossil fuel suppliers to trade rights (called allowances) to those limited emissions. Either a tax or a cap-and-trade program would cause the prices of goods and services to rise to reflect the amount of carbon emitted as a result of their consumption. To the extent that a carbon tax or allowance price reflected the present value of expected damages, such policies would encourage users of fossil fuels to account for the costs they impose on others through their emissions of greenhouse gases.

Researchers generally conclude that the appropriate price for carbon would be relatively low in the near term but would rise substantially over time, resulting in relatively modest reductions in emissions in the near term followed by larger reductions in the future. Phasing in price increases would allow firms to gradually replace their stock of physical capital associated with energy use and to gain experience in using new technologies that emit less carbon. Firms would have an incentive to invest in developing new technologies on the basis of their expectations about future prices for emissions.

Federal support could be provided for the research and development of technologies that would lead to lower emissions. Such technologies could include improvements in energy efficiency; advances in low- or zero emissions technologies (such as nuclear, wind, or solar power); and development of sequestration technologies, which capture and store carbon for long periods. Federal support would probably be most cost-effective if it went toward basic research on technologies that are in the early stages of development. Such research is more likely to be underfunded in the absence of government support because it is more likely to create knowledge that is beneficial to other firms but that does not generate profits for the firm conducting the research.

The interaction and timing of policies

Pricing and R&D policies are neither mutually exclusive nor entirely independent—both could be implemented simultaneously, and each would tend to enhance the other. Pricing policies would tend to encourage the use of existing carbon-reducing technologies as well as provide incentives for firms to develop new ones; federal funding of R&D would augment private efforts; and successful R&D investments would reduce the price required to achieve a given level of reductions in emissions.

Neither policy alone is likely to be as effective as a strategy involving both policies. Relying exclusively on R&D funding in the near term, for example, does not appear likely to be consistent with the goal of balancing costs and benefits or the goal of minimizing the costs of meeting an emissions reduction target. At any point in time, there is a cost continuum for emissions reductions, ranging from low-cost to high-cost opportunities. Unless R&D efforts virtually eliminated the value of near-term reductions in emissions (an outcome that appears unlikely given reasonable assumptions about the payoff of R&D efforts), waiting to begin initial pricing (to encourage low-cost reductions) would increase the overall cost of reducing emissions in the long run.

Near-term reductions in emissions achieved with existing technologies could be valuable even if fundamentally new energy technologies would be needed to prevent the buildup of greenhouse gases in the atmosphere from reaching a point that triggered a rapid increase in damages. Near-term reductions could take advantage of low-cost opportunities to avoid adding to the stock of gases in the atmosphere and could allow additional time for new technologies to be developed and put in place. That additional time could prove quite valuable, given that R&D efforts are highly uncertain and that the process of putting new energy systems in place could be slow and costly.

Determining the appropriate mix of policies to address climate change is complicated by the fact that future policies would be layered on a complex mix of current and past policies, all of which affect today's use of fossil fuels and their alternatives as well as the amount of R&D. The analyses reviewed in this paper typically do not account for existing policies or for the administrative costs of implementing a carbon-pricing program or of initiating a larger (and perhaps redesigned) R&D program for carbon-reducing technologies. However, the qualitative conclusion reached in those analyses—that costs would be minimized by a combination of gradually increasing emissions prices coupled with subsidies for R&D—is not likely to be affected by such considerations.

A global concern

The causes and consequences of climate change are global, and reductions in U.S. emissions alone would be unlikely to have a significant impact. Cost-effective mitigation policies would require coordinated international efforts and would involve overcoming institutional barriers to the diffusion of new technologies in developing countries, such as India and China. If a domestic carbon-pricing program significantly increased the prices of U.S.produced goods—and was not matched by efforts to reduce emissions in other countries—it could cause carbon-intensive industries to relocate to countries without similar restrictions, diminishing the environmental benefits of a domestic program.

However, successful domestic R&D efforts, whether funded by the public or private sector, could lower the costs of reducing carbon emissions in other countries as well as within the United States. Some new technologies, such as those that yielded improvements in energy efficiency, might be deployed without additional incentives. Other innovations, such as sequestration technologies or alternative energy technologies that reduce carbon emissions but cost more than their fossil-fuel-based alternatives, would be unlikely to be deployed without financial incentives to reduce carbon emission.

EXHIBIT 3

CHAIRMAN AND RANKING MEMBER STATEMENT: CLIMATE CHANGE CONFERENCE

On April 4, 2006, the Senate Committee on Energy and Natural Resources held a conference to discuss critical issues involved in the design of a mandatory greenhouse gas (GHG) program. More than 300 people attended the event and over 160 organizations and individuals submitted detailed written comments.

Although the issue of climate change continues to elicit a diverse array of opinions, we are encouraged that a number of general themes are emerging that could form the basis of eventual solutions to reducing greenhouse gas emissions.

The following discussion reflects our perception of key areas where there appears to be a narrowing of disagreement and in some cases an emerging consensus. Of course it is not our intent to imply that there is now or will ever be an absolute unanimity of opinion on issues related to climate change, especially on a greenhouse gas regulatory mechanism. Nevertheless, we remain committed to exploring the development of solutions consistent with the requirements set forth in the June 22, 2005, Sense of the Senate Resolution. We continue to work together with our colleagues on the Committee on Energy and Natural Resources and throughout the Senate to fashion reasonable policy solutions to the key issues identified at the April 4, 2006, Workshop and look forward to ongoing input and engagement from interested stakeholders.

CONCEPTUAL DIRECTION FOR REDUCING GREENHOUSE GAS EMISSIONS

In both the written submissions and comments at the workshop, many participants and respondents expressed the view that the risks associated with a changing climate justified the adoption of mandatory limits on greenhouse gas emissions. While opinions varied on the stringency of initial limits, there was support for the notion that a program should begin modestly and strengthen gradually over time. Consistent with the success of the acid rain program and other market-based approaches, most participants supported a market-based approach that would set a ''forward price'' on greenhouse gas emissions in order to provide both the flexibility and incentive needed to accelerate technology development and deployment.

Most participants recognized that if the price signal initially imposed under a domestic regime is modest, it is unlikely to be strong enough to motivate the development and deployment of the key technologies that will ultimately be needed to eventually eliminate GHG emissions. In order to speed technology deployment, there was general agreement that some portion of the proceeds of a permit auction should be used to enhance current technology incentives. Again there was disagreement about the appropriate size of a permit auction and the means of directing these resources toward technology innovation. Ultimately, we perceive agreement that a GHG policy should provide a combination of a market signal and increased incentives for technology innovation.

In addition to general support for the overall goals of the Sense of the Senate Resolution, we are encouraged by the similarity of views with respect to several of the key questions raised in the White Paper:

Economy-wide approach: A threshold decision in designing a mandatory GHG emission reduction program is whether the program should address GHG's on an economy-wide basis or whether the program should focus on the GHG emissions of just one or more sectors of the economy. In general, there was agreement on the need for economy-wide action to address the wide diversity of sources of GHG's. Many participants argued that an economy-wide program is the most equitable and efficient approach.

Upstream or hybrid point of regulation: Most participants supported either an entirely upstream or a hybrid approach for point of regulation. In an ''upstream'' regulatory approach, the point of regulation is placed closer to energy producers and suppliers than to end-use consumers. Specifically, a requirement to acquire permits or allowances for emissions associated with fossil fuel use might apply to coal mining companies, petroleum refiners, and natural gas shippers, processors or pipelines rather than to the ''smokestack'' entities (e.g., electric utilities, large industrial plants). Under a ''hybrid'' approach, major stationary sources that burn coal would be regulated at the point of combustion, while natural gas and petroleum related emissions would be addressed upstream (at refineries for petroleum and at either shippers, processors, or pipelines for natural gas). Regulating the carbon content of fuels at the point in which energy enters the economy was described by many as providing the most complete coverage through the most manageable regulatory approach. However, several participants noted that the efficiency of an upstream program would not be diminished if only major stationary sources were carved out for regulation at the source of combustion. They note that these sources are limited in number and already have the monitoring and knowledge in place necessary to implement such requirements due to participation in the acid rain program.

Offsets and set-asides: There was general agreement about the benefits of emission reduction projects at sources outside of a cap on GHG emissions. However, there was some disagreement about how to ensure the environmental integrity of these types of projects. Some panelists argued that offsets could provide low-cost emission reductions and could create incentives for new technologies and approaches. In particular, a few panelists specifically mentioned the potential for offset opportunities in the agricultural sector. Others noted that offsets could dilute the environmental benefit of a mandatory program unless they are accompanied by rigorous and standardized baseline and measurement protocols. An additional option would be to dedicate a percentage of allowances from within a program's overall allowance allocation for offset activities that are less easily verified.

Links to other trading programs: Ultimately, GHG emissions cannot be reduced absent an effort that includes meaningful participation from all nations with significant GHG emissions. An emission reduction program in the U.S. could be designed to leave open the possibility of trading with GHG systems in other countries. Most panelists at the conference agreed that linking to other domestic emissions trading programs is theoretically more efficient. However, a few panelists also noted that differences in the design of domestic trading programs (e.g., different target levels, different monitoring and verification systems) may complicate linking programs and make it politically difficult in the near-term.

Developing country action: Many participants agreed that an important component of a U.S. GHG program should encourage major trading partners and large emitters of GHG's to take actions that are comparable to those taken by the U.S. Panelists noted that ultimately, action by major developing countries like China and India is critical to address climate change. There was also discussion of the competitive implications if the U.S. takes action to address climate change and other major trading partners do not. Not all, but many panelists said that the U.S. should not wait for developing countries to act. Rather, the U.S. should take a cautious first step toward mandatory action with additional action conditioned on an evaluation of the efforts of major developing country emitters. There was debate about how to measure progress when different countries have different national circumstances. There was also discussion about the best process for evaluating the actions of developing countries and about how much discretion there should be in this process.

Allowance distribution: Multiple views were expressed at the conference on the best approach to allowance distribution. However, a significant number of panelists emphasized that not all allowances need be distributed for free at the point of regulation. For example, several panelists endorsed the concept of using cost burden as a principle for allocation. In other words, even if a sector is not at the point of regulation, it still might receive some allowances to mitigate the cost impacts of a mandatory program. In addition, some panelists argued for the benefits of allowance auctions. According to this view, auctions can level the playing field for new facilities, and can create an incentive for lower-carbon technology. Auctions may also avoid the need for complex allocation rules that might result in unintended competitive advantages, including windfall profits, for certain market participants. On the other hand, some panelists noted the political difficulties of an auction approach and suggested a gradual transition to an auction. Finally, the discussion on allowance distribution highlighted the diverse economic, regulatory, social, and political considerations associated with this issue. There were a number of creative suggestions at the conference on how to accommodate these different considerations.

Based on the discussion at the conference, we believe the following principles for allocation are emerging;

Allowances should be allocated in a manner that recognizes and roughly addresses the disparate costs imposed by the program.

Allowances should not be allocated solely to regulated entities because such entities do not solely bear the costs of the emissions trading program.

A portion of the allowances should be auctioned (or used for ''set-aside'' programs), with revenues used to advance climate-related policy goals and other public purposes.

Over time, an allowance distribution approach should transition from approaches that attempt to fairly compensate sectors for past investments in carbon intensive technologies to approaches that create incentives for energy efficiency and lower carbon technologies. In practice, this means a gradual transition over an extended period of time from a largely free allocation of allowances to the use of an auction as the predominant method for distribution of allowances.

NEXT STEPS

The Committee intends to continue soliciting comments on the major points that have been summarized from the conference and on the emerging allowance allocation principles that have been described. The Committee recognizes that any proposals for a mandatory GHG program will deserve further input from affected stakeholders and Members of Congress. We encourage stakeholders and congressional offices to provide the Committee with ideas and suggestions for expanding general findings to the next level of specificity. Please contact John Peschke or Jonathan Black if you have further thoughts or input.

EXHIBIT 4

S. ____

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 ''_____ Act of _____''.

SEC. 2. ACTIONS TO ADDRESS GLOBAL CLIMATE.

Title XVI of the Energy Policy Act of 1992 (42 U.S.C. 13381 et seq.) is amended—

(1) by inserting after the title designation and heading the following:

''Subtitle A—General Provisions'';

and

(2) by adding at the end the following:

''Subtitle B—Actions to Address Global Climate Change

''SEC. 1611. PURPOSE.

''The purpose of this subtitle is to reduce greenhouse gas emissions intensity in the United States, beginning in calendar year 2012, through an emissions trading system designed to achieve emissions reductions at the lowest practicable cost to the United States.

''SEC. 1612. DEFINITIONS.

''In this subtitle:

''(1) CARBON DIOXIDE EQUIVALENT.—The term 'carbon dioxide equivalent' means—

''(A) for each covered fuel, the quantity of carbon dioxide that would be emitted into the atmosphere as a result of complete combustion of a unit of the covered fuel, to be determined for the type of covered fuel by the Secretary; and

''(B) for each greenhouse gas (other than carbon dioxide) the quantity of carbon dioxide that would have an effect on global warming equal to the effect of a unit of the greenhouse gas, as determined by the Secretary, taking into consideration global warming potentials.

''(2) COVERED FUEL.—The term 'covered fuel' means—

''(A) coal;

''(B) petroleum products;

''(C) natural gas;

''(D) natural gas liquids; and

''(E) any other fuel derived from fossil hydrocarbons (including bitumen and kerogen).

''(3) COVERED GREENHOUSE GAS EMISSIONS.—

''(A) IN GENERAL.—The term 'covered greenhouse gas emissions' means—

''(i) the carbon dioxide emissions from combustion of covered fuel carried out in the United States; and

''(ii) nonfuel-related greenhouse gas emissions in the United States, determined in accordance with section 1615(b)(2).

''(B) UNITS.—Quantities of covered greenhouse gas emissions shall be measured and expressed in units of metric tons of carbon dioxide equivalent.

''(4) EMISSIONS INTENSITY.—The term 'emissions intensity' means, for any calendar year, the quotient obtained by dividing—

''(A) covered greenhouse gas emissions; by

''(B) the forecasted GDP for that calendar year.

''(5) FORECASTED GDP.—The term 'forecasted GDP' means the predicted amount of the gross domestic product of the United States, based on the most current projection used by the Energy Information Administration of the Department of Energy on the date on which the prediction is made.

''(6) FORECASTED GDP IMPLICIT PRICE DEFLATOR.—The term 'forecasted GDP implicit price deflator' means **[***TO BE SUPPLIED***]**.

''(7) GREENHOUSE GAS.—The term 'greenhouse gas' means—

''(A) carbon dioxide;

''(B) methane;

''(C) nitrous oxide;

''(D) hydrofluorocarbons;

''(E) perfluorocarbons; and

''(F) sulfur hexafluoride.

''(8) INITIAL ALLOCATION PERIOD.—The term 'initial allocation period' means the period beginning January 1, 2012, and ending December 31, 2021.

[''(9) NATURAL GAS PROCESSING PLANT.—The term 'natural gas processing plant' means a facility designed to separate natural gas liquids from natural gas.**]**

''(10) NONFUEL REGULATED ENTITY.—The term 'nonfuel regulated entity' means—

''(A) the owner or operator of a facility that manufactures hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, or nitrous oxide;

''(B) an importer of hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, or nitrous oxide;

''(C) the owner or operator of a facility that emits nitrous oxide associated with the manufacture of adipic acid or nitric acid;

''(D) the owner or operator of an aluminum smelter;

''(E) the owner or operator of an underground coal mine that emitted more than 35,000,000 cubic feet of methane during 2004 or any subsequent calendar year; and

''(F) the owner or operator of facility that emits hydrofluorocarbon-23 as a byproduct of hydrochlorofluorocarbon-22 production.

''(11) OFFSET PROJECT.—The term 'offset project' means any project to—

''(A) reduce greenhouse gas emissions; or

''(B) sequester a greenhouse gas.

''(12) PETROLEUM PRODUCT.—The term 'petroleum product' means—

''(A) a refined petroleum product;

''(B) residual fuel oil;

''(C) petroleum coke; or

''(D) a liquefied petroleum gas.

''(13) REGULATED ENTITY.—The term 'regulated entity' means—

''(A) a regulated fuel distributor; or

''(B) a nonfuel regulated entity.

''(14) REGULATED FUEL DISTRIBUTOR.—The term 'regulated fuel distributor' means—

''(A) the owner or operator of—

''(i) a petroleum refinery;

''(ii) a coal mine that produces more than 10,000 short tons during 2004 or any subsequent calendar year; or

''(iii) a natural gas processing plant **[***size threshold***]**;

''(B) an importer of—

''(i) petroleum products;

''(ii) coal;

''(iii) coke; or

''(iv) natural gas liquids; or

''(C) any other entity the Secretary determines under section 1615(b)(3)(A)(ii) to be subject to section 1615.

''(15) SAFETY VALVE PRICE.—The term 'safety valve price' means—

''(A) for 2012, $7 per metric ton of carbon dioxide equivalent; and

''(B) for each subsequent calendar year, an amount equal to the product obtained by multiplying—

''(i) the safety valve price established for the preceding calendar year increased by 5 percent, unless a different rate of increase is established for the calendar year under section 1622; and

''(ii) the ratio that—

''(I) the forecasted GDP implicit price deflator for the calendar year; bears to

''(II) the forecasted GDP implicit price deflator for the preceding calendar year.

''(16) SECRETARY.—The term 'Secretary' means the Secretary of Energy, unless the President designates another officer of the Executive Branch to carry out a function under this subtitle.

''(17) SUBSEQUENT ALLOCATION PERIOD.—The term 'subsequent allocation period' means—

''(A) the 5-year period beginning January 1, 2022, and ending December 31, 2026; and

''(B) each subsequent 5-year period.

''SEC. 1613. QUANTITY OF ANNUAL GREENHOUSE GAS ALLOWANCES.

''(a) INITIAL ALLOCATION PERIOD.—

''(1) IN GENERAL.—Not later than December 31, 2008, the Secretary shall—

''(A) make a projection with respect to emissions intensity for 2011, using—

''(i) the Energy Information Administration's most current projections of covered greenhouse gas emissions for 2011; and

''(ii) the forecasted GDP for 2011;

''(B) determine the emissions intensity target for 2012 by calculating a 2.6 percent reduction from the projected emissions intensity for 2011;

''(C) in accordance with paragraph (2), determine the emissions intensity target for each calendar year of the initial allocation period after 2012; and

''(D) in accordance with paragraph (3), determine the total number of allowances to be allocated for each calendar year during the initial allocation period.

''(2) EMISSIONS INTENSITY TARGETS AFTER 2012.—For each calendar year during the initial allocation period after 2012, the emissions intensity target shall be the emissions intensity target established for the preceding calendar year reduced by 2.6 percent.

''(3) TOTAL ALLOWANCES.—For each calendar year during the initial allocation period, the quantity of allowances to be issued shall be equal to the product obtained by multiplying—

''(A) the emissions intensity target established for the calendar year; and

''(B) the forecasted GDP for the calendar year.

''(b) SUBSEQUENT ALLOCATION PERIODS.—

''(1) IN GENERAL.—Not later than the date that is 4 years before the beginning of each subsequent allocation period, the Secretary shall—

''(A) except as directed under section 1622, determine the emissions intensity target for each calendar year during that subsequent allocation period, in accordance with paragraph (2); and

''(B) issue the total number of allowances for each calendar year of the subsequent allocation period, in accordance with paragraph (3).

''(2) EMISSIONS INTENSITY TARGETS.—For each calendar year during a subsequent allocation period, the emissions intensity target shall be the emissions intensity target established for the preceding calendar year reduced by 3.0 percent.

''(3) TOTAL ALLOWANCES.—For each calendar year during a subsequent allocation period, the quantity of allowances to be issued shall be equal to the product obtained by multiplying—

''(A) the emissions intensity target established for the calendar year; and

''(B) the forecasted GDP for the calendar year.

''(c) ADMINISTRATIVE REQUIREMENTS.—

''(1) DENOMINATION.—Allowances issued by the Secretary under this section shall be denominated in units of metric tons of carbon dioxide equivalent.

''(2) PERIOD OF USE.—An allowance issued by the Secretary under this section may be used during—

''(A) the calendar year for which the allowance is issued; or

''(B) any subsequent calendar year.

''(3) SERIAL NUMBERS.—The Secretary shall—

''(A) assign a unique serial number to each allowance issued under this subtitle; and

''(B) retire the serial number of an allowance on the date on which the allowance is submitted under section 1615.

"SEC. 1614. ALLOCATION AND AUCTION OF GREENHOUSE GAS ALLOWANCES.

''(a) ALLOCATION OF ALLOWANCES.—

''(1) DEFINITION OF STATE.—In this subsection, the term 'State' means—

''(A) each of the several States of the United States;

''(B) the District of Columbia;

''(C) the Commonwealth of Puerto Rico;

''(D) Guam;

''(E) American Samoa;

''(F) the Commonwealth of the Northern Mariana Islands;

''(G) the Federated States of Micronesia;

''(H) the Republic of the Marshall Islands;

''(I) the Republic of Palau; and

''(J) the United States Virgin Islands.

''(2) ALLOCATIONS.—Not later than the date that is 2 years before the beginning of the initial allocation period, and each subsequent allocation period, the Secretary shall allocate for each calendar year during the allocation period a quantity of allowances in accordance with this subsection.

''(3) QUANTITY.—The total quantity of allowances available to be allocated to industry and States [*OR: to industry and by the President*] for each calendar year of an allocation period shall be the product obtained by multiplying—

''(A) the total quantity of allowances issued for the calendar year under subsection (a)(3) or (b)(3) of section 1613; and

''(B) the allocation percentage for the calendar year under subsection (c).

''(4) ALLOWANCE ALLOCATION RULEMAKING.—Not later than 18 months after the date of enactment of this subtitle, the Secretary shall establish, by rule, procedures for allocating allowances in accordance with the criteria established under this subsection, including requirements (including forms and schedules for submission) for the reporting of information necessary for the allocation of allowances under this section.

''(5) DISTRIBUTION OF ALLOWANCES TO INDUSTRY.—The allowances available for allocation to industry under paragraph (3) shall be distributed as follows:

''(A) COAL MINES.—

''(i) DEFINITION OF ELIGIBLE COAL MINE.—In this subparagraph, the term 'eligible coal mine' means a coal mine located in the United States that is a regulated fuel distributor.

''(ii) TOTAL ALLOCATION.—For each year, eligible coal mines shall be allocated 7/55 of the total quantity of allowances available for allocation to industry under paragraph (3).

''(iii) INDIVIDUAL ALLOCATIONS.—For any year, the quantity of allowances allocated to an eligible coal mine shall be the quantity equal to the product obtained by multiplying—

''(I) the total allocation to eligible coal mines under clause (ii); and

''(II) the ratio that—

''(aa) the carbon content of coal produced at the eligible coal mine during the 3-year period beginning on January 1, 2004; bears to

''(bb) the carbon content of coal produced at all eligible coal mines in the United States during that period.

''(B) PETROLEUM REFINERS.—

''(i) TOTAL ALLOCATION.—For each year, the petroleum refining sector shall be allocated 4/55 of the total quantity of allowances available for allocation to industry under paragraph (3).

''(ii) INDIVIDUAL ALLOCATIONS.—For any year, the quantity of allowances allocated to a petroleum refinery located in the United States shall be the quantity equal to the product obtained by multiplying—

''(I) the total allocation to the petroleum refining sector under clause (i); and

''(II) the ratio that—

''(aa) the carbon content of petroleum products produced at the refinery during the 3-year period beginning on January 1, 2004; bears to

''(bb) the carbon content of petroleum products produced at all refineries in the United States during that period.

''(C) NATURAL GAS PROCESSORS.—

''(i) DEFINITION OF ELIGIBLE NATURAL GAS PROCESSOR.—In this subparagraph, the term 'eligible natural gas processor' means a natural gas processor located in the United States that is a regulated fuel distributor.

''(ii) TOTAL ALLOCATION.—For each year, eligible natural gas processors shall be allocated 2/55 of the total quantity of allowances available for allocation to industry under paragraph (3).

''(iii) INDIVIDUAL ALLOCATIONS.—For any year, the quantity of allowances allocated to an eligible natural gas processor shall be the quantity equal to the product obtained by multiplying—

''(I) the total allocation to eligible natural gas processors under clause (ii); and

''(II) the ratio that—

''(aa) the sum of, for the 3-year period beginning on January 1, 2004—

''(AA) the carbon content of natural gas liquids produced by the eligible natural gas processor; and

''(BB) the carbon content of the natural gas delivered into commerce by the eligible natural gas processor; bears to

''(bb) the sum of, for that period—

''(AA) the carbon content of natural gas liquids produced by all eligible natural gas processors; and

''(BB) the carbon content of the natural gas delivered into commerce by all eligible natural gas processors.

''(D) ELECTRICITY GENERATORS.—

''(i) DEFINITION OF ELIGIBLE ELECTRICITY GENERATOR.—In this subparagraph, the term 'eligible electricity generator' means an electricity generator located in the United States that is a fossil fuel-fired electricity generator.

''(ii) TOTAL ALLOCATION.—For each year, eligible electricity generators shall be allocated 30/55 of the total quantity of allowances available for allocation to industry under paragraph (3).

''(iii) INDIVIDUAL ALLOCATIONS.—For any year, the quantity of allowances allocated to an eligible electricity generator shall be the quantity equal to the product obtained by multiplying—

''(I) the total allocation to eligible electricity generators under clause (ii); and

''(II) the ratio that—

''(aa) the carbon content of the fossil fuel input of the eligible electricity generator during the 3-year period beginning on January 1, 2004; bears to

''(bb) the total carbon content of fossil fuel input of eligible electricity generators in the United States during that period.

''(E) CARBON-INTENSIVE MANUFACTURING SECTORS.—

''(i) DEFINITION OF ELIGIBLE MANUFACTURER.—In this subparagraph, the term 'eligible manufacturer' means a carbon-intensive manufacturer located in the United States that [used more than _____ during _____; *need to define/specify; need to exclude fossil fuel-fired electricity generation*].

''(ii) TOTAL ALLOCATION.—For each year, eligible manufacturers shall be allocated 19/55 of the total quantity of allowances available for allocation to industry under paragraph (3).

''(iii) INDIVIDUAL ALLOCATIONS.—For any year, the quantity of allowances allocated to an eligible manufacturer shall be the quantity equal to the product obtained by multiplying—

''(I) the total allocation to eligible manufacturers under clause (ii); and

''(II) the ratio that—

''(aa) the carbon content of fossil fuel combusted at the eligible manufacturer during the 3-year period beginning on January 1, 2004; bears to

''(bb) the total carbon content of fossil fuel combusted at all eligible manufacturers in the United States during that period.

''(F) NONFUEL REGULATED ENTITIES.—

''(i) TOTAL ALLOCATION.—For each year, nonfuel regulated entities shall be allocated 2/55 of the total quantity of allowances available for allocation to industry under paragraph (3).

''(ii) INDIVIDUAL ALLOCATIONS.—For any year, the quantity of allowances allocated to a nonfuel regulated entity shall be the quantity equal to the product obtained by multiplying—

''(I) the total allocation to nonfuel regulated entities under clause (i); and

''(II) the ratio that—

''(aa) the carbon dioxide equivalent of the nonfuel-related greenhouse gas produced or emitted by the nonfuel regulated entity at facilities in the United States during the 3-year period beginning on January 1, 2004; bears to

''(bb) the carbon dioxide equivalent of the nonfuel-related greenhouse gases produced or emitted by all nonfuel regulated entities at facilities in the United States during that period.

''(6) ALLOWANCES TO STATES.—

''(A) DISTRIBUTION.—The allowances available for allocation to States under paragraph (3) shall be distributed as follows:

''(i) For each year, ½ of the quantity of allowances available for allocation to States under paragraph (3) shall be allocated among the States based on the ratio that—

''(I) the greenhouse gas emissions of the State during the 3-year period beginning on January 1, 2004; bears to

''(II) the greenhouse gas emissions of all States for that period.

''(ii) For each year, ½ of the quantity of allowances available for allocation to States under paragraph (3) shall be allocated among the States based on the ratio that—

''(I) the population of the State, as determined by the 2000 decennial census; bears to

''(II) the population of all States as determined by that census.

''(B) USE.—

''(i) IN GENERAL.—During any year, a State shall use not less than 90 percent of the allowances allocated to the State for that year—

''(I) to mitigate impacts on low-income energy consumers;

''(II) to promote energy efficiency;

''(III) to promote investment in nonemitting electricity generation technology;

''(IV) to encourage advances in energy technology that reduce or sequester greenhouse gas emissions;

''(V) to avoid distortions in competitive electricity markets;

''(VI) to mitigate obstacles to investment by new entrants in electricity generation markets;

''(VII) to address local or regional impacts of climate change policy, including providing assistance to displaced workers;

''(VIII) to mitigate impacts on energy-intensive industries in internationally-competitive markets; or

''(IX) to enhance energy security.

''(ii) DEADLINE.—A State shall allocate allowances for use in accordance with clause (i) by not later than 1 year before the beginning of each allowance allocation period.

[''(6) [*POSSIBLE* SUBSTITUTE FOR (6)] distribution of allowances by president.—]

[''(A) IN GENERAL.—The President shall distribute the allowances available for allocation by the President under paragraph (3) in a manner designed to mitigate the undue impacts of the program under this subtitle.]

[''(B) USE.—During any year, the President shall use not less than 90 percent of the allowances available for allocation by the President for that year—]

[''(i) to mitigate impacts on low-income energy consumers;]

[''(ii) to promote energy efficiency;]

[''(iii) to promote investment in nonemitting electricity generation technology;]

[''(iv) to support advances in energy technology that reduce or sequester greenhouse gas emissions;]

[''(v) to avoid distortions in competitive electricity markets;]

[''(vi) to mitigate obstacles to investment by new entrants in electricity generation markets;]

[''(vii) to address local or regional impacts of climate change policy, including providing assistance to displaced workers;]

[''(viii) to mitigate impacts on energy-intensive industries in internationally-competitive markets; and]

[''(ix) to enhance energy security.]

[''(C) DEADLINE.—The President shall allocate allowances for use in accordance with subparagraph (B) by not later than 1 year before the beginning of each allowance allocation period. [*Corresponding changes needed elsewhere if this paragraph is selected.*]]

''(7) COST OF ALLOWANCES.—The Secretary shall distribute allowances under this subsection at no cost to the recipient of the allowance.

''(b) AUCTION OF ALLOWANCES.—

''(1) IN GENERAL.—The Secretary shall establish, by rule, a procedure for the auction of a quantity of allowances during each calendar year in accordance with paragraph (2).

''(2) BASE QUANTITY.—The base quantity of allowances to be auctioned during a calendar year shall be the product obtained by multiplying—

''(A) the total number of allowances for the calendar year under subsection (a)(3) or (b)(3) of section 1613; and

''(B) the auction percentage for the calendar year under subsection (c).

''(3) SCHEDULE.—The auction of allowances shall be held on the following schedule:

''(A) In 2009, the Secretary shall auction—

''(i) ½ of the allowances available for auction for 2012; and

''(ii) ½ of the allowances available for auction for 2013.

''(B) In 2010, the Secretary shall auction ½ of the allowances available for auction for 2014.

''(C) In 2011, the Secretary shall auction ½ of the allowances available for auction for 2015.

''(D) In 2012 and each subsequent calendar year, the Secretary shall auction—

''(i) ½ of the allowances available for auction for that calendar year; and

''(ii) ½ of the allowances available for auction for the calendar year that is 4 years after that calendar year.

''(4) UNDISTRIBUTED ALLOWANCES.—In an auction held during any calendar year, the Secretary shall auction any allowance that was—

''(A) available for allocation by the Secretary under subsection (a) for the calendar year, but not distributed;

''(B) available during the preceding calendar year for an agricultural sequestration or early reduction activity under section 1620 or 1621, but not distributed during that calendar year; or

''(C) available for distribution by a State under subsection (a)(6), but not distributed by the date that is 1 year before the beginning of the applicable allocation period.

''(c) AVAILABLE PERCENTAGES.—Except as directed under section 1622, the percentage of the total quantity of allowances for each calendar year to be available for allocation, agricultural sequestration and early reduction projects, and auction shall be determined in accordance with the following table:

Year	Percentage Allocated to Industry	Percentage Allocated to States	Percentage Available for Agricultural Sequestration	Percentage Available for Early Reduction Allowances	Percentage Auctioned
2012	55	29	5	1	10
2013	55	29	5	1	10
2014	55	29	5	1	10
2015	55	29	5	1	10
2016	55	29	5	1	10
2017	53	29	5	1	12
2018	51	29	5	1	14
2019	49	29	5	1	16
2020	47	29	5	1	18
2021	45	29	5	1	20
2022 and thereafter ...	2 less than allocated to industry in the prior year, but not less than 0	30	5	0	2 more than available for auction in the prior year, but not more than 65

''SEC. 1615. SUBMISSION OF ALLOWANCES.

''(a) REQUIREMENTS.—

''(1) REGULATED FUEL DISTRIBUTORS.—For calendar year 2012 and each calendar year thereafter, each regulated fuel distributor shall submit to the Secretary a number of allowances equal to the carbon dioxide equivalent of the quantity of covered fuel, determined in accordance with subsection (b)(1), for the regulated fuel distributor.

''(2) NONFUEL REGULATED ENTITIES.—For 2012 and each calendar year thereafter, each nonfuel regulated entity shall submit to the Secretary a number of allowances equal to the carbon dioxide equivalent of the quantity of nonfuel-related greenhouse gas, determined in accordance with subsection (b)(2), for the nonfuel regulated entity.

''(b) REGULATED QUANTITIES.—

''(1) COVERED FUELS.—For purposes of subsection (a)(1), the quantity of covered fuel shall be equal to—

''(A) for a petroleum refinery located in the United States, the quantity of petroleum products refined, produced, or consumed at the refinery;

''(B) for a natural gas processing plant located in the United States, a quantity equal to the sum of—

''(i) the quantity of natural gas liquids produced or consumed at the plant; and

''(ii) the quantity of natural gas delivered into commerce from, or consumed at, the plant;

''(C) for a coal mine located in the United States, the quantity of coal produced or consumed at the mine; and

''(D) for an importer of coal, petroleum products, or natural gas liquids into the United States, the quantity of coal, petroleum products, or natural gas liquids imported into the United States.

''(2) NONFUEL-RELATED GREENHOUSE GASES.—For purposes of subsection (a)(2), the quantity of nonfuel-related greenhouse gas shall be equal to—

''(A) for a manufacturer or importer of hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, or nitrous oxide, the quantity of hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, or nitrous oxide produced or imported by the manufacturer or importer;

''(B) for an underground coal mine, the quantity of methane emitted by the coal mine;

''(C) for a facility that manufactures adipic acid or nitric acid, the quantity of nitrous oxide emitted by the facility;

''(D) for an aluminum smelter, the quantity of perfluorocarbons emitted by the smelter; and

''(E) for a facility that produces hydrochlorofluorocarbon-22, the quantity of hydrofluorocarbon-23 emitted by the facility.

''(3) ADJUSTMENTS.—

''(A) REGULATED FUEL DISTRIBUTORS.—

''(i) Modification.—The Secretary may modify, by rule, a quantity of covered fuels under paragraph (1) if the Secretary determines that the modification is necessary to ensure that—

''(I) allowances are submitted for all units of covered fuel; and

''(II) allowances are not submitted for the same quantity of covered fuel by more than 1 regulated fuel distributor.

''(ii) EXTENSION.—The Secretary may extend, by rule, the requirement to submit allowances under subsection (a)(1) to an entity that is not a regulated fuel distributor if the Secretary determines that the extension is necessary to ensure that allowances are submitted for all covered fuels.

''(B) NONFUEL REGULATED ENTITIES.—The Secretary may modify, by rule, a quantity of nonfuel-related greenhouse gases under paragraph (2) if the Secretary determines the modification is necessary to ensure that allowances are not submitted for the same volume of nonfuel-related greenhouse gas by more than 1 regulated entity.

''(c) DEADLINE FOR SUBMISSION.—Any entity required to submit an allowance to the Secretary under this section shall submit the allowance not later than March 31 of the calendar year following the calendar year for which the allowance is required to be submitted.

''(d) REGULATIONS.—The Secretary shall promulgate such regulations as the Secretary determines to be necessary or appropriate to—

''(1) identify and register each regulated entity that is required to submit an allowance under this section; and

''(2) require the submission of reports and otherwise obtain any information the Secretary determines to be necessary to calculate or verify the compliance of a regulated entity with any requirement under this section.

''(e) EXEMPTION AUTHORITY FOR NON-FUEL REGULATED ENTITIES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may exempt from the requirements of this subtitle an entity that emits, manufactures, or imports nonfuel-related greenhouse gases for any period during which the Secretary determines, after providing an opportunity for public comment, that measuring or estimating the quantity of greenhouse gases emitted, manufactured, or imported by the entity is not feasible.

''(2) EXCLUSION.—The Secretary may not exempt a regulated fuel distributor from the requirements of this subtitle under paragraph (1).

''(f) RETIREMENT OF ALLOWANCES.—

''(1) IN GENERAL.—Any person or entity that is not subject to this subtitle may submit to the Secretary an allowance for retirement at any time.

''(2) ACTION BY SECRETARY.—On receipt of an allowance under paragraph (1), the Secretary—

''(A) shall accept the allowance; and

''(B) shall not allocate, auction, or otherwise reissue the allowance.

''(g) SUBMISSION OF CREDITS.—A regulated entity may submit a credit distributed by the Secretary pursuant to section 1618, 1619, or 1622(e) in lieu of an allowance.

''(h) CLEAN DEVELOPMENT MECHANISM CERTIFIED EMISSION REDUCTIONS.—

''(1) IN GENERAL.—The Secretary shall establish, by regulation, procedures under which a regulated entity may submit a clean development mechanism certified emission reduction in lieu of an allowance under this section.

''(2) CLEAR TITLE AND PREVENTION OF DOUBLE-COUNTING.—Procedures established by the Secretary under this subsection shall include such provisions as the Secretary considers to be appropriate to ensure that—

''(A) a regulated entity that submits a clean development mechanism certified emission reduction in lieu of an allowance has clear title to that certified emission reduction; and

''(B) a clean development mechanism certified emission reduction submitted in lieu of an allowance has not been and cannot be used in the future for compliance purposes under any foreign greenhouse gas regulatory program.

''(i) STUDY ON PROCESS EMISSIONS.—

''(1) IN GENERAL.—Not later than [_____], the Secretary shall—

''(A) carry out a study of the feasibility of requiring the submission of allowances for process emissions not otherwise covered by this subtitle; and

''(B) submit to Congress a report that describes the results of the study (including recommendations of the Secretary based on those results).

''SEC. 1616. SAFETY VALVE.

''The Secretary shall accept from a regulated entity a payment of the applicable safety valve price for a calendar year in lieu of submission of an allowance under section 1615 for that calendar year.

''SEC. 1617. ALLOWANCE TRADING SYSTEM.

''(a) IN GENERAL.—The Secretary shall—

''(1) establish, by rule, a trading system under which allowances and credits may be sold, exchanged, purchased, or transferred by any person or entity, including a registry for issuing, recording, and tracking allowances and credits; and

''(2) specify all procedures and requirements required for orderly functioning of the trading system.

''(b) TRANSPARENCY.—

''(1) IN GENERAL.—The trading system under subsection (a) shall include such provisions as the Secretary considers to be appropriate to—

''(A) facilitate price transparency and participation in the market for allowances and credits; and

''(B) protect buyers and sellers of allowances and credits, and the public, from the adverse effects of collusion and other anticompetitive behaviors.

''(2) AUTHORITY TO OBTAIN INFORMATION.—The Secretary may obtain any information the Secretary considers to be necessary to carry out this section from any person or entity that buys, sells, exchanges, or otherwise transfers an allowance or credit.

''(c) BANKING.—Any allowance or credit may be submitted for compliance during any year following the year for which the allowance or credit was issued.

''SEC. 1618. CREDITS FOR FEEDSTOCKS AND EXPORTS.

''(a) IN GENERAL.—The Secretary shall establish, by rule, a program under which the Secretary distributes credits to entities in accordance with this section.

''(b) USE OF FUELS AS FEEDSTOCKS.—If the Secretary determines that an entity has used a covered fuel as a feedstock so that the carbon dioxide associated with the covered fuel will not be emitted, the Secretary shall distribute to that entity, for 2012 and each subsequent calendar year, a quantity of credits equal to the quantity of covered fuel used as feedstock by the entity during that year, measured in carbon dioxide equivalents.

''(c) EXPORTERS OF COVERED FUEL.—If the Secretary determines that an entity has exported covered fuel, the Secretary shall distribute to that entity, for 2012 and each subsequent calendar year, a quantity of credits equal to the quantity of covered fuel exported by the entity during that year, measured in carbon dioxide equivalents.

''(d) OTHER EXPORTERS.—If the Secretary determines that an entity has exported hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, or nitrous oxide, the Secretary shall distribute to that entity, for 2012 and each subsequent calendar year, a quantity of credits equal to the volume of hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, or nitrous oxide exported by the entity during that year, measured in carbon dioxide equivalents.

''SEC. 1619. CREDITS FOR OFFSET PROJECTS.

''(a) ESTABLISHMENT.—The Secretary shall establish, by regulation, a program under which the Secretary shall distribute credits to entities that carry out offset projects in the United States that—

''(1)(A) reduce any greenhouse gas emissions that are not covered greenhouse gas emissions; or

''(B) sequester a greenhouse gas;

''(2) meet the requirements of section 1623(c); and

''(3) are consistent with maintaining the environmental integrity of the program under this subtitle.

''(b) CATEGORIES OF OFFSET PROJECTS ELIGIBLE FOR STREAMLINED PROCEDURES.—

''(1) IN GENERAL.—The program established under this section shall include the use of streamlined procedures for distributing credits to categories of projects for which the Secretary determines there are broadly-accepted standards or methodologies for quantifying and verifying the greenhouse gas emission mitigation benefits of the projects.

''(2) CATEGORIES OF PROJECTS.—The streamlined procedures described in paragraph (1) shall apply to—

''(A) geologic sequestration projects not involving enhanced oil recovery;

''(B) landfill methane use projects;

''(C) animal waste or municipal wastewater methane use projects;

''(D) projects to reduce sulfur hexafluoride emissions from transformers;

''(E) projects to destroy hydrofluorocarbons; and

''(F) such other categories of projects as the Secretary may specify by regulation.

''(c) OTHER PROJECTS.—With respect to an offset project that is eligible to be carried out under this section but that is not classified within any project category described in subsection (b), the Secretary may distribute credits on a basis of less than 1-credit-for-1-ton.

''(d) INELIGIBLE OFFSET PROJECTS.—An offset project shall not be eligible to receive a credit under this section if the offset project is eligible to receive credits or allowances under section 1618, 1620, 1621, or 1622(e).

''SEC. 1620. EARLY REDUCTION ALLOWANCES.

''(a) ESTABLISHMENT.—The Secretary shall establish, by rule, a program under which the Secretary distributes to any entity that carries out a project to reduce or sequester greenhouse gas emissions before the initial allocation period a quantity of allowances that reflects the actual emissions reductions or net sequestration of the project, as determined by the Secretary.

''(b) AVAILABLE ALLOWANCES.—The total quantity of allowances distributed under subsection (a) may not exceed the product obtained by multiplying—

''(1) the total number of allowances issued for the calendar year under subsection (a)(3) of section 1613; and

''(2) the percentage available for early reduction allowances for the calendar year under section 1614(c).

''(c) ELIGIBILITY.—The Secretary may distribute allowances for early reduction projects only to an entity that has reported the reduced or sequestered greenhouse gas emissions under—

''(1) the Voluntary Reporting of Greenhouse Gases Program of the Energy Information Administration under section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b));

''(2) the Climate Leaders Program of the Environmental Protection Agency; or

''(3) a State-administered or privately-administered registry that includes early reduction actions not covered under the programs described in paragraphs (1) and (2).

''SEC. 1621. AGRICULTURAL SEQUESTRATION PROJECTS.

''(a) ESTABLISHMENT.—The Secretary of Agriculture shall establish, by rule, a program under which agricultural sequestration allowances are distributed to entities that carry out soil carbon sequestration projects [*and other projects?*] that—

''(1) meet the requirements of section 1623(c); and

''(2) achieve sequestration results that are—

''(A) greater than sequestration results achieved pursuant to standard agricultural practices; and

[''(B) long-term.]

''(b) QUANTITY.—During a calendar year, the Secretary of Agriculture shall distribute agricultural sequestration allowances in a quantity not greater than the product obtained by multiplying—

''(1) the total number of allowances issued for the calendar year under section 1613; and

''(2) the percentage of allowances available for agricultural sequestration under section 1614(c).

''(c) OVERSUBSCRIPTION.—If, during a calendar year, the qualifying agricultural sequestration exceeds the quantity of agricultural sequestration allowances available for distribution under subsection (b), the Secretary of Agriculture may distribute allowances on a basis of less than 1-allowance-for-1-ton.

''SEC. 1622. CONGRESSIONAL REVIEW.

''(a) INTERAGENCY REVIEW.—

''(1) IN GENERAL.—Not later than January 15, 2016, and every 5 years thereafter, the President shall establish an interagency group to review and make recommendations relating to—

''(A) each program under this subtitle; and

''(B) any similar program of a foreign country described in paragraph (2).

''(2) COUNTRIES TO BE REVIEWED.—An interagency group established under paragraph (1) shall review actions and programs relating to greenhouse gas emissions of—

''(A) each member country (other than the United States) of the Organisation for Economic Co-operation and Development;

''(B) China;

''(C) India;

''(D) Brazil;

''(E) Mexico;

''(F) Russia; and

''(G) Ukraine.

''(3) INCLUSIONS.—A review under paragraph (1) shall—

''(A) for the countries described in paragraph (2), analyze whether the countries that are the highest emitting countries and, collectively, contribute at least 75 percent of the total greenhouse gas emissions of those countries have taken action that—

''(i) in the case of member countries of the Organisation for Economic Co-Operation and Development, is comparable to that of the United States; and

''(ii) in the case of China, India, Brazil, Mexico, Russia, and Ukraine, is significant, contemporaneous, and equitable compared to action taken by the United States;

''(B) analyze whether each of the 5 largest trading partners of the United States, as of the date on which the review is conducted, has taken action with respect to greenhouse gas emissions that is comparable to action taken by the United States;

''(C) analyze whether the programs established under this subtitle have contributed to an increase in electricity imports from Canada or Mexico; and

''(D) make recommendations with respect to whether—

''(i) the rate of reduction of emissions intensity under subsection (a)(2) or (b)(2) of section 1613 should be modified; and

''(ii) the rate of increase of the safety valve price should be modified.

''(4) SUPPLEMENTARY REVIEW ELEMENTS.—A review under paragraph (1) may include an analysis of—

''(A) the feasibility of regulating owners or operators of entities that—

''(i) emit nonfuel-related greenhouse gases; and

''(ii) that are not subject to this subtitle;

''(B) whether the percentage of allowances for any calendar year that are auctioned under section 1614(c) should be modified;

''(C) whether regulated entities should be allowed to submit credits issued under foreign greenhouse gas regulatory programs in lieu of allowances under section 1615;

''(D) whether the Secretary should distribute credits for offset projects carried out outside the United States that do not receive credit under a foreign greenhouse gas program; and

''(E) whether and how the value of allowances or credits banked for use during a future year should be discounted if an acceleration in the rate of increase of the safety valve price is recommended under paragraph (3)(D)(ii).

''(5) NATIONAL RESEARCH COUNCIL REPORTS.—The President may request such reports from the National Research Council as the President determines to be necessary and appropriate to support the interagency review process under this subsection.

''(b) REPORT.—

''(1) IN GENERAL.—Not later than January 15, 2017, and every 5 years thereafter, the President shall submit to the House of Representatives and the Senate a report describing any recommendation of the President with respect to changes in the programs under this subtitle.

''(2) RECOMMENDATIONS.—A recommendation under paragraph (1) shall take into consideration the results of the most recent interagency review under subsection (a).

''(c) CONGRESSIONAL ACTION.—

''(1) CONSIDERATION.—Not later than September 30 of any calendar year during which a report is to be submitted under subsection (b), the House of Representatives and the Senate may consider a joint resolution, in accordance with paragraph (2), that—

''(A) amends subsection (a)(2) or (b)(2) of section 1613;

''(B) modifies the safety valve price; or

''(C) modifies the percentage of allowances to be allocated under section 1614(c).

''(2) REQUIREMENTS.—A joint resolution considered under paragraph (1) shall—

''(A) be introduced during the 45-day period beginning on the date on which a report is required to be submitted under subsection (b); and

''(B) after the resolving clause and 'That', contain only 1 or more of the following:

''(i) ', effective beginning January 1, 2017, section 1613(a)(2) of the Energy Policy Act of 1992 is amended by striking ''2.6'' and inserting ''_____''.'.

''(ii) ', effective beginning _____, section 1613(b)(2) of the Energy Policy Act of 1992 is amended by striking ''3.0'' and inserting ''_____''.'.

''(iii) ', effective beginning _____, section 1612(13)(B) of the Energy Policy Act of 1992 is amended by striking ''5 percent'' and inserting ''_____ percent''.'.

''(iv) 'the table under section 1614(c) of the Energy Policy Act of 1992 is amended by striking the line relating to calendar year 2022 and thereafter and inserting the following:

Year	Percentage Allocated to Industry	Percentage Allocated to States	Percentage Available for Agricultural Sequestration	Percentage Available for Early Reduction Allowances	Percentage Auctioned
2022 and thereafter ...	_____	_____	_____	_____	_____

''(3) APPLICABLE LAW.—Subsections (b) through (g) of section 802 of title 5, United States Code, shall apply to any joint resolution under this subsection.

''(d) FOREIGN CREDITS.—

''(1) REGULATIONS.—After taking into consideration the initial interagency review under section (a), the Secretary may promulgate regulations that authorize regulated entities to submit credits issued under foreign greenhouse gas regulatory programs in lieu of allowances under section 1615.

''(2) COMPARABLE PROGRAMS AND PREVENTION OF DOUBLE-COUNTING.—Regulations promulgated by the Secretary under paragraph (1) shall ensure that foreign credits submitted in lieu of allowances are—

''(A) from foreign greenhouse gas regulatory programs that the Secretary determines to have a level of environmental integrity that is not less than the level of environmental integrity of the programs under this subtitle; and

''(B) not also submitted for use in achieving compliance under any foreign greenhouse gas regulatory program.

''(e) INTERNATIONAL OFFSETS PROJECTS.—

''(1) ACTION BY THE SECRETARY.—After taking into consideration the results of the initial interagency review under section (a), the Secretary may promulgate regulations establishing a program under which the Secretary distributes credits to entities that—

''(A) carry out offset projects outside the United States that meet the requirements of section 1623(c);

''(B) maintain the environment integrity of the program under this subtitle; and

''(C) do not receive credits issued under a foreign greenhouse gas regulatory program.

''(2) STREAMLINED PROCEDURES AND PREVENTION OF DOUBLE-COUNTING.—Regulations promulgated by the Secretary under the paragraph (1) shall—

''(A) have streamlined procedures for distributing credits to projects for which the Secretary determines there are broadly-accepted standards or methodologies for quantifying and verifying the greenhouse gas emission mitigation benefits of the projects; and

''(B) ensure that offset project reductions credited under the program are not also credited under foreign programs.

''SEC. 1623. MONITORING AND REPORTING.

''(a) IN GENERAL.—The Secretary shall require, by rule, that a regulated entity shall

perform such monitoring and submit such reports as the Secretary determines to be necessary to carry out this subtitle.

''(b) SUBMISSION OF INFORMATION.—The Secretary shall establish, by rule, any procedure the Secretary determines to be necessary to ensure the completeness, consistency, transparency, and accuracy of reports under subsection (a), including—

''(1) accounting and reporting standards for covered greenhouse gas emissions;

''(2) standardized methods of calculating covered greenhouse gas emissions in specific industries from other information the Secretary determines to be available and reliable, such as energy consumption data, materials consumption data, production data, or other relevant activity data;

''(3) if the Secretary determines that a method described in paragraph (2) is not feasible for a regulated entity, a standardized method of estimating covered greenhouse gas emissions of the regulated entity;

''(4) a method of avoiding double counting of covered greenhouse gas emissions;

''(5) a procedure to prevent a regulated entity from avoiding the requirements of this subtitle by—

''(A) reorganization into multiple entities; or

''(B) outsourcing the operations or activities of the regulated entity with respect to covered greenhouse gas emissions; and

''(6) a procedure for the verification of data relating to covered greenhouse gas emissions by—

''(A) regulated entities; and

''(B) independent verification organizations.

''(c) DETERMINING ELIGIBILITY FOR CREDITS, AGRICULTURAL SEQUESTRATION ALLOWANCES, AND EARLY REDUCTION ALLOWANCES.—

''(1) IN GENERAL.—An entity shall provide the Secretary with the information described in paragraph (2) in connection with any application to receive—

''(A) a credit under section 1618, 1619, or 1622(e);

''(B) an early reduction allowance under section 1620 (unless, and to the extent that, the Secretary determines that providing the information would not be feasible for the entity); or

''(C) an agricultural sequestration allowance under section 1621.

''(2) REQUIRED INFORMATION.—

''(A) GREENHOUSE GAS EMISSIONS REDUCTION.—In the case of a greenhouse gas emissions reduction, the entity shall provide the Secretary with information verifying that, as determined by the Secretary—

''(i) the entity has achieved an actual reduction in greenhouse gas emissions—

''(I) relative to historic emissions levels of the entity; and

''(II) taking into consideration any increase in other greenhouse gas emissions of the entity; and

''(ii) if the reduction exceeds the net reduction of direct greenhouse gas emissions of the entity, the entity reported a reduction that was adjusted so as not to exceed the net reduction.

''(B) GREENHOUSE GAS SEQUESTRATION.—In the case of a greenhouse gas sequestration, the entity shall provide the Secretary with information verifying that, as determined by the Secretary, the entity has achieved actual increases in net sequestration, taking into account the total use of materials and energy by the entity in carrying out the sequestration.

''SEC. 1624. ENFORCEMENT.

''(a) FAILURE TO SUBMIT ALLOWANCES.—

''(1) PAYMENT TO SECRETARY.—A regulated entity that fails to submit an allowance (or the safety valve price in lieu of an allowance) for a calendar year not later than March 31 of the following calendar year shall pay to the Secretary, for each allowance the regulated entity failed to submit, an amount equal to the product obtained by multiplying—

''(A) the safety valve price for that calendar year; and

''(B) 3.

''(2) FAILURE TO PAY.—A regulated entity that fails to make a payment to the Secretary under paragraph (1) by December 31 of the calendar year following the calendar year for which the payment is due shall be subject to subsection (b) or (c), or both.

''(b) CIVIL ENFORCEMENT.—

''(1) PENALTY.—A person that the Secretary determines to be in violation of this subtitle shall be subject to a civil penalty of not more than $25,000 for each day during which the entity is in violation, in addition to any amount required under subsection (a)(1).

''(2) INJUNCTION.—The Secretary may bring a civil action for a temporary or permanent injunction against any person described in paragraph (1).

''(c) CRIMINAL PENALTIES.—A person that willfully fails to comply with this subtitle shall be subject to a fine under title 18, United States Code, or imprisonment for not to exceed 5 years, or both.

''SEC. 1625. JUDICIAL REVIEW.

''(a) IN GENERAL.—Except as provided in subsection (b), section 336(b) of the Energy Policy and Conservation Act (42 U.S.C. 6306(b)) shall apply to a review of any rule issued under this subtitle in the same manner, and to the same extent, that section applies to a rule issued under sections 323, 324, and 325 of that Act (42 U.S.C. 6293, 6294, 6295).

''(b) EXCEPTION.—A petition for review of a rule under this subtitle shall be filed in the United States Court of Appeals for the District of Columbia.

''SEC. 1626. ADMINISTRATIVE PROVISIONS.

''(a) RULES AND ORDERS.—The Secretary may issue such rules and orders as the Secretary determines to be necessary or appropriate to carry out this subtitle.

''(b) DATA.—

''(1) IN GENERAL.—In carrying out this subtitle, the Secretary may use any authority provided under section 11 of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 796).

''(2) DEFINITION OF ENERGY INFORMATION.—For the purposes of carrying out this subtitle, the definition of the term 'energy information' under section 11 of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 796) shall be considered to include any information the Secretary determines to be necessary or appropriate to carry out this subtitle.

''SEC. 1627. EARLY TECHNOLOGY DEPLOYMENT.

''(a) TRUST FUND.—

''(1) ESTABLISHMENT.—There is established in the Treasury a trust fund, to be known as the 'Climate Change Trust Fund' (referred to in this section as the 'Trust Fund').

''(2) DEPOSITS.—The Secretary shall deposit into the Trust Fund any funds received by the Secretary under section 1614(b) or 1616.

''(3) MAXIMUM CUMULATIVE AMOUNT.—Not more than $50,000,000,000 may be deposited into the Trust Fund.

''(b) DISTRIBUTION.—Beginning in fiscal year 2010, the Secretary shall transfer any funds deposited into the Trust Fund during the previous fiscal year as follows:

''(1) ZERO- OR LOW-CARBON ENERGY TECHNOLOGIES.—50 percent of the funds shall be transferred to the Secretary to carry out the zero- or low-carbon energy technologies program under subsection (c).

''(2) ADVANCED ENERGY TECHNOLOGIES INCENTIVE PROGRAM.—35 percent of the funds shall be transferred as follows:

''(A) ADVANCED COAL TECHNOLOGIES.—28 percent shall be transferred to the Secretary to carry out the advanced coal and sequestration technologies program under subsection (d).

''(B) CELLULOSIC BIOMASS.—7 percent shall be transferred to the Secretary to carry out—

''(i) the cellulosic biomass ethanol and municipal solid waste loan guarantee program under section 212(b) of the Clean Air Act (42 U.S.C. 7546(b));

''(ii) the cellulosic biomass ethanol conversion assistance program under section 212(e) of that Act (42 U.S.C. 7546(e)); and

''(iii) the fuel from cellulosic biomass program under subsection (e).

''(3) ADVANCED TECHNOLOGY VEHICLES.—15 percent shall be transferred to the Secretary to carry out the advanced technology vehicles manufacturing incentive program under subsection (f).

''(c) ZERO- OR LOW-CARBON ENERGY TECHNOLOGIES DEPLOYMENT.—

''(1) DEFINITIONS.—In this subsection:

''(A) ENERGY SAVINGS.—The term 'energy savings' means megawatt-hours of electricity or million British thermal units of natural gas saved by a product, in comparison to projected energy consumption under the energy efficiency standard applicable to the product.

''(B) HIGH-EFFICIENCY CONSUMER PRODUCT.—The term 'high-efficiency consumer product' means a covered product to which an energy conservation standard applies under section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295), if the energy efficiency of the product exceeds the energy efficiency required under the standard.

''(C) ZERO- OR LOW-CARBON GENERATION.—The term 'zero- or low-carbon generation' means generation of electricity by an electric generation unit that—

''(i) emits no carbon dioxide into the atmosphere, or is fossil-fuel fired and emits into the atmosphere not more than 250 pounds of carbon dioxide per megawatt-hour (after adjustment for any carbon dioxide from the unit that is geologically sequestered); and

''(ii) was placed into commercial service after the date of enactment of this Act.

''(2) FINANCIAL INCENTIVES PROGRAM.—During each fiscal year beginning on or after October 1, 2008, the Secretary shall competitively award financial incentives under this subsection in the following technology categories:

''(A) Production of electricity from new zero- or low-carbon generation.

''(B) Manufacture of high-efficiency consumer products.

''(3) REQUIREMENTS.—

''(A) IN GENERAL.—The Secretary shall make awards under this subsection to producers of new zero- or low-carbon generation and to manufacturers of high-efficiency consumer products—

''(i) in the case of producers of new zero- or low-carbon generation, based on the bid of each producer in terms of dollars per megawatt-hour of electricity generated; and

''(ii) in the case of manufacturers of high-efficiency consumer products, based on the bid of each manufacturer in terms of dollars per megawatt-hour or million British thermal units saved.

''(B) ACCEPTANCE OF BIDS.—

''(i) IN GENERAL.—In making awards under this subsection, the Secretary shall—

''(I) solicit bids for reverse auction from appropriate producers and manufacturers, as determined by the Secretary; and

''(II) award financial incentives to the producers and manufacturers that submit the

lowest bids that meet the requirements established by the Secretary.

''(ii) FACTORS FOR CONVERSION.—

''(I) IN GENERAL.—For the purpose of assessing bids under clause (i), the Secretary shall specify a factor for converting megawatt-hours of electricity and million British thermal units of natural gas to common units.

''(II) REQUIREMENT.—The conversion factor shall be based on the relative greenhouse gas emission benefits of electricity and natural gas conservation.

''(C) INELIGIBLE UNITS.—A new unit for the generation of electricity that uses renewable energy resources shall not be eligible to receive an award under this subsection if the unit receives renewable energy credits under a Federal renewable portfolio standard.

''(4) FORMS OF AWARDS.—

''(A) ZERO- AND LOW-CARBON GENERATORS.—An award for zero- or low-carbon generation under this subsection shall be in the form of a contract to provide a production payment for each year during the first 10 years of commercial service of the generation unit in an amount equal to the product obtained by multiplying—

''(i) the amount bid by the producer of the zero- or low-carbon generation; and

''(ii) the megawatt-hours estimated to be generated by the zero- or low-carbon generation unit each year.

''(B) HIGH-EFFICIENCY CONSUMER PRODUCTS.—An award for a high-efficiency consumer product under this subsection shall be in the form of a lump sum payment in an amount equal to the product obtained by multiplying—

''(i) the amount bid by the manufacturer of the high-efficiency consumer product; and

''(ii) the energy savings during the projected useful life of the high-efficiency consumer product, not to exceed 10 years, as determined under rules issued by the Secretary.

''(d) ADVANCED COAL AND SEQUESTRATION TECHNOLOGIES PROGRAM.—

''(1) ADVANCED COAL TECHNOLOGIES.—

''(A) DEFINITION OF ADVANCED COAL GENERATION TECHNOLOGY.—In this paragraph, the term 'advanced coal generation technology' means integrated gasification combined cycle or other advanced coal-fueled power plant technologies that—

''(i) have a minimum of 50 percent coal heat input on an annual basis;

''(ii) provide a technical pathway for carbon capture and storage; and

''(iii) provide a technical pathway for coproduction of a hydrogen slip-stream.

''(B) DEPLOYMENT INCENTIVES.—

''(i) IN GENERAL.—The Secretary shall use ½ of the funds provided to carry out this subsection during each fiscal year to provide Federal financial incentives to facilitate the deployment of not more than 20 gigawatts of advanced coal generation technologies.

''(ii) ADMINISTRATION.—In providing incentives under clause (i), the Secretary shall—

''(I) provide appropriate incentives for regulated investor-owned utilities, municipal utilities, electric cooperatives, and independent power producers, as determined by the Secretary; and

''(II) ensure that a range of the domestic coal types is employed in the facilities that receive incentives under this subparagraph.

''(C) FUNDING PRIORITIES.—

''(i) PROJECTS USING CERTAIN COALS.—In providing incentives under this paragraph, the Secretary shall set aside not less than 25 percent of any funds made available to carry out this paragraph for projects using lower rank coals, such as subbituminous coal and lignite.

''(ii) SEQUESTRATION ACTIVITIES.—After the Secretary has made awards for 2000 megawatts of capacity under this paragraph, the Secretary shall give priority to projects that will capture and sequester emissions of carbon dioxide, as determined by the Secretary.

''(D) DISTRIBUTION OF FUNDS.—A project that receives an award under this paragraph may elect 1 of the following Federal financial incentives:

''(i) A loan guarantee under section 1403(b).

''(ii) A cost-sharing grant for not more than 50 percent of the cost of the project.

''(iii) Production payments of not more than 1.5 cents per kilowatt-hour of electric output during the first 10 years of commercial service of the project.

''(E) LIMITATION.—A project may not receive an award under this subsection if the project receives an award under subsection (c).

''(2) SEQUESTRATION.—

''(A) IN GENERAL.—The Secretary shall use ½ of the funds provided to carry out this subsection during each fiscal year for large-scale geologic carbon storage demonstration projects that use carbon dioxide captured from facilities for the generation of electricity using coal gasification or other advanced coal combustion processes, including facilities that receive assistance under paragraph (1).

''(B) PROJECT CAPITAL AND OPERATING COSTS.—The Secretary shall provide assistance under this paragraph to reimburse the project owner for a percentage of the incremental project capital and operating costs of the project that are attributable to carbon capture and sequestration, as the Secretary determines to be appropriate.

''(e) FUEL FROM CELLULOSIC BIOMASS.—

''(1) IN GENERAL.—The Secretary shall provide deployment incentives under this subsection to encourage a variety of projects to produce transportation fuels from cellulosic biomass, relying on different feedstocks in different regions of the United States.

''(2) PROJECT ELIGIBILITY.—Incentives under this paragraph shall be provided on a competitive basis to projects that produce fuels that—

''(A) meet United States fuel and emissions specifications;

''(B) help diversify domestic transportation energy supplies; and

''(C) improve or maintain air, water, soil, and habitat quality.

''(3) INCENTIVES.—Incentives under this subsection may consist of—

''(A) additional loan guarantees under section 1403(b) for the construction of production facilities and supporting infrastructure; or

''(B) production payments through a reverse auction in accordance with paragraph (4).

''(4) REVERSE AUCTION.—

''(A) IN GENERAL.—In providing incentives under this subsection, the Secretary shall—

''(i) prescribe rules under which producers of fuel from cellulosic biomass may bid for production payments under paragraph (3)(B); and

''(ii) solicit bids from producers of different classes of transportation fuel, as the Secretary determines to be appropriate.

''(B) REQUIREMENT.—The rules under subparagraph (A) shall require that incentives shall be provided to the producers that submit the lowest bid (in terms of cents per gallon) for each class of transportation fuel from which the Secretary solicits a bid.

''(f) ADVANCED TECHNOLOGY VEHICLES MANUFACTURING INCENTIVE PROGRAM.—

''(1) DEFINITIONS.—In this subsection:

''(A) ADVANCED LEAN BURN TECHNOLOGY MOTOR VEHICLE.—The term 'advanced lean burn technology motor vehicle' means a passenger automobile or a light truck with an internal combustion engine that—

''(i) is designed to operate primarily using more air than is necessary for complete combustion of the fuel;

''(ii) incorporates direct injection; and

''(iii) achieves at least 125 percent of the 2002 model year city fuel economy of vehicles in the same size class as the vehicle.

''(B) ADVANCED TECHNOLOGY VEHICLE.—The term 'advanced technology vehicle' means a light duty motor vehicle that—

''(i) is a hybrid motor vehicle or an advanced lean burn technology motor vehicle; and

''(ii) meets the following performance criteria:

''(I) Except as provided in paragraph (3)(A)(ii), the Tier II Bin 5 emission standard established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act (42 U.S.C. 7521(i)), or a lower numbered bin.

''(II) At least 125 percent of the base year city fuel economy for the weight class of the vehicle.

''(C) ENGINEERING INTEGRATION COSTS.—The term 'engineering integration costs' includes the cost of engineering tasks relating to—

''(i) incorporating qualifying components into the design of advanced technology vehicles; and

''(ii) designing new tooling and equipment for production facilities that produce qualifying components or advanced technology vehicles.

''(D) HYBRID MOTOR VEHICLE.—The term 'hybrid motor vehicle' means a motor vehicle that draws propulsion energy from onboard sources of stored energy that are—

''(i) an internal combustion or heat engine using combustible fuel; and

''(ii) a rechargeable energy storage system.

''(E) QUALIFYING COMPONENTS.—The term 'qualifying components' means components that the Secretary determines to be—

''(i) specially designed for advanced technology vehicles; and

''(ii) installed for the purpose of meeting the performance requirements of advanced technology vehicles.

''(2) MANUFACTURER FACILITY CONVERSION AWARDS.—The Secretary shall provide facility conversion funding awards under this subsection to automobile manufacturers and component suppliers to pay 30 percent of the cost of—

''(A) re-equipping or expanding an existing manufacturing facility to produce—

''(i) qualifying advanced technology vehicles; or

''(ii) qualifying components; and

''(B) engineering integration of qualifying vehicles and qualifying components.

''(3) PERIOD OF AVAILABILITY.—

''(A) PHASE I.—

''(i) IN GENERAL.—An award under paragraph (2) shall apply to—

''(I) facilities and equipment placed in service before January 1, 2016; and

''(II) engineering integration costs incurred during the period beginning on the date of enactment of this Act and ending on December 31, 2015.

''(ii) TRANSITION STANDARD FOR LIGHT DUTY DIESEL-POWERED VEHICLES.—For purposes of making an award under clause (i), the term 'advanced technology vehicle' includes a diesel-powered or diesel-hybrid light duty vehicle that—

''(I) has a weight greater than 6,000 pounds; and

''(II) meets the Tier II Bin 8 emission standard established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act (42 U.S.C. 7521(i)), or a lower numbered bin.

''(B) PHASE II.—If the Secretary determines under paragraph (4) that the program under

this subsection has resulted in a substantial improvement in the ability of automobile manufacturers to produce light duty vehicles with improved fuel economy, the Secretary shall continue to make awards under paragraph (2) that shall apply to—

''(i) facilities and equipment placed in service before January 1, 2021; and

''(ii) engineering integration costs incurred during the period beginning on January 1, 2016, and ending on December 31, 2020.

''(4) DETERMINATION OF IMPROVEMENT.—

''(A) IN GENERAL.—Not later than January 1, 2015, the Secretary shall determine, after providing notice and an opportunity for public comment, whether the program under this subsection has resulted in a substantial improvement in the ability of automobile manufacturers to produce light duty vehicles with improved fuel economy.

''(B) EFFECT ON MANUFACTURERS.—In preparing the determination under subparagraph (A), the Secretary shall enter into an agreement with the National Academy of Sciences to analyze the effect of the program under this subsection on automobile manufacturers.

''SEC. 1628. EFFECT OF SUBTITLE.

''Nothing in this subtitle affects the authority of Congress to limit, terminate, or change the value of an allowance or credit issued under this subtitle.''.

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

The PRESIDING OFFICER. The Senator from Alabama is recognized.

AMENDMENTS NOS. 106, 107, AND 108 EN BLOC

Mr. SESSIONS. Madam President, I would like to share a few thoughts in the form of an overview of our wage situation in the United States and to discuss some things that I think we can do to improve that situation. I would agree that wages are too low for middle-class and lower income workers. They have not kept pace with business profits or with CEO salaries, for example. They have fallen behind. They have fallen behind the profits and bonuses and things of that nature. I believe it is a serious problem. I know the experts tell us—and there is some truth to the fact—that salary increases tend to lag behind business growth and profits. As the profits go up, the first year the bonuses and the salaries don't keep up with it, but they argue that as time goes by, they do make a rise, and we should, therefore, remember that.

There is some historical truth to that argument, there is no doubt about it. But, frankly, it doesn't satisfy me at this point of the issue. It is particularly so to me because the unemployment in our country has been falling and is still so low. I think it is 4.5 percent nationally. It was recently 3.2 percent in my home State of Alabama—the lowest we have ever had. I am excited about that. Why aren't wages, then, for our lower skilled people, our poorer people, our young people, our minority workers—why aren't those wages beginning to increase in a noticeable way? Why aren't they keeping pace, and what can we do about it?

Senator KENNEDY's theory and his argument is pretty clear and simple, as his normally are—and direct. He argues that we should have the Government fix it. Just have the Government set the wage. That is an easy answer. Have wage and price controls. Well, at least wage controls. Set it. Just have the Government order this, dictate it, and we will just make it go that way.

I will admit that we have had minimum wage laws for quite some time, and although in pure theory they are outside the free market agenda that I usually follow, I have voted for minimum wage increases a number of times. That is just a part of the way we do things here, and the way we have done them for quite a number of years. I would hope maybe to vote for this bill.

But let's talk about it more seriously. What we want is higher wages for all Americans. I think a better approach to achieving that in the long run is to examine our policies to see why market forces are not driving up wages. What is the problem? Are there some political, governmental structures at work that are causing wages not to increase sufficiently? There is one issue that is suppressing wages that I am absolutely confident is unfair, and I believe undisputed and undeniable. No, it is not that some free market purists don't want wages to go up. That is not my problem. I think the problem is this: The problem is an excessive flow of low-skilled immigrant workers into our country in such large numbers that it has stultified and eliminated the growth that would have occurred for low-skilled American workers. I wish that weren't so, but I believe the numbers are quite clear on it. In any number of different ways we can see that this has occurred.

So I will be offering an amendment as part of this bill, one that deals with workplace enforcement and what we can do to make the workplace such that American workers are not competing with low-skilled, illegal immigrants in the workforce. We are receiving 1 million immigrants legally in our country today and more than half that many coming in illegally every year. So the competition American workers face from illegal laborers is a serious problem that affects their wages.

If you bring in a huge amount of wheat, you bring a huge amount of cotton, you bring in a huge amount of corn, you can expect those prices to fall. If you bring in exceedingly large amounts of low-skilled labor, you can expect the wages of low-skilled Americans to follow. I don't know where our free marketeers are on that, but I can tell you that is a fact. It is working against the interests of American workers.

Professor Borjas at Harvard, who has written perhaps the most authoritative book on immigration—himself an immigrant—has concluded that he believes the wages of the lowest-skilled American workers, high school dropouts, have been impacted negatively by 8 percent as a result of our current immigration policies.

I will share with our colleagues an article from the Wall Street Journal, this journal of free market economics, which I venerate and respect so much. I will not go into the detail today, but I will share briefly the gist of that front-page article from the last week or 10 days.

The article featured a chicken plant in Georgia. A large number of those workers were found to be illegal. They lost their jobs. According to the Wall Street Journal, the businesses got together and started running ads in the paper offering better than a $1-an-hour increase over the wages they had been paid. They offered transportation from nearby towns for people who would take the jobs. They said people could live onsite in dormitories and work there. What does that say? That was $1 an hour-plus per worker wage increase without governmental intervention. In fact, it was governmental action to enforce the established laws of our country with regard to immigration.

I suggest ending illegal immigration, creating workplace enforcement that actually works, limiting the number of people who come to our country illegally, emphasizing higher skilled workers. Frankly, if it is impacting adversely our low-skilled workers' salaries, maybe we are bringing in too many low-skilled workers.

Education is a factor for immigration, whether a person would speak English and basically follow the Canadian model of a system which focuses on what is in Canada's best interests. Likewise, we should do that in the United States. We should also consider what the Labor Department says is needed in our country.

I have another proposal that I will shock my colleagues with. We could give the average low-to-middle income worker, a family man or woman, almost a $1-an-hour raise without any increase in taxes. How would we do that? In the way we administer the earned-income tax credit. The earned-income tax credit was passed many years ago. President Nixon was involved in it, Milton Friedman supported it. It was supposed to be an incentive to Americans to work and not be on welfare; to go out and work and to give benefits to people who were working as opposed to people who were not working. It made a lot of sense. It was supposed to incentivize work.

I am not sure how well it works. It has been criticized. But it has no possibility of achieving its primary goal, which was to incentivize work, the way it is presently being administered. The way it is administered now, a worker who falls in the category of earned-income tax credit, files his income tax return next April, May or March, whenever he gets his papers together, and gets an average of a $1,700 tax credit from the U.S. Treasury. I submit that worker does not understand or have any real comprehension of the fact that the tax credit incentivizes work. It is not connected to his work.

We ought to reconnect the earned-income tax credit to the workplace. The

way we do that is the way it is now authorized under law—it can be done this way, but it is not being done this way—and that is to put it on the paycheck. And $1,700 per year is a $1-an-hour increase in the take-home pay of low-wage workers in America. They could take that money home every week with their paycheck, they could appreciate their jobs much better and they could be more prideful of that paycheck they take home and have more incentive to continue to work.

To me, that is something we should have done a long time ago. I have talked about it for quite a number years. We have not made a serious advancement toward accomplishing it. Some think it could cause more fraud, but I don't think it would. Some think it would cause more people to take advantage of the earned income tax credit because some people probably don't ask for it on the tax returns, but I don't think that is particularly a noble thing to say, that a person who is entitled to it, you hope they don't apply and get it because it would cost the Treasury some dollars. We would be better off to put that in the paycheck. I would like to see us do that. We need to move in that direction.

Finally, one of the great tragedies we are facing as a nation is that we are not saving enough. We need to do a better job of increasing savings in America. I prepared legislation, creating Plus Accounts, that would be a lifetime universal savings plan for every American worker, similar to the Federal Thrift Savings Plan for Federal employees.

On top of Social Security—not taking money from Social Security but on top of it as an individual plan—an account that individual Americans would own. It would be within their grasp.

Half of the American workers work at a company that does not have a savings plan. Of the half that do, 17 million choose not to participate. One more startling statistic, very startling in light of today's volatile labor market. By the age of 35, the average American worker has held nine jobs.

I sat by a gentleman on the plane yesterday. He was 37. He now has a job with the U.S. Civil Service. He is so happy about signing up for the Thrift Plan. I asked him about his previous savings. He had two children, 37 years old. He said, I didn't save much. He had had nine jobs himself. A lot of companies do not have a savings plan. For those that do, maybe you have to work 2 years or a year before you can participate. If you did participate and you change jobs, maybe it is only $500; maybe it is $1,000 or $1,500. And when you change jobs, they cash it in and pay the penalty, figuring it will not amount to much.

But if every American at every paycheck could know that a small percentage of that money was going into an account with their name on it, they would be subject to the magical powers of compound interest and that at age 65 they could have a very substantial nest egg to supplement their Social Security, they would feel better about their work. My plan would say you are given a number at birth. The Government would open the account with a deposit at birth for every child. And every job a person takes, the employee would put in 1 percent, the employer would put in 1 percent at a low-fee managed fund that would allow for conservative investments. If you put in $1,000 at birth, if you went to work and your employer put in 1 percent and you put in 3 percent at median income in America, $46,000 a year for a family, that person would retire with half a million in the bank. We have to create a system so it is easy for working Americans, low-income people who are changing jobs regularly, who find themselves with two or three kids at age 35 with nothing saved. That is an American tragedy when they could, literally, easily retire with half a million in their own name, in their own account.

These are some things we ought to talk about. Yes, I look forward to a bill that Senator ENZI approves—if he approves it, I probably will. If he approves this bill, I will vote for it. But fundamentally we have more to do for low-income workers in America who are not keeping pace, in my view, at the rate we would like to see.

We should create an immigration system that does not subject them to floods of imports. Let's create a savings system they can be proud of and adjust our earned-income tax credit so they can get a $1-an-hour pay raise. If we do some of those things, we will be touching a lot of people in a very special way.

I ask unanimous consent for the purposes of offering my amendments, the pending amendment be set aside and I be allowed to offer three amendments, en bloc.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SESSIONS] proposes amendments numbered 106, 107 and 108 en bloc.

The amendments (No. 106, 107 and 108) are as follows:

AMENDMENT NO. 106

(Purpose: To express the sense of the Senate that increasing personal savings is a necessary step toward ensuring the economic security of all the people of the United States upon retirement)

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE CONCERNING PERSONAL SAVINGS.

(a) FINDINGS.—The Senate finds that—

(1) the personal saving rate in the United States is at its lowest point since the Great Depression, with the rate having fallen into negative territory;

(2) the United States ranks at the bottom of the Group of Twenty (G-20) nations in terms of net national saving rate;

(3) approximately half of all the working people of the United States work for an employer that does not offer any kind of retirement plan;

(4) existing savings policies enacted by Congress provide limited incentives to save for low- and moderate-income families; and

(5) the critically-important Social Security program was never intended by Congress to be the sole source of retirement income.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) there is a need for simple, easily-accessible and productive savings vehicles for all the people of the United States;

(2) it is important to begin retirement saving as early as possible to take full advantage of the power of compound interest;

(3) regularly contributing money to a financially-sound investment account is effective in achieving one's retirement goals; and

(4) Congress should actively develop policies to enhance personal savings for retirement.

AMENDMENT NO. 107

(Purpose: To impose additional requirements to ensure greater use of the advance payment of the earned income credit and to extend such advance payment to all taxpayers eligible for the credit)

At the appropriate place insert the following:

SEC. ___. ADDITIONAL REQUIREMENTS TO ENSURE GREATER USE OF ADVANCE PAYMENT OF EARNED INCOME CREDIT.

Not later than January 1, 2010, the Secretary of the Treasury by regulation shall require—

(1) each employer of an employee who the employer determines receives wages in an amount which indicates that such employee would be eligible for the earned income credit under section 32 of the Internal Revenue Code of 1986 to provide such employee with a simplified application for an earned income eligibility certificate, and

(2) require each employee wishing to receive the earned income tax credit to complete and return the application to the employer within 30 days of receipt.

Such regulations shall require an employer to provide such an application within 30 days of the hiring date of an employee and at least annually thereafter. Such regulations shall further provide that, upon receipt of a completed form, an employer shall provide for the advance payment of the earned income credit as provided under section 3507 of the Internal Revenue Code of 1986.

SEC. ___. EXTENSION OF ADVANCE PAYMENT OF EARNED INCOME CREDIT TO ALL ELIGIBLE TAXPAYERS.

(a) IN GENERAL.—Section 3507(b) of the Internal Revenue Code of 1986 (relating to earned income eligibility certificate) is amended by striking paragraph (2) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) CONFORMING AMENDMENTS.—

(1) Section 3507(c)(2)(B) of the Internal Revenue Code of 1986 is amended by inserting ''has 1 or more qualifying children and'' before ''is not married,''.

(2) Section 3507(c)(2)(C) of such Code is amended by striking ''the employee'' and inserting ''an employee with 1 or more qualifying children''.

(3) Section 3507(f) of such Code is amended by striking ''who have 1 or more qualifying children and''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

AMENDMENT NO. 108

(Purpose: To authorize the Secretary of the Treasury to study the costs and barriers to businesses if the advance earned income tax credit program included all EITC recipients)

At the appropriate place insert the following:

SEC. ___. STUDY OF UNIVERSAL USE OF ADVANCE PAYMENT OF EARNED INCOME CREDIT.

Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury shall report to Congress on a study of the costs and barriers to businesses (with a special emphasis on small businesses) if the advance earned income tax credit program (under section 3507 of the Internal Revenue Code of 1986) included all recipients of the earned income tax credit (under section 32 of such Code) and what steps would be necessary to implement such inclusion.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Madam President, I am proud to join my colleagues in calling for something that is long overdue for millions of workers across this Nation, an increase in the minimum wage. Today is not our first day to make this call, but it is time, finally, to answer the voices that have cried out for change for too long. Nearly a decade after the last increase in the Federal minimum wage, this Senate has a chance to right the injustice that millions of workers and their families have endured.

America's minimum wage workers are often not in the forefront of our workforce. They may be in the stockrooms, the kitchens or on the night cleaning crew. By increasing the Federal minimum wage, we will be saying that working in the shadows does not mean a life sentence to poverty.

For far too long, we have allowed a subpar minimum wage to exist that leaves a minimum wage worker supporting a family of three at $6,000 below the poverty level. You get up every day, you work hard, you work 40 hours a week, some of the toughest jobs in America and, at the end, you are still below the poverty level. We are supposed to reward work as a value, not suppress it. We say we want work, not welfare. Yet we have people who get up every day, work some of the toughest jobs and still find themselves below the poverty level.

Those earning minimum wage do some of the toughest jobs our Nation has, and they perform some of the key services we cannot do without, from food preparers, to health care, support staff, to security officers, to cashiers. These occupations are the backbone of businesses and industries that keep our economy running. While we depend on these services they provide every day, many of these workers are earning a wage that is now at its lowest point ever, compared to average hourly wages.

A higher wage is much more than about putting a few more dollars in your pocket each week. A better wage is about fairness, about providing a decent standard of living, and giving workers what they deserve, and ensuring that everyone—everyone—can share in the American dream, not just the top wage earners.

When a minimum wage earner is more likely to be a woman or a minority, we cannot deny that increasing the minimum wage is also about greater equality and justice to nearly 7 million women, who are well over half of the minimum wage workers, or to the 4 million Hispanics and African Americans earning less than $7.25 an hour.

So we can look at the chart and see that as the progression goes down, all of those women's wages lag behind men. And then, when we look at African-American women, Hispanic women, they lag even lower. This is about creating equity, equality. It is about justice.

Our Nation has always been a place where people willing to work hard and play by the rules can earn a better life for themselves and their families. My parents, who came to this country in search of freedom, were willing to do whatever work was necessary for a little piece of the American dream. Whether it was long hours bent over a sewing machine in a factory or working in a cramped carpentry shop, they did whatever they could to provide me the opportunities they never had.

That chance to build a better life through one's labor and determination is something no one in this country should be denied. Yet, for nearly a decade, workers earning the minimum wage have been struggling to get by, struggling to provide what their families need, and struggling to realize the dream our country promises.

It is our duty to ensure everyone in this country can share in that dream. When we as a nation turn a blind eye, when we ignore the fact that millions of workers are earning wages that have been frozen for nearly a decade—how much else of our economy has been frozen for nearly a decade—we are failing those seeking out this dream. And because most minimum-wage workers have children and families to support, it is not just the workers who are struggling to make ends meet or fulfill their dreams, but behind them are families who cannot afford health insurance, or children who are growing up in poverty—children growing up in poverty to parents who are working hard, in the toughest jobs in America, 40 hours a week, making the minimum wage, below the poverty level. So lifting up the wages of these workers is as much about improving the lives of their family members and providing a brighter future for their children.

This week we have a chance to change the course, not just for the workers still earning $5.15 an hour and their family members, but for the country. We will say it is no longer acceptable to leave behind those who may be at the bottom, that they should be as much a priority as any other worker who contributes to our Nation's economy.

I am extremely proud that New Jersey has not waited for Congress to do what is right. Instead, it has taken upon itself to increase the State minimum wage far above the Federal wage. And New Jersey is not alone. Twenty-nine other States have raised their minimum wages above the Federal minimum wage. Now at $7.15 an hour, New Jersey's minimum wage has given over a quarter million workers the chance to build a better life.

It is past time for Congress to act and give millions of other minimum wage workers across the country that chance. It is time to provide them what they have been waiting almost 10 long years for—the chance to earn a wage they deserve and to live with greater dignity. It is time to let them know Washington will no longer turn a deaf ear to their struggles.

I listen to some of our colleagues sometimes, and it is amazing. Congress has raised its salary more than $31,000 over the same time period in which many Members have voted against raising the minimum wage. It is interesting; we can vote to increase the wages of Members of Congress and the minimum wage workers get nothing. I am sure there are Members who would say it was well worth it, of course. But what about minimum wage workers? Nothing for nearly a decade. Congress raises its salary $31,000.

Now, interestingly enough, no one said: Well, we need to give a tax break in order to give the Members of Congress a raise. No one said, certainly, while they were voting for these increases, they did not deserve it. Yet families across this country are struggling in some of the toughest jobs in America. They could not get the same type of support for their struggles. It is simply wrong.

Now is our chance to correct that injustice, but I hope it is only the first step. We can never, ever again allow the hardest workers in our country to see their wages eroded by 10 years of inflation while those at the top of the pile make more and more but give less and less back.

I hope the Senate will pass this overdue increase in the minimum wage. I hope we do not have to give away the store in order to be able to get some of those who are working at some of the toughest jobs, finding themselves below the poverty level—struggling to have families be nurtured to achieve their dreams and hopes and aspirations—I hope we do not have to give away the store. I hope we do not see another increase in Congress before we see an increase in the minimum wage. Therefore, when we pass this overdue increase in the minimum wage, I hope it will work in the future to make sure this increase stands the test of time.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

IRAQ RESOLUTION

Mr. NELSON of Nebraska. Madam President, I am here speaking a little

bit early. Senator WARNER will appear on the scene shortly. But as you know, Madam President, I will be presiding, so this gives me the opportunity to speak now.

Senators WARNER and COLLINS and I have worked to develop a bipartisan resolution dealing with Iraq. I thank them for working to forge this bipartisan resolution. I would clarify that the goal of this resolution is to broaden the resolution's appeal. It is important to send a strong message to the White House and Iraq. And the more support the resolution receives in the Senate, the stronger our message will be.

This may not be an either/or situation. We are bringing forth a new set of ideas, something more broadly worded for Senators to consider. Some can vote for this resolution, and the other, without feeling any contradiction.

The content of this resolution is more inclusive of the Iraq Study Group's recommendations and steers clear of partisan or Presidential rhetoric.

I urge our colleagues—some of whom I have spoken with today, and some of whom I have spoken with over the weekend, and others in recent days, some tomorrow—to read this resolution carefully. I believe they will find the resolution to be thoughtful, forceful, and meaningful.

If a Senator is not comfortable with the wording of the previously announced resolution, if a Senator was concerned that the resolution did not include the recommendations of the Iraq Study Group, if a Senator was concerned about the infringement on executive powers, I think that Senator will find our resolution more appealing.

In the end, we all have a responsibility to lead. We are accountable to our constituents—the American people, as is the President. When we see a policy development that we feel is not in the best interests of the United States and the U.S. military, we must speak out, we must act, and we must communicate with the President that we disagree with his plan.

Simply put, that is what we are trying to do—to express our concern, our opposition, or disagreement with deploying troops in the heart of a civil war in Iraq.

The goal is maximum bipartisan support to send the strongest message possible from the Senate to the President, to the American people, and to Iraq about our concern about this plan.

Thank you, Madam President. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. NELSON of Nebraska). Without objection, it is so ordered.

CLOTURE MOTION

Mr. REID. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the clerk will read the motion.

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, providing for an increase in the Federal minimum wage.

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

Mr. REID. I ask unanimous consent that reading of the names of the Senators be dispensed with.

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

MORNING BUSINESS

Mr. REID. I ask unanimous consent that we now proceed to a period of morning business with Senators allowed to speak therein for a period of up to 10 minutes each.

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

TRIBUTE TO DEANNA JENSEN

Mr. REID. Mr. President, I rise to pay tribute to Deanna Jensen, a lifelong Nevadan whose commitment to breast cancer advocacy will always be remembered. After her own long but heroic battle against breast cancer, she passed away on January 7. My thoughts and prayers are with Deanna's husband Don and her family as they mourn this great loss.

As a loving wife and mother, cherished friend, and respected member of the community, Deanna touched many lives near and far. And my home State of Nevada was fortunate to have her from the beginning. Born in Elko and raised in Clover Valley on a cattle ranch, she graduated from Wells High School and eventually earned a master's degree in speech pathology-audiology at the University of Nevada, Reno. Deanna remained in Nevada, devoting herself to a career as a speech pathologist and working by her husband's side at his business, Jensen Precast.

When breast cancer finally struck, Deanna fought back and became a cancer survivor. In fact, before her recurrent metastatic breast cancer had returned for the final time, she had been cancer free for 5 years. In that time, Deanna had become a tireless activist for the cause of advancing breast cancer research. With a determination and persistence that would not surprise her loved ones, she sought to translate her private struggles with this terrible disease into civic action for the greater good. It was clear to everyone that she cared deeply about the issue. ''Why me?'' was a question Deanna surely wondered about herself, but she wanted answers for all women who asked that question.

The search for those answers is a driving force behind the Breast Cancer and Environmental Research Act, bipartisan legislation that Deanna sought to see enacted. While the devastating effects of breast cancer are all too evident, its causes are still mostly unknown. We do know that a better understanding of the links between the environment and breast cancer could help improve our knowledge of this complex illness. The Breast Cancer and Environmental Research Act is designed to reveal those links by making a truly meaningful research investment and charting a national research strategy.

In Deanna's words, that is why passing the Breast Cancer and Environmental Research Act is a real opportunity for Congress to ''step up for women and breast cancer.'' Recognizing this call to action, 66 of my Senate colleagues and 262 members of the House of Representatives joined me in the 109th Congress in supporting the legislation. I hope that the new session of Congress will give us another opportunity to make good on our promise to finally pass the bill.

In one of my last correspondences with Deanna, she wrote of her frustration that a bill with so much support had yet to be enacted by Congress. It was a fitting reminder of the way Deanna was mindful of the public sphere beyond her own immediate situation, even as she dealt with a grueling regimen of radiation and chemotherapy in her final moments. Her inner strength could not be extinguished then, nor will her contributions be forgotten now. She will be greatly missed.

MICHAEL KAISER ON CULTURAL DEVELOPMENT AND EXCHANGE

Mr. KENNEDY. Mr. President, I am pleased to share with my colleagues a recent speech by Michael Kaiser, the president of the Kennedy Center. Mr. Kaiser is an impressive and highly respected national leader in arts policy and advocacy. Last month, he addressed the National Press Club and spoke about the importance of cultural development and exchange.

In addition to his role as the president of our national performing arts center, Mr. Kaiser serves as a cultural ambassador for the administration. He has traveled around the globe to assist cultural organizations in many countries—including Latin America, the Middle East, and Asia. Cultural diplomacy is an effective part of our Nation's outreach to other countries and cultures, and Mr. Kaiser's role is an impressive part of that effort.

He is an articulate and visionary leader for the Kennedy Center and a

major national resource. I believe his address to the National Press Club last month will be of interest to all of us, and I ask unanimous consent that it be printed at this point in the RECORD.

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

[From the National Press Club, Dec. 7, 2006]

CULTURAL DEVELOPMENT AND EXCHANGE

(Remarks by Michael Kaiser)

It is a great pleasure to be here today to discuss the Kennedy Center's approach to international cultural exchange.

I must admit to being a relative newcomer to the international arts scene. In fact, after I finished business school and applied to the World Bank for an entry-level position, I was told I was exactly what they were not looking for—someone who demonstrated no passion for international affairs. I hope they would take me more seriously today.

In the early 1990's, I took the Alvin Ailey American Dance Theater on tour to Japan, Greece, France and elsewhere. But my international work really began with an invitation by the Rockefeller Foundation to help the Market Theatre in Johannesburg in 1994. Three weeks after Nelson Mandela's inauguration I took my first of 18 monthly trips to Jo'burg; I worked for the Market Theatre, I participated in the creation of the Arts Council for the new South Africa and I taught an arts management program in Jo'burg, Durban and Cape Town. I fell in love with a nation and gained a mentor at the same time.

Barney Simon, the late, great founder of the Market Theatre taught me that the arts truly can change the world. Barney, an unlikely father for South African theater, developed and exported anti-apartheid protest theater. He played a major role in educating Europeans and Americans about the horrors of apartheid. He did change the world.

And he changed me.

I learned from Barney about truth in art; about the courage it takes to be a real leader, and about the difference between producing a show and producing change.

When Barney died in 1995 the world lost an arts hero. And I lost a mentor.

What I learned from Barney provided the foundation for my international work at the Kennedy Center.

I have spent the last 5 years building an international activity that I, perhaps naively, believe will change the world. Maybe not as dramatically as Barney's work at the Market Theatre, but change nonetheless.

After my internship with Barney and after observing the arts world from a different perspective when I ran the Royal Opera House in London, I developed my own ideas about cultural exchange.

The Kennedy Center has given me a unique platform to test these ideas. Shortly after I arrived in Washington, I was approached by State Department officials asking me which American artists should be sent abroad to represent the United States and to foster cultural exchange.

I surprised these State Department representatives by explaining that many people around the world feel they experience enough American culture. It may not be high culture but people from London to Jo'burg to St. Petersburg to Beijing have so much exposure to American movies, television and pop music that they have no real interest in more.

And while I am certainly in favor of sending talented Americans to perform abroad, sending a great artist for one concert for 1000 of the richest and most powerful people in any nation has virtually no impact.

I suggested that we need to take a new, two-pronged approach to cultural exchange.

First, we need to recognize that Americans know almost nothing about other peoples. We read about political leaders and movements but we know nothing about the people who live in China or Lebanon or Colombia.

And I believe the most effective and engaging way to learn about other people is to experience their arts. We need to provide access to the art and the culture of other peoples. We need Americans to see what moves other people, what they think of as beautiful, what they worry about. When we hosted the Iraqi Symphony at the Kennedy Center three years ago the most common response I heard was, ''I didn't know Iraq had a symphony.'' Most Americans were completely unaware of the level of education and culture of the people of Iraq. In October of last year, we hosted 900 performers from China at the Kennedy Center in a landmark 4-week festival of Chinese art.

We presented eastern and western music, Chinese opera, theater, ballet, modern dance, film and puppetry. Virtually every performance was sold out. One memorable shadow puppet performance depicted the devastating impact of the Japanese bombing of China through the eyes of a little boy. My audience developed a new and vivid idea of the concerns of Chinese parents; they realized they were far more like Chinese people than they were different.

Not only our audiences were affected. The press attention in Washington, throughout the United States and in China was huge. I believe we influenced the thinking of many people.

We have festivals of Japanese art, Arab art, Indian art and Russian art planned for the coming years.

But that is only one half of the cultural exchange puzzle.

I feel we have to exchange with other nations but it does not necessarily have to be art that we offer.

I have learned through my travels that there is almost no arts management education in other countries.

And while I could and often do make speeches on the need for better arts management education in the United States, I find the state of this training in other countries to be even more rudimentary. It appears that the central role of government funding in other nations has limited the perceived need for this kind of education. But so many governments, in fact most governments, are cutting back on their arts support. And arts organizations in big European countries and small African nations and Latin countries and Asian countries are threatened. Arts managers here and elsewhere have no idea how to respond.

They have never learned how to develop new sources of contributed funds and have been unable, for various reasons, to develop high levels of earned income.

Therefore, I believe that instead of only exchanging our art for the art of other nations, we should also offer our experience and expertise in arts management and revenue generation to arts managers and government officials in other countries.

We at the Kennedy Center believe we are in a strong position to address this issue because we have systematically developed approaches to teaching arts management.

When I first arrived at the Kennedy Center in 2001 we established an arts management institute to address the challenge of training arts managers in the United States and abroad. To date, we have welcomed 66 Fellows; half of them have come from countries other than the United States. These practicing arts administrators have come from Russia and the Czech Republic and Malaysia and Spain and Egypt and Pakistan and numerous other countries. They take classes in development, marketing, technology, financial management, labor relations etc. I teach strategic planning every Friday morning.

But they also work in our various departments on high level projects, participate in board meetings and other similar events, and develop a strong understanding of the way an arts organization can function. For many of our Fellows, and certainly most of our foreign Fellows, this is their first exposure to a large, well-functioning arts organization.

Just last month on a trip to Cairo I was touring an independent arts center named the Townhouse. As I opened a door to its new theater, there was Nora Amin, a former fellow, teaching arts management to a group of young Egyptians. It was both surprising and deeply rewarding.

We have also developed a training program for the leaders of arts organizations of color throughout the United States. This program complements periodic in-person symposia with more frequent on-line training sessions that have become an efficient way for us to reach students from many geographical areas at once. Since developing this program four years ago, we have created others for small and mid-sized orchestras and arts organizations in New York City. In total we are working with 90 arts organizations in this country, And, most recently, we have developed a program for training Board members of arts organizations and created a website, artsmanager.org, featuring arts management resources.

In some cases, we work with individual arts organizations in need. For the past two years we have worked to help save the Dance Theatre of Harlem. More recently, we have worked to assist an arts organization truly in a perilous place at a perilous time: the Louisiana Philharmonic Orchestra—New Orleans' largest classical arts organization. Hurricane Katrina destroyed the LPO's theater, its offices, its music library, and its larger instruments. The subscriber base has been scattered and the donor base focused on other more immediate needs.

Yet the intrepid LPO staff and Board, with some guidance from us, has been able to raise enough to bring the full orchestra back, to mount a fairly large spring program this past season, and to pay off virtually all the payables of the institution.

All of this work has prepared us to address the challenge of teaching arts management in other nations.

Our focus has been on countries in transition and in trouble.

Why?

Because I believe that the arts play an especially important role in troubled societies.

I believe that the arts have a power to heal. Expressing anger, pain and fear on stage is productive and effective. The protest theater of South Africa helped many people cope with their anger while also producing change.

Arts can address all segments of society. While the largest arts organizations typically address the wealthier and better-educated segments of society, the smaller nongovernment organizations reach far beyond the elite. That is why we have focused our attention on these organizations.

Artists are opinion generators. When we support artists in troubled areas, we teach others about the problems in society and the impact of those problems.

In fact, the arts are the safest way for people to express themselves.

And the arts can replace pain with beauty.

My first foray into this new international realm was in Mexico—until the recent Presidential election not really a country in turmoil but an arts environment in turmoil.

The government of Mexico has been responsible for approximately 90% of arts funding in that country and has a stated goal of reducing this level of support. Also, this funding is concentrated; too few organizations receive any government funding and the non-government organizations—NGO's—are typically tiny and struggling.

I have spent the last two years training a group of 35 arts managers of small arts organizations in Mexico who all run NGO's. They each received their first government grants in a special program called Mexico en Escena, Mexico on Stage. These grants were 2-year grants totaling $50,000.

Part of the grant was access to a week-long seminar on planning at the beginning of the grant and quarterly classes thereafter. I am the teacher of these programs.

The program ends this month, as the government of Mexico changes. Virtually all of the groups have made huge strides. Most have improved their artistic quality substantially and many have created new fund-raising and marketing capabilities. About one-half of the groups are truly poised for additional growth and achievement as this program ends.

As I was initiating my work in Mexico, I also began to develop a relationship with the government of China.

Our festival of Chinese art was of great interest to the government there and a strong relationship was developed. In keeping with my philosophy expressed earlier, we traded art for expertise. The Chinese provided us with a remarkable array of performers and performing groups. We offered back training in arts management.

I go to China twice a year to teach up to 500 arts managers at a time; in addition, we host 20 arts managers from China at the Kennedy Center for a week each summer. I must admit to being a bit daunted the first time I faced a room of 500 students; and the Socratic method of teaching I prefer took my students many days to become accustomed to.

I have also had to fight, as I have elsewhere, to ensure that the majority of my students are truly arts managers and not government bureaucrats. This has been a consistent challenge in every country in which I have taught.

But my students in China are excellent and learn quickly and are working diligently to develop private sources of funding and new marketing techniques. Like my students in Mexico and elsewhere, there is far greater comfort attempting to raise funds from foundations and corporations but I continually pressure my students to attempt to develop an individual donor base as well.

For as we have learned in America, individual donors are far more loyal than institutional donors, and there is far more total money available from individuals, and, eventually, far larger gifts available from individuals. Arts organizations that rely most heavily on institutional giving typically remain small.

Much of my work here and elsewhere focuses in part on the problems faced by all arts organizations, whether in Beijing or Butte.

Of course, the central difficulty we face in the performing arts is the challenge of improving productivity.

Unlike virtually every other industry, we cannot cover the costs of inflation with increases in productivity. There are the same number of performers in Don Giovanni as when Mozart wrote it over 200 years ago. This productivity challenge is matched by an earned income challenge: once we build a theater we have literally set the earned revenue potential in concrete. We cannot increase true earned revenue since we cannot increase the number of seats in our theater. I remember bringing the Ailey company to the Herod Atticus—a beautiful Roman amphitheater built into the base of the Acropolis in Athens. The entire company was awed by the setting—performing outdoors with the moon over the Acropolis. I only stood on stage and marveled that there were the same number of seats as when it was built 2000 years ago.

These productivity and earned income constraints, that the arts have been facing for centuries, place great pressure on ticket prices, unless new sources of funding can be developed. And in most countries, raising ticket prices simply means reducing audience size and diversity, hardly an attractive option.

We teach how to plan for the challenges faced by every arts organization and how to plan for the idiosyncratic challenges faced in a given country.

While every arts organization must address the productivity problem, the challenges posed by religious factions in Pakistan are different from the government restrictions faced by Chinese organizations.

Of course, a good deal of this planning must address how to develop new sources of revenue, and particularly, how marketing can be used to aid this effort. My mantra for running a successful arts organization is good art, well marketed. I have yet to see an arts organization that routinely produces great art and also markets that art aggressively that does not have the resources to pursue its mission.

We teach why this is true and how to implement strong artistic planning and how to develop a comprehensive marketing campaign.

Most recently, we have addressed these issues in Pakistan. The Pakistani arts ecology has experienced 30 years of neglect and its government has asked us to help build back this sector. We have created a plan to address this goal. Central elements of this plan include:

Investing in physical infrastructure: Pakistani theaters are in tremendous disrepair. I visited one of the country's ''best'' theaters, the Alhambra in Lahore.

It has a floor so warped it can not house professional dancers, and has only 10 lighting instruments, as compared to the 300 or so we expect in an American theater.

Creating flagship arts organizations: There are no larger arts organizations that create important art and serve as role models for the nation. A national gallery of art is about to open; we need major dance and theater and musical organizations as well that can serve as centers of expertise and training.

Improving production capabilities: If Pakistani artists are to compete internationally, the nation must develop more expertise in technical theater: lighting, set, costume and sound design.

Teaching Arts Management: There is virtually no training for people running arts organizations. We must develop some teaching capacity in Pakistan, as we must in other countries in which we can only play a minimal role.

Creating arts education programs: There is little arts education in the schools and very few teachers equipped to bring the arts into the classroom. In addition, there are few works developed expressly for young audiences so children are rarely introduced to the arts.

Building international awareness of Pakistani arts and culture: There is very little understanding of the rich history of culture in the region. And there are currently few arts organizations that can tour with competitive programming.

We have begun to implement this plan. We produced a one-week training program for 30 arts leaders this August. We have created a web site on Pakistani culture to be used to educate their children and others throughout the world on the rich heritage of this nation. We have planned a children's theater collaboration between the Kennedy Center and the Pakistan National Council on the Arts. Additional programs are also in the planning stage.

But if Pakistan is to develop into a true democracy, artists must be free to create, and an infrastructure to present this art must be developed.

It is still unclear if the current government will demonstrate a sustained interest in this endeavor and will be willing to change the vestigial laws that continue to restrict artistic freedom.

I am committed to working with the government of Pakistan to build the strength of its arts ecology but will also work with the nation's artists to change legislation that prohibits this development.

I have learned a great deal from my experiences in China and Mexico and Pakistan. I can summarize them in ten major observations:

Most arts managers in many countries have few peers and fewer mentors from whom they can learn. These managers feel isolated and helpless. If a major donor is truly going to make change, one must provide consistent and substantial technical support as well as cash.

To make major change in many countries requires involvement of the government. In Mexico, for example, arts groups receiving consistent government funding must return to the government that portion of their subsidies that equal their private fundraising or extraordinary ticket sales.

This means there is no inducement for acting entrepreneurially. I am working with the government leaders of Mexico to change this rule to foster the development of new sources of funding. We must also make the case for the arts to government leaders. Most governments do not appreciate the economic impact of the arts, the role of the arts in tourism and the role of the arts in creating international image.

Private donors must also be involved in changing the culture of giving in any country. When I consulted to the Market Theatre, one of our Board members was one of the wealthiest people in the world. When I asked her why I did not see her listed as a donor to the Theatre, she replied, ''I do donate. I donate my time by coming to Board meetings.'' But we also need to make donors comfortable that their money is truly having an impact and is being well-spent. This is particularly important in countries without a tradition of arts philanthropy. In other words, we must market to our donors as well as to our audience.

Non-recurring grants must be tied to a matching requirement. If arts organizations are forced to raise new funds to match a large gift from a single donor, they are forced to develop expertise in fund-raising. I asked the Mexican government, before they made two-year grants to my students, to include some kind of match, and I was ignored. As a result, while several of the groups have prepared well for the end of this special grant, an equal number of them have not and are now being forced to down-size and abandon the projects they initiated with grant funds. This could have been avoided if a matching requirement had been attached to the grant and the groups were required to develop new sources of funding.

Most arts groups in most countries address very small audiences and have minimal scope of operations. While bigger is not always better in the arts, some level of size is required to have an impact and to establish

a measure of stability. We need to help arts groups get larger.

While it is assumed that fund-raising skills are the major deficiency in many countries, in fact, marketing knowledge is minimal at best. We must teach how to develop focused programmatic marketing campaigns that help sell tickets and aggressive institutional marketing campaigns that help raise money and awareness.

We need to expand the planning horizon for arts organizations in troubled countries. Most arts organizations have planning horizons of less than 6 months. This makes it virtually impossible to build strong fundraising efforts and major touring programs. But we also have to help train arts entrepreneurs. In my experience, there is no conflict between planning and entrepreneurship but this is not evident to everyone.

We must encourage artists to collaborate with administrators. One of my students in Mexico experienced a total life change when he handed over to an administrator the things he did not know how to do and focused exclusively on his role as artistic director. Today, he has two years of his budget in the bank!

The training we offer must be practical and hands-on. While our goals are idealistic, our training techniques must be immediately implementable if our students are to make change.

And finally, we must work hard to encourage arts organizations not to waste anything. While this is true for arts organizations throughout the world, those organizations in challenging environments must use every dollar and every hour to maximum advantage.

Next on our agenda is a major project with the 22 Arab countries. Again we are using our two-pronged approach to cultural exchange. We are mounting a major Arab arts festival at the Kennedy Center in 2009. But, beginning this coming spring, we are also holding annual symposia on arts management in the Arab countries. We have begun by surveying a large list of Arab arts organizations to determine their chief concerns.

Just last month I visited Cairo, Amman, Riyadh and Damascus to discuss our plans with government leaders, arts managers and artists. The response was very positive from all sectors and the press we received was encouraging. On numerous occasions during my trip I heard enthusiasm for our idea of helping Americans understand Arabs, as people rather than as political entities. And the training we are offering is seen as an act of generosity by people who do not always think of Americans in that way.

I am convinced that this project, our most ambitious to date, will have the dual benefits of educating the American public while also creating stronger cultural institutions in the Arab world. We hope this will allow these institutions to play a more vital role in their countries and will foster relationships between Americans and Arabs that will help to unite and bring understanding and peace.

This is an ambitious goal; some would call it naïve.

But it would be impossible for us not to try.

Thank you.

TRIBUTE TO ANTHONY J. ZAGAMI

Mr. LEVIN. Mr. President, I would like to take this opportunity to recognize Mr. Anthony J. Zagami as he concludes 40 years of dedicated public service. Mr. Zagami officially retired on January 3, 2007, from the U.S. Government Printing Office with the distinction of being the longest serving general counsel in history.

In the mid-1960s, Mr. Zagami began his distinguished career on Capitol Hill as a Senate page. I first met Tony many years ago when he was working in the Senate Democratic cloakroom. Following his service in the cloakroom, he worked for the Secretary of the Senate and eventually went on to become the general counsel for the Joint Committee on Printing for 9 years. Mr. Zagami would ultimately work in the Senate for a total of 25 years in various capacities.

In 1990, Tony began his tenure as the longest serving general counsel in history. In this capacity, he oversaw an agency that is responsible for the printing and distribution of the CONGRESSIONAL RECORD and nearly every other governmental publication. Mr. Zagami served at a momentous time in the history of the GPO, as the agency worked to move into the digital age.

Tony is known as a diligent, thorough, and dedicated public servant, and I am honored to recognize his outstanding service. His record of service, which spans more than four decades, is tremendous indeed. I know my Senate colleagues join me in congratulating Tony Zagami for his tremendous work over the years, and I wish him the best in the years to come. I hope he will enjoy his retirement as much as we have enjoyed his presence around the Capitol over the years.

ADDITIONAL STATEMENTS

TRIBUTE TO JUDGE OTHA LEE BIGGS

● Mr. SESSIONS. Mr. President, there are many public servants who hold office and it is not possible to make mention of the milestones in their lives; however, with Otha Lee Biggs, probate judge of Monroe County, AL, I must make an exception. His remarkable tenure is truly notable. Judge Biggs served 36 years as probate judge and as chairman of the Monroe County Commission. He has been dual-hatted, as they say.

During that time, he has been a tireless proponent of economic growth for the county and constantly worked for more and better jobs for his people. Everyone knows Judge Biggs and he knows everyone. He knows his constituents, their children, parents, cousins, and neighbors. Even knowing those who get along and those who don't. He knows how to get things done. And his word is good. That is to say, he is a master politician in the finest sense of that word.

It is a real treat to hear him tell how he worked to get the Alabama River Pulp Mill to locate in Monroe County in 1978. Make no mistake, that event has been hugely important to the county ever since. He is a friend of Monroe County's best known citizen, Nelle Harper Lee, the author of ''To Kill A Mockingbird,'' the most widely read book of the 20th century in the schools of America. He was a visionary behind the production of the play based on the book. A historian, a conservationist, a fabulous storyteller, and a man of family and tradition, Judge Biggs is one of a kind. We will not see his like again. He is held, to a most unusual degree, in the highest esteem and affection by the people he has served. They have given him their trust, and he has been worthy of it.

His has been a remarkable period of leadership, Constant and faithful he has been, and the people love him for it. Rich and poor, Black and White, he has served them all. He has put them and his county first.

Governors, Senators, and Congressmen have been his friend. I have been honored to be his friend, too. When I pass through Monroeville on the way to visit my homeplace in Hybart, on the northern edge of the county, I always try to stop in for a visit with the Judge. It is a special treat to peer over that pile of papers on his desk, some yellow with age, in his small modest office and to catch up on the news, to hear a good story, to take a peek at his pictures, and to learn about the important issues facing the county, our State and our Nation. For, first of all, Judge Biggs is a patriot. He loves his country and loves it truly and understands its exceptional nature. Thus, his insight is always valuable.

Now, as everyone knows, Judge Biggs is frugal. If he ran the Federal Government, the budget would be balanced—that is for sure. His style is clearly demonstrated at the ceremony at which his successor, Judge Greg Norris, was installed. At the conclusion, Judge Biggs said ''I have one bit of advice. Replace the carpet in your office. It's been there 44 years.''

The retirement reception for Judge Biggs, hosted by the Alabama Power Company and Alabama River Pulp Company on January 11, 2007, was a remarkable event. I am truly disappointed to have missed that wonderful time. Though my duties here kept me away, I was there in spirit and in admiration for one of Alabama's most important leaders, Judge Otha Lee Biggs. Well done, good and faithful servant, well done.●

IN RECOGNITION OF THE CITY OF VALDOSTA, GEORGIA

● Mr. ISAKSON. Mr. President, today I wish to recognize the city of Valdosta, which received the Audrey Nelson Community Development Achievement Award for its outstanding administration of the 2006 Southern Hospitality Workcamp. The city of Valdosta is 1 of 11 cities from across the Nation to receive this award. I am very proud of its accomplishments, and I would like to commend all of the people involved in this effort.

The Audrey Nelson Community Development Award is presented by the

National Community Development Association in recognition of outstanding achievements and exemplary uses of the community development block grant funds. In the spirit of this program, which assists the needs of low-income families and neighborhoods, the city of Valdosta has set a goal of eliminating substandard housing by the year 2010.

Through its 2006 Southern Hospitality Workcamp, the city gathered over 350 youths from across the country to repair 46 homes for low-income and disabled individuals and families. This annual program has also earned the city of Valdosta the State of Georgia's Magnolia Award for excellence in affordable housing. The city has won this award in 3 of the past 6 years.

The honorable work by these students exemplifies the dedication the city has to its goal of eliminating substandard housing. I would like to thank the city of Valdosta for its efforts as well as encourage the city to keep working on this outstanding goal in the future.●

HONORING MASTER SERGEANT LARRY PERRY

● Mr. THUNE. Mr. President, today I recognize MSG Larry Perry of Bruce, SD, who was recently awarded the Purple Heart Medal at Camp Clark in Afghanistan for injuries he incurred while on patrol.

Master Sergeant Perry is married and has two sons. He has served with the National Guard for more than 18 years. He is a member of the 147th Field Artillery Brigade of the South Dakota Army National Guard and is currently the 203rd Regional Corps Assistance Group, RCAG, 1st Brigade Motor Officer. Master Sergeant Perry's service in Afghanistan is part of the efforts to train and mentor members of the newly organized Afghan National Army. The brigade trains Afghani soldiers in areas such as intelligence, communications, logistics, maintenance, military operations, and leadership skills. These necessary skills are allowing the Afghan National Army to operate independently as a professional force to curb terrorist attacks, provide safety and security for its citizens, and participate as an important ally in the war on terror.

On the morning of September 25, 2006, Master Sergeant Perry was serving as a gunner in the turret of a Humvee in Khowst Province when a suicide car bomb exploded alongside his convoy. The explosion sent shrapnel into his shoulder, and he suffered burns to his face and neck.

Master Sergeant Perry and his fellow soldiers face such dangers every day, and their willingness to put themselves in harm's way for the American and Afghani people is truly humbling. I, along with the citizens of South Dakota and the entire United States, owe Master Sergeant Perry a debt of gratitude that we will never be able to repay. We honor Master Sergeant Perry for his patriotism, bravery, and selflessness, and we applaud his courage in the face of danger.●

TRIBUTE TO JOSEPH W. WHITAKER

● Mr. AKAKA. Mr. President, today I acknowledge the contributions of a dedicated public servant, Joe Whitaker. Joe currently serves as the Deputy Assistant Secretary of the Army, Installations and Housing. This makes Joe Whitaker the most senior career civilian official in the Army responsible for military installation issues such as the construction of new facilities and housing for our soldiers and their families. Joe Whitaker's service to the Army includes both military and civilian service, and he is retiring as a member of the Senior Executive Service at the end of this month after a career of over 35 years of dedicated public service to the U.S. Army.

As chairman of the Subcommittee on Readiness and Management Support, I appreciate the challenges Joe Whitaker has faced over the past few years trying to modernize the facilities where our soldiers live and work. These challenges include: an Army at war; the 2005 round of base realignment and closures; the so-called modular conversion of the Army from a division-based force to a brigade-based force; and the relocation of thousands of Army personnel and dependents from Europe to the United States. This would be a significant set of challenges to deal with even if they had occurred one after the other, but Joe Whitaker and the Army have had to address them simultaneously, and I commend him for the job he has done in meeting these challenges.

As a Senator from the State of Hawaii, I have seen first hand the improvements in both military capability and quality of life that have taken place for the Army in Hawaii thanks to the efforts of Joe Whitaker and others in the executive and legislative branches. This includes the privatization and improvement of over 7,800 homes for Army families in Hawaii under the Residential Communities Initiative and the construction of facilities to stand up a Stryker Brigade Combat Team in Hawaii. Our Army forces in Hawaii are better off because of Joe Whitaker's contributions.

Dedicated career civil servants like Joe Whitaker are so important to the work of the Army and other Federal agencies. They provide the continuity, background of knowledge and experience, and relationships that the political appointees representing any administration need to get things accomplished. This is even more true in the military, where effective command during the relatively brief tours of senior military leaders would not be possible without the expertise of career civil servants like Joe Whitaker.

Finally, the members and staff of our committee have also known they could rely on Joe Whitaker as a candid, hard-working partner in our shared responsibility for providing for our men and women in uniform and their families. On behalf of the Subcommittee on Readiness and Management Support and the entire Senate Armed Services Committee, I express our appreciation to Joe Whitaker for his contributions, and dedication to, the soldiers of the U.S. Army and his country, and I wish him success in his future endeavors.●

TRIBUTE TO DONALD D. JUNCK

● Mr. THUNE. Mr. President, today I wish to recognize Donald D. Junck of Sioux Falls, SD. In November of 2006, Donald submitted the one-millionth Trademark Electronic Application System, TEAS, filing.

Donald currently owns two small businesses in Sioux Falls, SD: a construction company and a laser engraving company. He used TEAS to protect the name and logo of his mark, Bait Craft, which is used for his unique, handcrafted fishing tackle boxes. Fishing and other outdoor activities are an important part of South Dakota's heritage and are vital to our State's economy. Fishermen have spent $173 million and hunters $193 million in South Dakota over the last 5 years. TEAS has helped Donald and many others in our State achieve the entrepreneurial success that creates jobs and keeps our economy moving forward.

The U.S. Patent and Trademark Office, USPTO, opened TEAS on a worldwide basis in 1998. TEAS is a cost-effective way to increase access and participation in the trademark process. This system allows trademark applicants, such as Donald Junck, to file an application at anytime and from any location with Internet access. TEAS has been a vital conduit in helping South Dakota's entrepreneurs protect their investments and improve their businesses.

Today, along with the USPTO and Donald Junck's friends, family, and colleagues, I wish to recognize his most recent trademark application and the milestone one-millionth TEAS filing.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 1:03 p.m., a message from the House of Representatives, delivered by

Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 475. An act to revise the composition of the House of Representatives Page Board to equalize the number of members representing the majority and minority parties and to include a member representing the parents of pages and a member representing former pages, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con Res. 38. A concurrent resolution providing for a joint session of Congress to receive a message from the President.

The message also announced that pursuant to 15 U.S.C. 1024(a), and the order of the House of January 4, 2007, the Speaker appoints the following Member of the House of Representatives to the Joint Economic Committee: Mrs. MALONEY of New York.

The message further announced that pursuant to section 201(a)(2) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 601), and the order of the House of January 4, 2007, the Speaker and President Pro Tempore of the Senate jointly appoint Dr. Peter R. Orszag as Director of the Congressional Budget Office, effective January 18, 2007, for the term expiring January 3, 2011.

MEASURES DISCHARGED

The following measure was discharged from the Committee on the Judiciary by unanimous consent, and referred as indicated:

S. 69. A bill to authorize appropriations for the Hollings Manufacturing Extension Partnership Program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

H.R. 6. An act to reduce our Nation's dependency on foreign oil by investing in clean, renewable, and alternative energy resources, promoting new emerging energy technologies, developing greater efficiency, and creating a Strategic Energy Efficiency and Renewables Reserve to invest in alternative energy, 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–394. A communication from the Chief Counsel, Bureau of the Public Debt, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds—Securities Eligible for Purchase in Legacy Treasury Direct'' (31 CFR 356) received on January 18, 2007; to the Committee on Banking, Housing, and Urban Affairs.

EC–395. A communication from the General Counsel, National Credit Union Administration, transmitting, pursuant to law, the report of a rule entitled ''Conversion of Insured Credit Unions to Mutual Savings Banks'' (RIN3133–AD16) received on January 18, 2007; to the Committee on Banking, Housing, and Urban Affairs.

EC–396. A communication from the Secretary, Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled ''Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act; Ceiling Fan Amendments'' (RIN3084–AA74) received on January 18, 2007; to the Committee on Commerce, Science, and Transportation.

EC–397. A communication from the Secretary, Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled ''Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act; Room Air Conditioner Ranges'' (RIN3084–AA74) received on January 18, 2007; to the Committee on Commerce, Science, and Transportation.

EC–398. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–594, ''Consumer Security Freeze Act of 2006'' received on January 18, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–399. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–595 , ''Disability Rights Protection Act of 2006'' received on January 18, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–400. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–596, ''Definition of Persons with Disabilities A.D.A. Conforming Amendment Act of 2006'' received on January 18, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–401. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–598 , ''Expansion of Substance Abuse and Mental Illness Insurance Coverage Amendment Act of 2006'' received on January 18, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–402. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–597 , ''Summary Enclosure of Nuisance Vacant Property Amendment Act of 2006'' received on January 18, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–403. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–593, ''Consumer Personal Information Security Breach Notification Act of 2006'' received on January 18, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–404. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–591, ''Mental Health Civil Commitment Extension Act of 2006'' received on January 18, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–405. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–592, ''Additional Sanctions for Nuisance Abatement and Office of the Tenant Advocate Duties Clarification Amendment Act of 2006'' received on January 18, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–406. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–599, ''Office on Ex-Offender Affairs and Commission on Re-Entry and Ex-Offender Affairs Establishment Act of 2006'' received on January 18, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–407. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–587, ''District Government Injured Employee Protection Act of 2006'' received on January 18, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–408. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–588, ''Department of Insurance, Securities and Banking Omnibus Amendment Act of 2006'' received on January 18, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–409. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–589, ''Unemployment Compensation Contributions Federal Conformity Amendment Act of 2006'' received on January 18, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–410. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–590, ''Green Building Act of 2006'' received on January 18, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–411. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–604, ''Office of the People's Counsel Term Clarification Temporary Amendment Act of 2006'' received on January 18, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–412. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–605, ''Rent Administrator Hearing Authority Temporary Amendment Act of 2006'' received on January 18, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–413. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–606, ''Vacancy Conversion Fee Exemption Reinstatement Temporary Act of 2006'' received on January 18, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–414. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–607, ''Ballpark Parking Completion Temporary Amendment Act of 2006'' received on January 18, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–415. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–608, ''Department of Transportation and Department of Consumer and Regulatory Affairs Vending Consolidation of Public Space and Licensing Authorities Temporary Amendment Act of 2006'' received on January 18, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–416. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on

D.C. Act 16–610, ''Washington Convention Center Advisory Committee Temporary Amendment Act of 2006'' received on January 18, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–417. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–609, ''Tenant-Owner Voting in Conversion Election Clarification Temporary Amendment Act of 2006'' received on January 18, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–418. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–611, ''Old Engine Company 12 Deposit of Sale Proceeds Temporary Act of 2006'' received on January 18, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–419. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–612, ''Closing Agreement Temporary Act of 2006'' received on January 18, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–420. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–613, ''Real Property Tax Benefits Revision Temporary Act of 2006'' received on January 18, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–421. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–614, ''Lower Income Homeownership Cooperative Housing Association Re-Clarification Temporary Act of 2006'' received on January 18, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–422. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–615, ''Nuisance Properties Abatement Reform and Real Property Classification Temporary Amendment Act of 2006'' received on January 18, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–423. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–616, ''New Town at Capital City Market Revitalization Development and Public/Private Partnership Temporary Act of 2006'' received on January 18, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–424. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–617, ''Advisory Neighborhood Commissions Clarification Temporary Amendment Act of 2006'' received on January 18, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–425. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–600, ''PILOT Authorization Increase and Arthur Capper/Carrollsburg Public Improvements Revenue Bonds Approval Act of 2006'' received on January 18, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–426. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–637, ''Comprehensive Plan Amendment Act of 2006'' received on January 18, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–427. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–601, ''NoMa Improvement Association Business Improvement District Amendment Act of 2006'' received on January 18, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–428. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–602, ''Mount Vernon Triangle BID Amendment Act of 2006'' received on January 18, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–429. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–603, ''Alcohol and Narcotics-Related Claims Liability Exclusion Repeal Amendment Act of 2006'' received on January 18, 2007; to the Committee on Homeland Security and Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BAUCUS, from the Committee on Finance, without amendment:

S. 349. An original bill to amend the Internal Revenue Code of 1986 to provide additional tax incentives to employers and employees of small businesses, and for other purposes (Rept. No. 110–1).

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. KERRY:

S. 341. A bill to restore fairness in the provision of incentives for oil and gas production, and for other purposes; to the Committee on Finance.

By Mr. VOINOVICH (for himself, Mr. AKAKA, Mr. LUGAR, Ms. MIKULSKI, and Mr. STEVENS):

S. 342. A bill to expand visa waiver program to countries on a probationary basis and for other purposes; to the Committee on the Judiciary.

By Mr. VOINOVICH (for himself, Mr. BROWNBACK, Mr. AKAKA, and Ms. LANDRIEU):

S. 343. A bill to extend the District of Columbia College Access Act of 1999; to the Committee on Homeland Security and Governmental Affairs.

By Mr. SPECTER (for himself, Mr. GRASSLEY, Mr. DURBIN, Mr. SCHUMER, and Mr. FEINGOLD):

S. 344. A bill to permit the televising of Supreme Court proceedings; to the Committee on the Judiciary.

By Mr. REID (for Mr. BIDEN):

S. 345. A bill to establish a Homeland Security and Neighborhood Safety Trust Fund and refocus Federal priorities toward securing the Homeland, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. VITTER:

S. 346. A bill to adjust the boundary of the Barataria Preserve Unit of the Jean Lafitte National Historical Park and Preserve in the State of Louisiana, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. VOINOVICH (for himself and Mr. WARNER):

S. 347. A bill to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage, and for other purposes; to the Committee on Finance.

By Mr. CRAPO:

S. 348. A bill to improve the amendments made by the No Child Left Behind Act of 2001; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BAUCUS:

S. 349. An original bill to amend the Internal Revenue Code of 1986 to provide additional tax incentives to employers and employees of small businesses, and for other purposes; from the Committee on Finance.

By Mr. VITTER:

S. 350. A bill to prohibit certain abortion-related discrimination in government activities; to the Committee on Health, Education, Labor, and Pensions.

By Mr. VITTER:

S. 351. A bill to amend title X of the Public Health Service Act to prohibit family planning grants from being awarded to any entity that performs abortions; to the Committee on Health, Education, Labor, and Pensions.

By Mr. GRASSLEY (for himself, Mr. SCHUMER, Mr. LEAHY, Mr. SPECTER, Mr. GRAHAM, Mr. FEINGOLD, Mr. CORNYN, Mr. DURBIN, Mr. CRAIG, and Mr. ALLARD):

S. 352. A bill to provide for media coverage of Federal court proceedings; to the Committee on the Judiciary.

By Mr. NELSON of Florida (for himself and Mr. MARTINEZ):

S. 353. A bill to authorize ecosystem restoration projects for the Indian River Lagoon-South and the Picayune Strand, Collier County, in the State of Florida; to the Committee on Environment and Public Works.

By Mr. LAUTENBERG (for himself, Mr. MENENDEZ, Mr. KERRY, and Mr. BIDEN):

S. 354. A bill to provide for disclosure of fire safety standards and measures with respect to campus buildings, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DOMENICI (for himself and Mrs. FEINSTEIN):

S. 355. A bill to establish a National Commission on Entitlement Solvency; to the Committee on Finance.

By Mr. BROWNBACK (for himself, Mr. ALEXANDER, Mr. BUNNING, Mr. BURR, Mr. CHAMBLISS, Mr. COBURN, Mr. COCHRAN, Mr. COLEMAN, Mr. CORNYN, Mr. DEMINT, Mrs. DOLE, Mr. ENSIGN, Mr. ENZI, Mr. GRAHAM, Mr. GRASSLEY, Mr. HAGEL, Mr. HATCH, Mr. INHOFE, Mr. ISAKSON, Mr. KYL, Mr. LOTT, Mr. MARTINEZ, Mr. MCCONNELL, Mr. ROBERTS, Mr. SESSIONS, Mr. THUNE, Mr. VITTER, and Mr. VOINOVICH):

S. 356. A bill to ensure that women seeking an abortion are fully informed regarding the pain experienced by their unborn child; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. FEINSTEIN (for herself, Ms. SNOWE, Mr. INOUYE, Mr. DURBIN, Mr. KERRY, Mrs. BOXER, Mr. NELSON of Florida, Ms. CANTWELL, Mr. LAUTENBERG, Mr. LIEBERMAN, Mr. MENENDEZ, and Ms. COLLINS):

S. 357. A bill to improve passenger automobile fuel economy and safety, reduce greenhouse gas emissions, reduce dependence on foreign oil, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. SNOWE (for herself, Mr. KENNEDY, Mr. ENZI, Mr. DODD, Mr. GREGG, Mr. HARKIN, Ms. MURKOWSKI, Ms. MIKULSKI, Mr. HATCH, Mr. BINGAMAN, Mr. ALLARD, Mrs. MURRAY, Mr. REED, Mrs. CLINTON, Mr. OBAMA, Mr.

SANDERS, Mr. BROWN, Mr. BIDEN, Mr. LAUTENBERG, Mr. NELSON of Florida, Mr. SALAZAR, Mr. CARDIN, and Ms. COLLINS):

S. 358. A bill to prohibit discrimination on the basis of genetic information with respect to health insurance and employment; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KENNEDY (for himself, Ms. MIKULSKI, Mr. LIEBERMAN, Mr. SCHUMER, Mr. DURBIN, and Mr. OBAMA):

S. 359. A bill to amend the Higher Education Act of 1965 to provide additional support to students; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. VITTER (for himself and Mr. GRASSLEY):

S. Res. 35. A resolution expressing support for prayer at school board meetings; to the Committee on Health, Education, Labor, and Pensions.

By Ms. SNOWE (for herself and Mrs. CLINTON):

S. Res. 36. A resolution honoring women's health advocate Cynthia Boles Dailard; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 2

At the request of Mr. CASEY, his name was added as a cosponsor of S. 2, a bill to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage.

At the request of Mr. KENNEDY, the names of the Senator from Hawaii (Mr. INOUYE) and the Senator from Maryland (Mr. CARDIN) were added as cosponsors of S. 2, supra.

S. 3

At the request of Mr. REID, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 3, a bill to amend part D of title XVIII of the Social Security Act to provide for fair prescription drug prices for Medicare beneficiaries.

S. 10

At the request of Mr. REID, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 10, a bill to reinstate the pay-as-you-go requirement and reduce budget deficits by strengthening budget enforcement and fiscal responsibility.

S. 101

At the request of Mr. STEVENS, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 101, a bill to update and reinvigorate universal service provided under the Communications Act of 1934.

S. 184

At the request of Mr. INOUYE, the names of the Senator from Pennsylvania (Mr. SPECTER), the Senator from Texas (Mrs. HUTCHISON) and the Senator from Minnesota (Ms. KLOBUCHAR) were added as cosponsors of S. 184, a bill to provide improved rail and surface transportation security.

S. 214

At the request of Mrs. FEINSTEIN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 214, a bill to amend chapter 35 of title 28, United States Code, to preserve the independence of United States attorneys.

S. 242

At the request of Mr. DORGAN, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 242, a bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the importation of prescription drugs, and for other purposes.

S. 291

At the request of Mr. SMITH, the names of the Senator from Texas (Mr. CORNYN), the Senator from Texas (Mrs. HUTCHISON) and the Senator from Mississippi (Mr. LOTT) were added as cosponsors of S. 291, a bill to establish a digital and wireless network technology program, and for other purposes.

S. 294

At the request of Mr. LAUTENBERG, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 294, a bill to reauthorize Amtrak, and for other purposes.

S. 326

At the request of Mrs. LINCOLN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 326, a bill to amend the Internal Revenue Code of 1986 to provide a special period of limitation when uniformed services retirement pay is reduced as result of award of disability compensation.

S. 340

At the request of Mrs. FEINSTEIN, the names of the Senator from Maine (Ms. SNOWE) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of S. 340, a bill to improve agricultural job opportunities, benefits, and security for aliens in the United States and for other purposes.

S. CON. RES. 2

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. Con. Res. 2, a concurrent resolution expressing the bipartisan resolution on Iraq.

At the request of Mr. BIDEN, the names of the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Oregon (Mr. WYDEN) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. Con. Res. 2, supra.

S. RES. 34

At the request of Mr. KERRY, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. Res. 34, a resolution calling for the strengthening of the efforts of the United States to defeat the Taliban and terrorist networks in Afghanistan.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. VOINOVICH (for himself, Mr. AKAKA, Mr. LUGAR, Ms. MIKULSKI, and Mr. STEVENS):

S. 342. A bill to expand visa waiver program to countries on a probationary basis and for other purposes; to the Committee on the Judiciary.

Mr. VOINOVICH. Mr. President, I rise to introduce The Secure Travel and Counterterrorism Partnership Act of 2007, along with my good friends Senators AKAKA, LUGAR, and MIKULSKI.

This legislation would expand the U.S. Visa Waiver Program in a way that would increase cooperation with key allies in the War on Terror while strengthening U.S. national security.

The bill provides a way for us to expand and improve the Visa Waiver Program so that Americans are safer and our Nation is more prosperous for years to come.

This legislation comes at a particularly important time in our Nation's history. We are currently facing multiple foreign policy challenges in the post–9/11 world. We need the cooperation of several allies to combat transnational threats. As such, we are asking our friends and allies to contribute more of their troops and resources to Iraq, Afghanistan, and other conflicts in the world, so that we can be successful. This legislation will help us to solidify key relationships and increase goodwill toward the U.S. for years to come, while also enhancing travel security standards and safety at home.

My legislation would authorize the Department of Homeland Security, in consultation with the Department of State, to expand the Visa Waiver Program to countries that are true friends of America and are prepared to do more to help us keep terrorists and criminals out of our borders.

For those that do not know about the Visa Waiver Program, it was established in 1986 to improve relations with U.S. allies and strengthen the U.S. economy. The program permitted nationals from the selected countries to enter the United States without a visa for up to 90 days for tourism or business purposes.

Currently, 27 countries participate in the program, including the United Kingdom. No countries have been added to the Visa Waiver Program since 1999. But there are a number of newer allies who would also like to participate in the Visa Waiver Program and are willing to meet strict security requirements and cooperate on counterterrorism initiatives.

Many of these countries were former members of the Soviet Union. They were victims of Soviet oppression for years, against their will, and despite their desire for freedom. These countries have a unique understanding of the struggle for democracy taking place in Iraq and Afghanistan. Today, many of these countries have had boots on the ground in Iraq and Afghanistan

and want to help the U.S. combat terrorism and promote democracy.

Despite their commitments to the principles of freedom and democracy, these countries are still paying a price that other countries in the West do not pay. Citizens of Portugal, the UK, or Spain can travel easily to the U.S., while citizens of Poland, Hungary, and Slovakia are given second-class treatment.

I recently learned of a story involving a young Czech officer who served in Iraq with Americans. This soldier wanted to come to America to visit the American friends he made during combat operations. But his application for a visa was refused. Why? Because his passport included a visit to Iraq, the very place he served with American soldiers.

Many young people from places like Latvia, Estonia, and Bulgaria have a positive view of America and hope to visit our country. However, their expensive visa applications are frequently rejected, dampening their spirits and tainting their image of America. And this view is spreading every day.

By limiting legitimate travel to the U.S., we are risking a loss of influence with the future leaders of our closest allies.

I have been working for many months to develop legislation that will expand the Visa Waiver Program, without sacrificing U.S. security. I was pleased last November when I heard President Bush announce his intention to work with Congress on this issue. On the margins of the NATO Summit in Riga, he called on Congress to expand the Visa Waiver Program so that we can reward our closest allies for their help and friendship.

I agree with the President—but I want to clarify that visa-free travel privileges are not simply a reward for our allies. The true reward is the knowledge that we are free and democratic countries working together to advance international security. The foremost goal of this legislation is to create mutually beneficial partnerships with clear national security advantages for the United States.

By continuing on the current path, we risk marginalizing some of our closest allies in the War on Terror and losing the hearts and minds of their future leaders and citizens. We have an opportunity to change direction in a way that will promote our own national security interests and improve control of our borders. The Secure Travel and Counterterrorism Partnership Act of 2007 can achieve all of these objectives.

The legislation would give the executive branch the necessary authority to expand visa-free travel privileges for up to five new countries, for a probationary period of three years.

In order for a country to participate in the plan, the executive branch would first need to certify that the country is cooperative on counterterrorism and does not pose a security or law enforcement threat to the United States. Prospective countries would also be required to take a number of new steps to enhance our common security.

Prior to participation, the countries would be required to conclude new agreements with the United States to further strengthen cooperation on counterterrorism and improve information-sharing about critical security issues.

Some might say—if these countries are key allies, aren't they cooperating with us already? The answer is yes. They are very cooperative. But in today's heightened security environment, there is more that each country can do, such as sharing additional sensitive information that can help our intelligence community and law enforcement agencies investigate threats and combat terrorist activity. By negotiating new agreements on counterterrorism and information-sharing to permit participation in the Visa Waiver Program, we can reduce threats to the United States. Additionally, the legislation would require the countries to enact a number of significant security measures, which would limit illegal entry and unlawful presence in their countries and impede travel by terrorists and transnational criminals. Security standards required for participation in the program would include electronic passports with biometric information, as well as prompt reporting of lost, stolen, or fraudulent travel documents to the U.S. and Interpol.

These new requirements would help make the U.S. more secure. Expanding the number of participating visa waiver countries would increase the number of states meeting common security standards. This would allow the United States to shift consular resources used to issue visas to other missions with more critical security needs.

If at any time, participant countries are not complying with these requirements, their probationary status in the program could be revoked.

Likewise, if the program is determined to be successful, it could be expanded to include additional countries.

The last part of the legislation is aimed at enhancing security requirements for countries who are currently participating in the Visa Waiver Program. In this post-9/11 world, the U.S. Government has already required additional security measures of participating visa waiver countries, such as machine readable passports with biometric information. But we can and must do more.

I was very pleased last November when Homeland Security Secretary Chertoff recommended several new measures to further enhance the efficiency and security of the Visa Waiver Program. His recommendations included an electronic travel authorization system, additional passenger information exchanges, common standards for airport security and baggage screening, cooperation in the air marshal program, and home country assistance in repatriation of any traveler who overstays the terms of their visa or violates U.S. law.

As the Administration works to develop the details of its recommendations, my legislation would require that within one year, the executive branch provide a report to Congress on its plans for Visa Waiver Program improvements.

In addition to the substantial benefits my legislation would create for U.S. foreign relations and homeland security, the bill would also advance U.S. economic competitiveness. Visa-free travel to the United States has been proven to significantly boost tourism and business, as well as airline revenues, and would generate substantial economic benefits to the United States well into the future. Additionally, it would improve attitudes toward the United States throughout the world, which would benefit the U.S. economy and national security for generations to come.

As a member of both the Foreign Relations and the Homeland Security and Governmental Affairs Committees, I have studied this issue from every angle. I believe the legislation I am introducing presents us with a real opportunity to strengthen diplomatic relationships, enhance our homeland security, and improve the Visa Waiver Program overall.

I look forward to working with my colleagues in the Congress and the President to move this legislation forward.

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. 342

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 ''Secure Travel and Counterterrorism Partnership Act''.

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that the United States should expand the visa waiver program to extend visa-free travel privileges to nationals of foreign countries that are allies in the war on terrorism as that expansion will—

(1) enhance bilateral cooperation on critical counterterrorism and information sharing initiatives;

(2) support and expand tourism and business opportunities to enhance long-term economic competitiveness; and

(3) strengthen bilateral relationships.

SEC. 3. VISA WAIVER PROGRAM EXPANSION.

Section 217(c) of the Immigration and Nationality Act (8 U.S.C. 1187(c)) is amended by adding at the end the following:

''(8) PROBATIONARY PARTICIPATION OF PROGRAM COUNTRIES.—

''(A) REQUIREMENT TO ESTABLISH.—Notwithstanding any other provision of this section and not later than 1 year after the date of the enactment of the Secure Travel and Counterterrorism Partnership Act, the Secretary of Homeland Security, in consultation

with the Secretary of State, shall establish a pilot program to permit not more than 5 foreign countries that are not designated as program countries under paragraph (1) to participate in the program.

''(B) DESIGNATION AS A PROBATIONARY PROGRAM COUNTRY.—A foreign country is eligible to participate in the program under this paragraph if—

''(i) the Secretary of Homeland Security determines that such participation will not compromise the security or law enforcement interests of the United States;

''(ii) that country is close to meeting all the requirements of paragraph (2) and other requirements for designation as a program country under this section and has developed a feasible strategic plan to meet all such requirements not later than 3 years after the date the country begins participation in the program under this paragraph;

''(iii) that country meets all the requirements that the Secretary determines are appropriate to ensure the security and integrity of travel documents, including requirements to issue electronic passports that include biometric information and to promptly report lost, stolen, or fraudulent passports to the Government of the United States;

''(iv) that country cooperated with the Government of the United States on counterterrorism initiatives and information sharing before the date of the enactment of this paragraph; and

''(v) that country has entered into an agreement with the Government of the United States by which that country agrees to further advance United States security interests by implementing such additional counterterrorism cooperation and information sharing measures as may be requested by the Secretary of Homeland Security, in consultation with the Secretary of State.

''(C) CONSIDERATIONS FOR COUNTRY SELECTION.—

''(i) VISA REFUSAL RATES.—The Secretary of Homeland Security may consider the rate of refusals of nonimmigrant visitor visas for nationals of a foreign country in determining whether to permit that country to participate in the program under this paragraph but may not refuse to permit that country to participate in the program under this paragraph solely on the basis of such rate unless the Secretary determines that such rate is a security concern to the United States.

''(ii) OVERSTAY RATES.—The Secretary of Homeland Security may consider the rate at which nationals of a foreign country violate the terms of their visas by remaining in the United States after the expiration of such a visa in determining whether to permit that country to participate in the program under this paragraph.

''(D) TERM OF PARTICIPATION.—

''(i) INITIAL PROBATIONARY TERM.—A foreign country may participate in the program under this paragraph for an initial term of 3 years.

''(ii) EXTENSION OF PARTICIPATION.—The Secretary of Homeland Security, in consultation with the Secretary of State, may permit a country to participate in the program under this paragraph after the expiration of the initial term described in clause (i) for 1 additional period of not more than 2 years if that country—

''(I) has demonstrated significant progress toward meeting the requirements of paragraph (2) and all other requirements for designation as a program country under this section;

''(II) has submitted a plan for meeting the requirements of paragraph (2) and all other requirements for designation as a program country under this section; and

''(III) continues to be determined not to compromise the security or law enforcement interests of the United States.

''(iii) TERMINATION OF PARTICIPATION.—The Secretary of Homeland Security may terminate the participation of a country in the program under this paragraph at any time if the Secretary, in consultation with the Secretary of State, determines that the country—

''(I) is not in compliance with the requirements of this paragraph; or

''(II) is not able to demonstrate significant and quantifiable progress, on an annual basis, toward meeting the requirements of paragraph (2) and all other requirements for designation as a program country under this section.

''(E) TECHNICAL ASSISTANCE.—The Secretary of Homeland Security, in consultation with the Secretary of State, shall provide technical guidance to a country that participates in the program under this paragraph to assist that country in meeting the requirements of paragraph (2) and all other requirements for designation as a program country under this section.

''(F) REPORTING REQUIREMENTS.—

''(i) ANNUAL REPORT.—The Secretary of Homeland Security, in consultation with the Secretary of State, shall submit to Congress an annual report on the implementation of this paragraph.

''(ii) FINAL ASSESSMENT.—Not later than 30 days after the date that the foreign country's participation in the program under this paragraph terminates, the Secretary of Homeland Security, in consultation with the Secretary of State, shall submit a final assessment to Congress regarding the implementation of this paragraph. Such final assessment shall contain the recommendations of the Secretary of Homeland Security and the Secretary of State regarding permitting additional foreign countries to participate in the program under this paragraph.''.

SEC. 4. CALCULATION OF THE RATES OF VISA OVERSTAYS.

Not later than 1 year after the date of the enactment of this Act, the Secretary of Homeland Security shall develop and implement procedures to improve the manner in which the rates of nonimmigrants who violate the terms of their visas by remaining in the United States after the expiration of such a visa are calculated.

SEC. 5. REPORTS.

(a) VISA FEES.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall review the fee structure for visas issued by the United States and submit to Congress a report on that structure, including any recommendations of the Comptroller General for improvements to that structure.

(b) SECURE TRAVEL STANDARDS.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Homeland Security, in conjunction with the Secretary of State, shall submit a report to Congress that describes plans for enhancing secure travel standards for existing visa waiver program countries, including the feasibility of instituting an electronic authorization travel system, additional passenger information exchanges, and enhanced airport security standards.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2007 through 2013 to carry out this Act and the amendment made by this Act.

By Mr. VOINOVICH (for himself, Mr. BROWNBACK, Mr. AKAKA, and Ms. LANDRIEU):

S. 343. A bill to extend the District of Columbia College Access Act of 1999; to the Committee on Homeland Security and Governmental Affairs.

Mr. VOINOVICH. Mr. President, today I am pleased to introduce legislation to reauthorize the District of Columbia Tuition Assistance Grant (D.C. TAG) program for an additional five years. This successful program, which began in 2000, has produced dramatic results in higher education in the District of Columbia by enabling District students to choose a college that best suits their educational needs.

One of the most worthwhile things I have done during my time in the Senate was to sponsor the legislation that created the D.C. TAG program. The aim of this program is to assist District students who do not have access to State-supported education systems. Originally, the D.C. TAG program provided District residents with grant funding to pay the difference between in-State and out-of-State tuition at State universities nationwide. D.C. TAG participants are eligible for up to $10,000 per student per school year, capped at $50,000. Since March 2002, District students attending private institutions in Maryland and Virginia, as well as Historically Black Colleges and Universities nationwide are eligible to receive tuition grants of $2,500 per student per school year, capped at $12,500.

Since the programs inception, more than 26,000 grants have been dispersed to 9,769 District students, amounting to approximately $141 million. As a result, the District has seen a 50 percent increase in college attendance. Our States have benefited from having these talented students attending their universities. In Ohio, District students attend nine of our colleges and universities with grants valued at $500,000. Reauthorizing this successful program will ensure that D.C. TAG grants are available for future generations of deserving District high school students.

As the ranking member of the Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia, I am committed to ensuring quality educational opportunities for District residents. I urge all of my colleagues to support this legislation.

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

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

S. 343

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. 5-YEAR REAUTHORIZATION OF TUITION ASSISTANCE PROGRAMS.

(a) PUBLIC SCHOOL PROGRAM.—Section 3(i) of the District of Columbia College Access Act of 1999 (sec. 38–2702(i), D.C. Official Code) is amended by striking ''each of the 7 succeeding fiscal years'' and inserting ''each of the 12 succeeding fiscal years''.

(b) PRIVATE SCHOOL PROGRAM.—Section 5(f) of such Act (sec. 38–2704(f), D.C. Official

Code) is amended by striking ''each of the 7 succeeding fiscal years'' and inserting ''each of the 12 succeeding fiscal years''.

By Mr. SPECTER (for himself, Mr. GRASSLEY, Mr. DURBIN, Mr. SCHUMER, and Mr. FEINGOLD):

S. 344. A bill to permit the televising of Supreme Court proceedings; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, once again I seek recognition to introduce legislation that will give the public greater access to our Supreme Court. This bill requires the high Court to permit television coverage of its open sessions unless it decides by a majority vote of the Justices that allowing such coverage in a particular case would violate the due process rights of one or more of the parties involved in the matter.

The purpose of this legislation is to open the Supreme Court doors so that more Americans can see the process by which the Court reaches critical decisions of law that affect this country and everyday Americans. The Supreme Court makes pronouncements on Constitutional and Federal law that have a direct impact on the rights of Americans. Those rights would be substantially enhanced by televising the oral arguments of the Court so that the public can see and hear the issues presented to the Court. With this information, the public would have insight into key issues and be better equipped to understand the impact of and reasons for the Court's decisions.

In a very fundamental sense, televising the Supreme Court has been implicitly recognized—perhaps even sanctioned—in a 1980 decision by the Supreme Court of the United States entitled Richmond Newspapers v. Virginia. In this case, the Court noted that a public trial belongs not only to the accused but to the public and the press as well and recognized that people now acquire information on court procedures chiefly through the print and electronic media.

That decision, in referencing the electronic media, appears to anticipate televising court proceedings, although I do not mean to suggest that the Supreme Court is in agreement with this legislation. I should note that the Court could, on its own initiative, televise its proceedings but has chosen not to do so, which presents, in my view, the necessity for legislating on this subject.

When I argued the case of the Navy Yard, Dalton v. Specter, back in 1994, the Court proceedings were illustrated by an artist's drawings—some of which now hang in my office. Today, the public gets a substantial portion, if not most, of its information from television and the internet. While many court proceedings are broadcast routinely on television, the public has little access to the most important and highest court in this country. Although the internet has made receipt of the Court's transcripts, and even more recently, audio recordings, more widely accessible, the public is still deprived of the real time transmission of audio and video feeds from the Court. I believe it is vital for the public to see, as well as to hear, the arguments made before the Court and the interplay among the justices. I think the American people will gain a greater respect for the way in which our High Court functions if they are able to see oral arguments.

Justice Felix Frankfurter perhaps anticipated the day when Supreme Court arguments would be televised when he said that he longed for a day when: ''The news media would cover the Supreme Court as thoroughly as it did the World Series, since the public confidence in the judiciary hinges on the public's perception of it, and that perception necessarily hinges on the media's portrayal of the legal system.''

When I spoke in favor of this legislation in September of 2000, I said, ''I do not expect a rush to judgment on this very complex proposition, but I do believe the day will come when the Supreme Court of the United States will be televised. That day will come, and it will be decisively in the public interest so the public will know the magnitude of what the Court is deciding and its role in our democratic process.'' I reiterated those sentiments in September of 2005 when I re-introduced an identical bill. Today, I believe the time has come and that this legislation is crucial to the public's awareness of Supreme Court proceedings and their impact on the daily lives of all Americans.

I pause to note that it was not until 1955 that the Supreme Court, under the leadership of Chief Justice Warren, first began permitting audio recordings of oral arguments. Between 1955 and 1993, there were apparently over 5,000 recorded arguments before the Supreme Court. That roughly translates to an average of about 132 arguments annually. But audio recordings are simply ill suited to capture the nuance of oral arguments and the sustained attention of the American citizenry. Nor is it any response that people who wish to see open sessions of the Supreme Court should come to the Capital and attend oral arguments. For, according to one source: ''Several million people each year visit Washington, D.C., and many thousands tour the White House and the Capitol. But few have the chance to sit in the Supreme Court chamber and witness an entire oral argument. Most tourists are given just three minutes before they are shuttled out and a new group shuttled in. In cases that attract headlines, seats for the public are scarce and waiting lines are long. And the Court sits in open session less than two hundred hours each year. Television cameras and radio microphones are still banned from the chamber, and only a few hundred people at most can actually witness oral arguments. Protected by a marble wall from public access, the Supreme Court has long been the least understood of the three branches of our Federal Government.''

In light of the increasing public desire for information, it seems untenable to continue excluding cameras from the courtroom of the Nation's highest court. As one legal commentator observes: ''An effective and legitimate way to satisfy America's curiosity about the Supreme Court's holdings, Justices, and modus operandi is to permit broadcast coverage of oral arguments and decision announcements from the courtroom itself.''

Televised court proceedings better enable the public to understand the role of the Supreme Court and its impact on the key decisions of the day. Not only has the Supreme Court invalidated Congressional decisions where there was, in the views of many, simply a difference of opinion as to what is preferable public policy, but the Court determines novel issues such as whether AIDS is a disability under the Americans with Disabilities Act, whether Congress can ban obscenity from the Internet, and whether states can impose term limits upon members of Congress. The current Court, like its predecessors, hands down decisions which vitally affect the lives and liberties of all Americans. Since the Court's historic 1803 decision, Marbury v. Madison, the Supreme Court has the final authority on issues of enormous importance from birth to death. In Roe v. Wade (1973), the Court affirmed a Constitutional right to abortion in this country and struck down state statutes banning or severely restricting abortion during the first two trimesters on the grounds that they violated a right to privacy inherent in the Due Process Clause of the Fourteenth Amendment. In the case of Washington v. Glucksberg, 1997, the court refused to create a similar right to assisted suicide. Here the Court held that the Due Process Clause does not recognize a liberty interest that includes a right to commit suicide with another's assistance.

In the Seventies, the Court first struck down then upheld state statutes imposing the death penalty for certain crimes. In Furman v. Georgia, 1972, the Court struck down Georgia's death penalty statute under the cruel and unusual punishment clause of the Eighth Amendment and stated that no death penalty law could pass constitutional muster unless it took aggravating and mitigating circumstances into account. This decision led Georgia and many States to amend their death penalty statutes and, four years later, in Gregg v. Georgia, 1976, the Supreme Court upheld Georgia's amended death penalty statute.

Over the years, the Court has also played a major role in issues of war and peace. In its opinion in Scott v. Sanford, 1857—better known as the Dredd Scott decision—the Supreme Court held that Dredd Scott, a slave who had been taken into ''free'' territory by his owner, was nevertheless still a slave.

The Court further held that Congress lacked the power to abolish slavery in certain territories, thereby invalidating the careful balance that had been worked out between the North and the South on the issue. Historians have noted that this opinion fanned the flames that led to the Civil War.

The Supreme Court has also ensured adherence to the Constitution during more recent conflicts. Prominent opponents of the Vietnam War repeatedly petitioned the Court to declare the Presidential action unconstitutional on the grounds that Congress had never given the President a declaration of war. The Court decided to leave this conflict in the political arena and repeatedly refused to grant writs of certiorari to hear these cases. This prompted Justice Douglas, sometimes accompanied by Justices Stewart and Harlan, to take the unusual step of writing lengthy dissents to the denials of cert.

In New York Times Co. v. United States, 1971—the so called ''Pentagon Papers'' case—the Court refused to grant the government prior restraint to prevent the New York Times from publishing leaked Defense Department documents which revealed damaging information about the Johnson Administration and the war effort. The publication of these documents by the New York Times is believed to have helped move public opinion against the war.

In its landmark civil rights opinions, the Supreme Court took the lead in effecting needed social change, helping us to address fundamental questions about our society in the courts rather than in the streets. In Brown v. Board of Education, the Court struck down the principle of ''separate but equal'' education for blacks and whites and integrated public education in this country. This case was then followed by a series of civil rights cases which enforced the concept of integration and full equality for all citizens of this country, including Gamer v. Louisiana, 1961, Burton v. Wilmington Parking Authority, 1961, and Peterson v. City of Greenville, 1963.

In recent years Marbury, Dred Scott, Furman, New York Times, and Roe, familiar names in the lexicon of lawyerly discussions concerning watershed Supreme Court precedents, have been joined with similarly important cases like Hamdi, Rasul and Roper—all cases that affect fundamental individual rights. In Hamdi v. Rumsfeld, 2004, the Court concluded that although Congress authorized the detention of combatants, due process demands that a citizen held in the United States as an enemy combatant be given a meaningful opportunity to contest the factual basis for that detention before a neutral decisionmaker. The Court reaffirmed the nation's commitment to constitutional principles even during times of war and uncertainty. Similarly, in Rasul v. Bush, 2004, the Court held that the Federal habeas statute gave district courts jurisdiction to hear challenges of aliens held at Guantanamo Bay, Cuba in the U.S. War on Terrorism. In Roper v. Simmons, a 2005 case, the Court held that executions of individuals who were under 18 years of age at the time of their capital crimes is prohibited by Eighth and Fourteenth Amendments.

When deciding issues of such great national import, the Supreme Court is rarely unanimous. In fact, a large number of seminal Supreme Court decisions have been reached through a vote of 5–4. Such a close margin reveals that these decisions are far from foregone conclusions distilled from the meaning of the Constitution, reason and the application of legal precedents. On the contrary, these major Supreme Court opinions embody critical decisions reached on the basis of the preferences and views of each individual justice. In a case that is decided by a vote of 5–4, an individual justice has the power by his or her vote to change the law of the land.

Since the beginning of its October 2005 Term when Chief Justice Roberts first began hearing cases, the Supreme Court has issued 11 decisions with a 5–4 split out of a total of 93 decisions. It has also issued 4 5–3 decisions in which one justice recused. Finally, it has issued a rare 5–2 decision in which Chief Justice Roberts and Justice Alito took no part. In sum, since the beginning of its October 2005 Term, the Supreme Court has issued 16 decisions establishing the law of the land in which only 5 justices explicitly concurred. Many of these narrow majorities occur in decisions involving the Court's interpretation of our Constitution—a sometimes divisive endeavor on the Court. I will not discuss all 16 thinly decided cases but will describe a few to illustrate my point about the importance of the Court and its decisions in the lives of Americans.

The first 5–4 split decision, decided on January 11, 2006, was Brown v. Sanders. In this case the Court considered ''the circumstances in which an invalidated sentencing factor will render a death sentence unconstitutional by reason of its adding an improper element to the aggravation scale in the jury's weighing process.'' A majority of the Court held that henceforth in death penalty cases, an invalidated sentencing factor will render the sentence unconstitutional by reason of its adding an improper element to the aggravation scale unless one of the other sentencing factors enables the sentencer to give aggravating weight to the same facts and circumstances. The majority opinion was authored by Justice Scalia and joined by Chief Justice Roberts and Justices O'Connor, Kennedy and Thomas. Justice Stevens filed a dissenting opinion in which Justice Souter joined. Similarly, Justice Breyer filed a dissenting opinion in which Justice Ginsburg joined.

Last November the Supreme Court decided Ayers v. Belmontes, a capital murder case in which the Belmontes contended that California law and the trial court's instructions precluded the jury from considering his forward looking mitigation evidence suggesting he could lead a constructive life while incarcerated. In Ayers the Supreme Court found the Ninth Circuit erred in holding that the jury was precluded by jury instructions from considering mitigation evidence. Justice Kennedy authored the majority opinion while Justice Stevens wrote a dissent joined by three other justices.

Other 5–4 split decisions since October 2005 include United States v. Gonzalez-Lopez, concerning whether a defendant's Sixth Amendment right to counsel was violated when a district court refused to grant his paid lawyer permission to represent him based upon some past ethical violation by the lawyer, June 26, 2006; LULAC v. Perry, deciding whether the 2004 Texas redistricting violated provisions of the Voting Rights Act, June 28, 2006; Kansas v. Marsh, concerning the Eighth and Fourteenth Ariiendments in a capital murder case in which the defense argued that a Kansas statute established an unconstitutional presumption in favor of the death sentence when aggravating and mitigating factors were in equipoise, April 25, 2006; Clark v. Arizona, a capital murder case involving the constitutionality of an Arizona Supreme Court precedent governing the admissibility of evidence to support an insanity defense, June 29, 2006; Garcetti v. Ceballos, a case holding that when public employees make statements pursuant to their official duties they are not speaking as citizens for First Amendment purposes, and the Constitution does not insulate their communications from employer discipline, May 30, 2006.

The justices have split 5–3 4 times since October 2005.

In Georgia v. Randolph, March 22, 2006, a 5–3 majority of the Supreme Court held that a physically present co-occupant's stated refusal to permit a warrantless entry and search rendered the search unreasonable and invalid as to that occupant. Justice Souter authored the majority opinion. Justice Stevens filed a concurring opinion as did Justice Breyer. The Chief Justice authored a dissent joined by Justice Scalia. Moreover, Justice Scalia issued his own dissent as did Justice Thomas. In Randolph, there were six opinions in all from a Court that only has nine justices. One can only imagine the spirited debate and interplay of ideas, facial expressions and gestures that occurred in oral arguments. Audio recordings are simply inadequate to capture all of the nuance that only cameras could capture and convey.

In House v. Bell, a 5–3 opinion authored by Justice Kennedy, (June 12, 2006), the Supreme Court held that because House had made the stringent showing required by the actual innocence exception to judicially-established procedural default rules, he

could challenge his conviction even after exhausting his regular appeals. Justice Alito took no part in considering or deciding the House case. It bears noting, however, that if one justice had been on the other side of this decision it would have resulted in a 4–4 tie and, ultimately, led to affirming the lower court's denial of House's post-conviction habeas petitions due to a procedural default.

In Hamdan v. Rumsfeld, a 5–3 decision in which Chief Justice Roberts took no part, the Supreme Court held that Hamdan could challenge his detention and the jurisdiction of the President's military commissions to try him despite recent enactment of the Detainee Treatment Act. A thin majority of the justices supported the decision despite knowledge that the DTA explicitly provides ''no court . . . shall have jurisdiction to hear or consider . . . an application for . . . habeas corpus filed by . . . an alien detained . . . at Guantanamo Bay.'' In deciding the merits, the Court went on to hold that the President lacked authority to establish a military commission to try Hamdan or others without enabling legislation passed by both houses of Congress and enacted into law. This case was one of a handful of recent cases in which the Supreme Court released audiotapes or oral arguments almost immediately after they occurred. Yet it would have been vastly preferable to watch the parties' advocates grapple with the legal issues as the justices peppered them with jurisdictional, constitutional and merits-related questions from the High Court's bench.

In another fascinating 5–3 case, Jones v. Flowers, April 26, 2006, Supreme Court considered whether, when notice of a tax sale is mailed to the owner and returned undelivered, the government must take additional reasonable steps to provide notice before taking the owner's property. In an opinion by Chief Justice Roberts, the Court held that where the Arkansas Commissioner of State Lands had mailed Jones a certified letter and it had been returned unclaimed, the Commissioner had to take additional reasonable steps to provide Jones notice. Justices Thomas, Scalia and Kennedy dissented and Justice Alito took no part in the decision.

Though Jones v. Flowers involved the Due Process Clause of the Fourteenth Amendment, not the Takings Clause of Fifth Amendment, one could draw interesting analogies to the Court's controversial 2005 decision in Kelo v. City of New London. In Kelo, a majority of the justices held that a city's exercise of eminent domain power in furtherance of a privately initiated economic development plan satisfied the Constitution's Fifth Amendment ''public use'' requirement despite the absence of any blight. Four justices dissented in Kelo and public opinion turned sharply against the decision immediately after it was issued.

It's possible, though merely speculation, that the public ire aimed at Kelo informed what became a majority of justices in Jones v. Flowers. In a passage by Chief Justice Roberts, the Court notes, ''when a letter is returned by the post office, the sender will ordinarily attempt to resend it, if it is practicable to do so. This is especially true when, as here, the subject matter of the letter concerns such an important and irreversible prospect as the loss of a house.''

Not only lawyers but all homeowners could benefit from knowing how the Court grapples with legal issues governing the rights to their houses. My legislation creates the opportunity for all interested Americans to watch the Court in action in cases like these. From his perch on the High Court one justice has been heard to contend that most Americans could care less about the arcane legal issues argued before the Court. But as elected representatives of the people we must endeavor to view America from a bottoms-up, rather than a top-down perspective.

Regardless of ones view concerning the merits of these decisions, it is clear that they frequently have a profound effect on the interplay between the government, on the one hand, and the individual on the other. So, it is with these watershed decisions in mind that I introduce legislation designed to make the Supreme Court less esoteric and more accessible to common men and women who are so clearly affected by its decisions.

Given the enormous significance of each vote cast by each justice on the Supreme Court, televising the proceedings of the Supreme Court will allow sunlight to shine brightly on these proceedings and ensure greater public awareness and scrutiny.

In a democracy, the workings of the government at all levels should be open to public view. With respect to oral arguments, the more openness and the more real the opportunity for public observation the greater the understanding and trust. As the Supreme Court observed in the 1986 case of Press-Enterprise Co. v. Superior Court, ''People in an open society do not demand infallibility from their institutions, but it is difficult for them to accept what they are prohibited from observing.''

It was in this spirit that the House of Representatives opened its deliberations to meaningful public observation by allowing C–SPAN to begin televising debates in the House chamber in 1979. The Senate followed the House's lead in 1986 by voting to allow television coverage of the Senate floor.

Beyond this general policy preference for openness, however, there is a strong argument that the Constitution requires that television cameras be permitted in the Supreme Court.

It is well established that the Constitution guarantees access to judicial proceedings to the press and the public. In 1980, the Supreme Court relied on this tradition when it held in Richmond Newspapers v. Virginia that the right of a public trial belongs not just to the accused, but to the public and the press as well. The Court noted that such openness has ''long been recognized as an indisputable attribute of an Anglo-American trial.''

Recognizing that in modern society most people cannot physically attend trials, the Court specifically addressed the need for access by members of the media: ''Instead of acquiring information about trials by first hand observation or by word of mouth from those who attended, people now acquire it chiefly through the print and electronic media. In a sense, this validates the media claim of acting as surrogates for the public. [Media presence] contributes to public understanding of the rule of law and to comprehension of the functioning of the entire criminal justice system.''

To be sure, a strong argument can be made that forbidding television cameras in the court, while permitting access to print and other media, constitutes an impermissible discrimination against one type of media over another. In recent years, the Supreme Court and lower courts have repeatedly held that differential treatment of different media is impermissible under the First Amendment absent an overriding governmental interest. For example, in 1983 the Court invalidated discriminatory tax schemes imposed only upon certain types of media in Minneapolis Star & Tribune Co. v. Minnesota Commissioner of Revenue. In the 1977 case of ABC v. Cuomo, the Second Circuit rejected the contention by the two candidates for mayor of New York that they could exclude some members of the media from their campaign headquarters by providing access through invitation only. The Court wrote that: ''Once there is a public function, public comment, and participation by some of the media, the First Amendment requires equal access to all of the media or the rights of the First Amendment would no longer be tenable.''

However, in the 1965 case of Estes v. Texas, the Supreme Court rejected the argument that the denial of television coverage of trials violates the equal protection clause. In the same opinion, the Court held that the presence of television cameras in the Court had violated a Texas defendant's right to due process. Subsequent opinions have cast serious doubt upon the continuing relevance of both prongs of the Estes opinion.

In its 1981 opinion in Chandler v. Florida, the court recognized that Estes must be read narrowly in light of the state of television technology at that time. The television coverage of Estes' 1962 trial required cumbersome equipment, numerous additional microphones, yards of new cables, distracting lighting, and numerous technicians present in the courtroom. In contrast, the court noted, television coverage in 1980 can be achieved

through the presence of one or two discreetly placed cameras without making any perceptible change in the atmosphere of the courtroom. Accordingly, the Court held that, despite Estes, the presence of television cameras in a Florida trial was not a violation of the rights of the defendants in that case. By the same logic, the holding in Estes that exclusion of television cameras from the courts did not violate the equal protection clause must be revisited in light of the dramatically different nature of television coverage today.

Given the strength of these arguments, it is not surprising that over the last two decades there has been a rapidly growing acceptance of cameras in American courtrooms which has reached almost every court except for the Supreme Court itself.

On September 6, 2000, the Senate Judiciary Committee's Subcommittee on Administrative Oversight and the Courts held a hearing titled ''Allowing Cameras and Electronic Media in the Courtroom.'' The primary focus of the hearing was Senate bill S. 721, legislation introduced by Senators GRASSLEY and SCHUMER that would give Federal judges the discretion to allow television coverage of court proceedings. One of the witnesses at the hearing, the late Judge Edward R. Becker, then-Chief Judge U.S. Court of Appeals for the Third Circuit, spoke in opposition to the legislation and the presence of television cameras in the courtroom. The remaining five witnesses, however, including a Federal judge, a State judge, a law professor and other legal experts, all testified in favor of the legislation. They argued that cameras in the courts would not disrupt proceedings but would provide the kind of accountability and access that is fundamental to our system of government.

On November 9, 2005, the Judiciary Committee held a hearing to address whether Federal court proceedings should be televised generally and to consider S. 1768, my earlier version of this bill, and S. 829, Senator GRASSLEY's ''Sunshine in the Courtroom Act of 2005.'' During the November 9 hearing, most witnesses spoke favorably of cameras in the courts, particularly at the appellate level. Among the witnesses favorably disposed toward the cameras were Peter Irons, author of May It Please the Court, Seth Berlin, a First Amendment expert at a local firm, Brian Lamb, founder of C–SPAN, Henry Schleif of Court TV Networks, and Barbara Cochran of the Radio-Television News Directors Association and Foundation.

The notable exception was the Honorable Judge Jan DuBois of the Eastern District of Pennsylvania, who testified on behalf of the Judicial Conference. Judge DuBois warned of problems particularly at the trial level, where witnesses who appear uncomfortable because of cameras might seem less credible to jurors. I note, however, that appellate courts do not appear susceptible to this criticism because there are no witnesses or jurors present for appellate arguments.

The Judiciary Committee considered and passed both bills on March 30, 2006. The Committee vote to report S. 1768 was 12–6, and the bill was placed on the Senate Legislative Calendar. Unfortunately, due to the press of other business neither bill was allotted time on the Senate Floor.

During their confirmation hearings over the past two years, Chief Justice John Roberts stated he would keep an open mind on the issue and Justice Alito stated that as a circuit judge he unsuccessfully voted (in the minority) to permit televised open proceedings in the Third Circuit. I applaud the fact the new Chief Justice has taken steps to make the Court more open and to ensure the timely publication of audio recordings of the arguments as well as the written transcripts.

In my judgment, Congress, with the concurrence of the President, or overriding his veto, has the authority to require the Supreme Court to televise its proceedings. Such a conclusion is not free from doubt and is highly likely to be tested with the Supreme Court, as usual, having the final word. As I see it, there is clearly no constitutional prohibition against such legislation.

Article 3 of the Constitution states that the judicial power of the United States shall be vested ''in one Supreme Court and such inferior Courts as the Congress may from time to time ordain and establish.'' While the Constitution specifically creates the Supreme Court, it left it to Congress to determine how the Court would operate. For example, it was Congress that fixed the number of justices on the Supreme Court at nine. Likewise, it was Congress that decided that any six of these justices are sufficient to constitute a quorum of the Court. It was Congress that decided that the term of the Court shall commence on the first Monday in October of each year, and it was Congress that determined the procedures to be followed whenever the Chief Justice is unable to perform the duties of his office.

Beyond such basic structural and operational matters, Congress also controls more substantive aspects of the Supreme Court. Most importantly, it is Congress that in effect determines the appellate jurisdiction of the Supreme Court. Although the Constitution itself sets out the appellate jurisdiction of the Court, it provides that such jurisdiction exist ''with such exceptions and under such regulations as the Congress shall make.''

Some objections have been raised to televised proceedings of the Supreme Court on the ground that it would subject justices to undue security risks. My own view is such concerns are vastly overstated. Well-known members of Congress walk on a regular basis in public view in the Capitol complex. Other very well-known personalities, presidents, vice presidents, cabinet officers, all are on public view with even incumbent presidents exposed to risks as they mingle with the public. Such risks are minimal in my view given the relatively minor ensure that Supreme Court justices would undertake through television appearances. Also, any concerns could be mitigated by focusing only on the attorneys presenting arguments. There is no requirement that the justices permit the cameras to focus on the bench.

As I explained earlier, the Supreme Court could, of course, permit television through its own rule but has decided not to do so. Congress should be circumspect and even hesitant to impose a rule mandating the televising of Supreme Court proceedings and should do so only in the face of compelling public policy reasons. The Supreme Court has such a dominant role in key decision-making functions that their proceedings ought to be better known to the public; and, in the absence of Court rule, public policy would be best served by enactment of legislation requiring the televising of Supreme Court proceedings.

This legislation embodies sound policy and will prove valuable to the public. I urge my colleagues to support this bill.

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

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

S. 344

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT TO TITLE 28.

(a) IN GENERAL.—Chapter 45 of title 28, United States Code, is amended by inserting at the end the following:

''§ 678. Televising Supreme Court proceedings

''The Supreme Court shall permit television coverage of all open sessions of the Court unless the Court decides, by a vote of the majority of justices, that allowing such coverage in a particular case would constitute a violation of the due process rights of 1 or more of the parties before the Court.''.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 45 of title 28, United States Code, is amended by inserting at the end the following:

''678. Televising Supreme Court proceedings.''.

By Mr. REID (for Mr. BIDEN):

S. 345. A bill to establish a Homeland Security and Neighborhood Safety Trust Fund and refocus Federal priorities toward securing the Homeland, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. BIDEN. Mr. President, I rise today to introduce the Homeland Security Trust Fund Act of 2007. I introduced this legislation in the last Congress, and I do so again because it is my sincere belief that in order to better prevent attacks here at home, we must dramatically reorder the priorities of the Federal Government.

This legislation says in basic terms that we value the security of all Americans over the tax cuts for our Nation's millionaires. Right now, we under fund homeland security and public safety, and at the same time, we have established extremely large tax cuts for the wealthiest among us. This legislation will re-set our priorities by creating a homeland security trust fund that will set aside $53.3 billion dollars—less than one year of the tax cut for millionaires—for the exclusive purpose of investing in our homeland security. Through this trust fund we will allocate an additional $10 billion per year over the next 5 years to enhance the safety and security of our communities.

Everyone in this body knows that we are not yet safe enough. Independent experts, law enforcement personnel, and first responders have warned us that we have not done enough to prevent an attack and we are ill-equipped to respond to one. Hurricane Katrina showed us that little has been done to enhance our preparedness and the devastating consequences of our failure to act responsibly here in Washington. And, just over a year ago, the 9/11 Commission issued their report card on the Administration's and Congresses' progress in implementing their recommendations. The result was a report card riddled with D's and F's.

Last November, the American people voted for a change and their decision ushered in a new Democratic Congress. Under new leadership, we have made a decision to implement the 9/11 Recommendations. I have long argued that we need to take these prudent steps, and I look forward to working with my colleagues to see that this is done, but under the proposals currently being circulated we do not put forward any dedicated funding to pay for these security upgrades.

I believe that the most important responsibility of our Federal Government is to provide for the safety and security of the American people. And, I also believe that we need to do this in a fiscally responsible way. Secretary Chertoff has argued that one strategy of Al Qaeda is to bankrupt us by forcing us to invest too much in our domestic security.

This is an outrageous claim. This is simply a matter of priorities.

This year the tax cut for Americans that make over $1 million is nearly $60 billion. Let me repeat that, just one year of the Bush tax cut for Americans making over $1 million dollars is nearly $60 billion. In contrast, we dedicate roughly one-half of that—approximately $34 billion—to fund the operations of the Department of Homeland Security. We have invested twice as much for a tax cut for millionaires—less than 1 percent of the population—than we do for the Department intended to help secure the entire Nation.

For a Nation that is repeatedly warned about the grave threats we face, how can this be the right priority? The Homeland Security Trust Fund Act of 2007 would change this by taking less than 1 year of the tax cut for millionaires and invest it in homeland security over the next 5 years.

By investing $10 billion per year over the next 5 years, we could implement all the 9/11 Commission recommendations. We could hire 50,000 additional police officers and help local agencies create locally based counter-terrorism units. We could hire an additional 1,000 FBI agents to help ensure that FBI is able to implement critical reforms without abandoning its traditional crime fighting functions. We could also invest in security upgrades within our critical infrastructure, fund efforts to implement 100 percent scanning of cargo containers, fund a grant program to ensure that our first responders can talk in the event of an emergency, and nearly double the funding for state homeland security grants. And, the list goes on.

To add to the concerns that we face with respect to homeland security, crime is unquestionably on the rise in the United States. The FBI reported earlier this past fall that violent crime and murders are on the rise after years of decreases. Given all of this, it is hard to argue that we are as safe as we should be.

We know that the murder rate is up and that there is an officer shortage in communities throughout the nation. Yet, we provide $0 funding for the COPS hiring program, and we've slashed funding for the Justice Assistance Grant.

We know that our first responders can't talk because they don't have enough interoperable equipment and available spectrum. Yet, we have not forced the networks to turn over critical spectrum, and we vote down funding to help local agencies purchase equipment every year.

We know that only 5 percent of cargo containers are scanned, yet we do not invest in the personnel and equipment to upgrade our systems.

We know that our critical infrastructure is vulnerable. Yet, we allow industry to decide what is best and provide scant resources to harden soft targets.

I am hopeful that this will change under the new Democratic Congress, and this legislation will help ensure that we do all this in a fiscally responsible manner.

In addition, this legislation will also establish an independent agency whose sole purpose will be to make recommendations to the Department of Homeland Security with respect to distributing homeland security with respect to risk and vulnerabilities, to improve the grant making process to ensure that all spending is made towards the common goal of improving preparedness and response, and to eliminate any waste of our precious homeland security resources. This board will be comprised of experts at the Federal, State and local level, with law enforcement and first responder experience to ensure that all stakeholders' viewpoints are considered in the recommendation process.

I will conclude where I started. This is all about setting the right priorities for America. Instead of giving a tax cut to the richest Americans who don't need it, we should take some of it and dedicate it towards the security of all Americans. Our Nations most fortunate are just as patriotic as the middle class. They are just as willing to sacrifice for the good of our Nation. The problem is that no one has asked them to sacrifice.

The Homeland Security Trust Fund Act of 2007 will ask them to sacrifice, and I am convinced that they will gladly help us out. And to those who say this won't work, I would remind them that the 1994 Crime Bill established the Violent Crime Reduction Trust Fund, specifically designated for public safety that put more than 100,000 cops on the street, funded prevention programs, and more prison beds to lock up violent offenders. It worked; violent crime went down every year for 8 years from the historic highs to the lowest levels in a generation.

Our Nation is at its best when we all pull together and sacrifice. The bottom line is that with this legislation, we make clear what our national priorities should be, we set out how we will pay for them, and we ensure those who are asked to sacrifice that money the government raises for security actually gets spent on security.

This legislation is about re-ordering our homeland security priorities. I will push for its prompt passage, and I hope to gain the support of my colleagues in this effort.

By Mr. CRAPO:

S. 348. A bill to improve the amendments made by the No Child Left Behind Act of 2001; to the Committee on Health, Education, Labor, and Pensions.

Mr. CRAPO. Mr. President, today I introduce the Improving No Child Left Behind (INCLB) Act. As a father and a legislator, I am committed to advocating for public education in Idaho and throughout the Nation. Ensuring that every child receives a good education is one of my top priorities. President Bush's sweeping education reforms included in the No Child Left Behind Act have had measurable positive effects on many students across the country, and I support the law's objective of ensuring that every child achieves his or her potential.

However, five years after passage of the law, it is now appropriate to review opportunities for needed improvements to the underlying program. After conferring with a number of organizations in Idaho and at the national level, I have identified implementation concerns that seem common to various stakeholder groups. In response, I have created the INCLB Act. This bill contains a number of workable, common-

sense modifications to the law. These provisions preserve the major focus on student achievement and accountability and, at the same time, ensure that schools and school districts are accurately and fairly assessed. The act ensures that local schools and districts have more flexibility and control in educating our Nation's children. The goal of the act is expressed in its name: to improve No Child Left Behind.

The bill does a number of things: INCLB would allow supplemental services like tutoring to be offered to students sooner than they are currently available; INCLB would provide flexibility for States to use additional types of assessment models for measuring student progress; INCLB grants states more flexibility in assessing students with disabilities; INCLB would ensure more fair and accurate assessments of Limited English Proficiency (LEP) students; INCLB would create a student testing participation range, providing flexibility for uncontrollable variations in student attendance; INCLB would allow schools to target resources to those student populations who need the most attention by applying sanctions only when the same student group fails to make adequate progress in the same subject for two consecutive years; and INCLB would ensure that students are counted properly and accurately in assessment and reporting systems.

Taken together, these provisions reflect a realistic assessment of both the strengths and weaknesses of No Child Left Behind. While there may be many issues that divide us, our responsibility in education is clear. We must promote successful, meaningful public education for our children. The INCLB Act will ensure that NCLB continues to be an avenue to success for educators and students throughout Idaho and 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. 348

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 ''Improving No Child Left Behind Act''.

SEC. 2. REFERENCES.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

SEC. 3. ADEQUATE YEARLY PROGRESS.

(a) ACCOUNTABILITY.—Section 1111(b)(2) (20 U.S.C. 6311(b)(2)) is amended—

(1) in subparagraph (I)(ii)—

(A) by striking ''95 percent'' the first place the term appears and inserting ''90 percent (which percentage shall be based on criteria established by the State in the State plan)''; and

(B) by striking ''95 percent'' the second place the term appears and inserting ''90 percent'';

(2) by redesignating subparagraph (K) as subparagraph (N); and

(3) by inserting, after subparagraph (J), the following:

''(K) SINGLE COUNT OF STUDENTS.—In meeting the definition of adequate yearly progress under subparagraph (C), a student who may be counted in 2 or more groups described in subparagraph (C)(v)(II), may be counted as an equal fraction of 1 for each such group.

''(L) STUDENTS WITH DISABILITIES REQUIRING ALTERNATE ASSESSMENTS.—Notwithstanding any other provision of this part, a State may implement the amendments made to part 200 of title 34, Code of Federal Regulations on December 9, 2003 (68 Fed. Reg. 68698) (related to achievement of students with significant cognitive disabilities) as if such amendments—

''(i) permitted the proficient or advanced scores on alternate assessments of not more than 3.0 percent of all tested students to be considered as proficient or advanced, respectively, for the purposes of determining adequate yearly progress, except that—

''(I) any assessment given to any such so considered student for the purposes of determining such adequate yearly progress shall be required by the individualized education program of such so considered student;

''(II) the individualized education program shall reflect the need for any such alternate assessment based on the evaluation of such so considered student and the services provided such so considered student under section 614 of the Individuals with Disabilities Education Act; and

''(III) the individualized education program shall include written consent from the parent of such so considered student prior to such alternate assessment being administered;

''(ii) used the term 'students requiring alternate assessments' in lieu of the term 'students with the most significant cognitive disabilities'; and

''(iii) permitted the eligibility, of such so considered students to have the students' scores of proficient or advanced on alternate assessments counted as proficient or advanced for purposes of determining adequate yearly progress, to be determined by the State educational agency, except that such eligibility shall, at a minimum, include—

''(I) such so considered students who are receiving services pursuant to a plan required under section 504 of the Rehabilitation Act of 1973;

''(II) the students described in subclause (I) who are assessed at a grade level below the grade level in which the students are enrolled (out of level assessments); and

''(III) the students described in subclause (I) who are considered students with the most significant cognitive disabilities, as defined by the State educational agency, on the day before the date of enactment of the Improving No Child Left Behind Act .

''(M) OTHER MEASURES OF ADEQUATE YEARLY PROGRESS.—Notwithstanding any other provision of this paragraph, a State may establish in the State plan an alternative definition of adequate yearly progress, subject to approval by the Secretary under subsection (e). Such alternative definition may—

''(i) include measures of student achievement over a period of time (such as a value added accountability system) or the progress of some or all of the groups of students described in subparagraph (C)(v) to the next higher level of achievement described in subparagraph (II) or (III) of paragraph (1)(D)(ii) as a factor in determining whether a school, local educational agency, or State has made adequate yearly progress, as described in this paragraph; or

''(ii) use the measures of achievement or the progress of groups described in clause (i) as the sole basis for determining whether the State, or a local educational agency or school within the State, has made adequate yearly progress, if—

''(I) the primary goal of such definition is that all students in each group described in subparagraph (C)(v) meet or exceed the proficient level of academic achievement, established by the State, not later than 12 years after the end of the 2001–2002 school year; and

''(II) such definition includes intermediate goals, as required under subparagraph (H).''.

(b) ASSESSMENTS.—Section 1111(b)(3)(C) (20 U.S.C. 6311(b)(3)(C)) is amended—

(1) in clause (ix), by striking subclause (III) and inserting the following:

''(III) the inclusion of limited English proficient students, who—

''(aa) may, consistent with paragraph (2)(M), be assessed, as determined by the local educational agency, through the use of an assessment which requires achievement of specific gains for up to 3 school years from the first year the student is assessed for the purposes of this subsection;

''(bb) may, at the option of the State educational agency, be assessed in the first year the student attends school in the United States (not including the Commonwealth of Puerto Rico); and

''(cc) shall not be included in any calculation of an adequate yearly progress determination when the student is in the first year of attendance at a school in the United States (not including the Commonwealth of Puerto Rico).''; and

(2) in clause (x), by inserting ''of clause (ix)'' after ''subclause (III)''.

(c) REGULATIONS AFFECTING LIMITED ENGLISH PROFICIENT CHILDREN AND CHILDREN WITH DISABILITIES.—Section 1111 (20 U.S.C. 6311) is amended by adding at the end the following:

''(n) CODIFICATION OF REGULATIONS AFFECTING LIMITED ENGLISH PROFICIENT CHILDREN.—Notwithstanding any other provision of this part, this part shall be implemented consistent with the amendments proposed to part 200 of title 34 of the Code of Federal Regulations on June 24, 2004 (69 Fed. Reg. 35462) (relating to the assessment of limited English proficient children and the inclusion of limited English proficient children in subgroups) as if such amendments permitted students who were previously identified as limited English proficient to be included in the group described in subsection (b)(2)(C)(v)(II)(dd) for 3 additional years, as determined by a local educational agency (based on the individual needs of a child) for the purposes of determining adequate yearly progress.''.

SEC. 4. SCHOOL IMPROVEMENT AND PUBLIC SCHOOL CHOICE.

Section 1116(b) (20 U.S.C. 6316(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by inserting ''(in the same subject for the same group of students, as described in section 1111(b)(2)(C)(v))'' after ''2 consecutive years'';

(B) in subparagraph (E)(i)—

(i) by striking ''In the case'' and inserting ''Except as provided in subparagraph (G), in the case''; and

(ii) by striking ''all students enrolled in the school with the option to transfer to another public school'' and inserting ''students who failed to meet the proficient level of achievement on the assessments described in section 1111(b)(3), are enrolled in the school, and are in the group whose academic performance caused the identification under

this paragraph, with the option to transfer to one other public school identified by and''; and

(C) by adding at the end the following:

''(G) OPTIONS.—A local educational agency may offer supplemental educational services as described in subsection (e) in place of the option to transfer to another public school described in subparagraph (E), for the first school year a school is identified for improvement under this paragraph.'';

(2) in the matter preceding subparagraph (A) of paragraph (5), by inserting ''(in the same subject for the same group of students)'' after ''adequate yearly progress''; and

(3) in the matter preceding clause (i) of paragraph (7)(C), by inserting ''(in the same subject for the same group of students)'' after ''adequate yearly progress''.

By Mr. GRASSLEY (for himself, Mr. SCHUMER, Mr. LEAHY, Mr. SPECTER, Mr. GRAHAM, Mr. FEINGOLD, Mr. CORNYN, Mr. DURBIN, Mr. CRAIG, and Mr. ALLARD):

S. 352. A bill to provide for media coverage of Federal court proceedings; to the Committee on the Judiciary.

Mr. GRASSLEY. Mr. President, I rise today to reintroduce the Sunshine in the Courtroom Act, a bipartisan bill which will allow judges at all Federal court levels to open their courtrooms to television cameras and radio broadcasts.

Openness in our courts improves the public's understanding of what goes on there. Our judicial system is a secret to many people across the country. Letting the sun shine in on Federal courtrooms will give Americans an opportunity to better understand the judicial process. It is the best way to maintain confidence and accountability in the system and help judges do a better job.

For decades, States such as my home State of Iowa have allowed cameras in their courtrooms, with great results. As a matter of fact, only the District of Columbia prohibits trial and appellate court coverage entirely. Nineteen States allow news coverage in most courts; fifteen allow coverage with slight restrictions; and the remaining sixteen allow coverage with stricter rules.

The bill I'm introducing today, along with Senator SCHUMER and eight other cosponsors from both sides of the aisle, including Judiciary Chairman LEAHY and Ranking Member SPECTER, will greatly improve public access to Federal courts. It lets Federal judges open their courtrooms to television cameras and other electronic media.

The Sunshine in the Courtroom Act is full of provisions that ensure that the introduction of cameras and other broadcasting devices into the courtrooms goes as smoothly as it has at the State level. First, the presence of the cameras in Federal trial and appellate courts is at the sole discretion of the judges—it is not mandatory. The bill also provides a mechanism for Congress to study the effects of this legislation on our judiciary before making this change permanent through a three-year sunset provision. The bill also protects the privacy and safety of nonparty witnesses by giving them the right to have their faces and voices obscured. Finally, it includes a provision to protect the due process rights of any party, and prohibits the televising of jurors.

We need to bring the Federal judiciary into the 21st Century. This bill improves public access to and therefore understanding of our Federal courts. It has safety provisions to ensure that the cameras won't interfere with the proceedings or with the safety or due process of anyone involved in the cases. Our States have allowed news coverage of their courtrooms for decades. It is time we join them.

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. 352

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 ''Sunshine in the Courtroom Act of 2007''.

SEC. 2. FEDERAL APPELLATE AND DISTRICT COURTS.

(a) DEFINITIONS.—In this section:

(1) PRESIDING JUDGE.—The term ''presiding judge'' means the judge presiding over the court proceeding concerned. In proceedings in which more than 1 judge participates, the presiding judge shall be the senior active judge so participating or, in the case of a circuit court of appeals, the senior active circuit judge so participating, except that—

(A) in en banc sittings of any United States circuit court of appeals, the presiding judge shall be the chief judge of the circuit whenever the chief judge participates; and

(B) in en banc sittings of the Supreme Court of the United States, the presiding judge shall be the Chief Justice whenever the Chief Justice participates.

(2) APPELLATE COURT OF THE UNITED STATES.—The term ''appellate court of the United States'' means any United States circuit court of appeals and the Supreme Court of the United States.

(b) AUTHORITY OF PRESIDING JUDGE TO ALLOW MEDIA COVERAGE OF COURT PROCEEDINGS.—

(1) AUTHORITY OF APPELLATE COURTS.—

(A) IN GENERAL.—Except as provided under subparagraph (B), the presiding judge of an appellate court of the United States may, at the discretion of that judge, permit the photographing, electronic recording, broadcasting, or televising to the public of any court proceeding over which that judge presides.

(B) EXCEPTION.—The presiding judge shall not permit any action under subparagraph (A), if—

(i) in the case of a proceeding involving only the presiding judge, that judge determines the action would constitute a violation of the due process rights of any party; or

(ii) in the case of a proceeding involving the participation of more than 1 judge, a majority of the judges participating determine that the action would constitute a violation of the due process rights of any party.

(2) AUTHORITY OF DISTRICT COURTS.—

(A) IN GENERAL.—

(i) AUTHORITY.—Notwithstanding any other provision of law, except as provided under clause (iii), the presiding judge of a district court of the United States may, at the discretion of that judge, permit the photographing, electronic recording, broadcasting, or televising to the public of any court proceeding over which that judge presides.

(ii) OBSCURING OF WITNESSES.—Except as provided under clause (iii)—

(I) upon the request of any witness (other than a party) in a trial proceeding, the court shall order the face and voice of the witness to be disguised or otherwise obscured in such manner as to render the witness unrecognizable to the broadcast audience of the trial proceeding; and

(II) the presiding judge in a trial proceeding shall inform each witness who is not a party that the witness has the right to request the image and voice of that witness to be obscured during the witness' testimony.

(iii) EXCEPTION.—The presiding judge shall not permit any action under this subparagraph, if that judge determines the action would constitute a violation of the due process rights of any party.

(B) NO TELEVISING OF JURORS.—The presiding judge shall not permit the televising of any juror in a trial proceeding.

(3) ADVISORY GUIDELINES.—The Judicial Conference of the United States may promulgate advisory guidelines to which a presiding judge, at the discretion of that judge, may refer in making decisions with respect to the management and administration of photographing, recording, broadcasting, or televising described under paragraphs (1) and (2).

(4) SUNSET OF DISTRICT COURT AUTHORITY.—The authority under paragraph (2) shall terminate 3 years after the date of the enactment of this Act.

By Mr. NELSON of Florida (for himself and Mr. MARTINEZ):

S. 353. A bill to authorize ecosystem restoration projects for the Indian River Lagoon-South and the Picayune Strand, Collier County, in the State of Florida; to the Committee on Environment and Public Works.

Mr. NELSON of Florida. Mr. President, today I am introducing legislation authorizing two important Everglades projects: the Indian River Lagoon, IRL, and the Picayune Strand Restoration, PSR. Senator MEL MARTINEZ has joined me as an original cosponsor.

These two projects constitute the first phase of the overall restoration of the Everglades. IRL at the northern tip of the Everglades ecosystem and PSR in the southwest section of the Everglades—are essential to getting the water right. IRL will restore natural sheet flow to the Everglades ecosystem by re-directing water to the Everglades instead of out to the ocean, provide reservoirs for storage of water in the wet season and release in the dry season, build stormwater treatment facilities to improve the water quality of the water flowing through the Everglades ecosystem and remove millions of cubic yards of muck from the St. Lucie Estuary.

I toured the St. Lucie River when it turned phosphorescent green during an algae bloom and what was more amazing to me was that I saw absolutely no wildlife, it was a dead river.

PSR will re-establish the natural sheet flow to the Ten Thousand Islands, restore 72,320 acres of habitat, and restore ecological connectivity of the Florida Panthers National Wildlife Refuge, the Belle Meade State Conservation and Recreation Lands Project Area and the Fakahatchee Strand State Preserve. For these reasons, the Indian River Lagoon and Picayune Strand projects must be authorized and completed.

Last year we came close to meeting that goal, as the projects were included in the Senate passed WRDA 2006. Today I am renewing this effort and will work to ensure these projects are included in WRDA 2007.

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. 353

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 ''Restoring the Everglades, an American Legacy Act of 2007''.

SEC. 2. INDIAN RIVER LAGOON-SOUTH, FLORIDA.

(a) INDIAN RIVER LAGOON-SOUTH.—The Secretary of the Army may carry out the project for ecosystem restoration, water supply, flood control, and protection of water quality, Indian River Lagoon-South, Florida, at a total cost of $1,357,167,000, with an estimated Federal cost of $678,583,500 and an estimated non-Federal cost of $678,583,500, in accordance with section 601 of the Water Resources Development Act of 2000 (114 Stat. 2680) and the recommendations of the report of the Chief of Engineers, dated August 6, 2004.

(b) DEAUTHORIZATIONS.—As of the date of enactment of this Act, the following projects are not authorized:

(1) The uncompleted portions of the project authorized by section 601(b)(2)(C)(i) of the Water Resources Development Act of 2000 (114 Stat. 2682), C–44 Basin Storage Reservoir of the Comprehensive Everglades Restoration Plan, at a total cost of $112,562,000, with an estimated Federal cost of $56,281,000 and an estimated non-Federal cost of $56,281,000.

(2) The uncompleted portions of the project authorized by section 203 of the Flood Control Act of 1968 (82 Stat. 740), Martin County, Florida modifications to the Central and South Florida Project, as contained in Senate Document 101, 90th Congress, 2d Session, at a total cost of $15,471,000, with an estimated Federal cost of $8,073,000 and an estimated non-Federal cost of $7,398,000.

(3) The uncompleted portions of the project authorized by section 203 of the Flood Control Act of 1968 (82 Stat. 740), East Coast Backpumping, St. Lucie—Martin County, Spillway Structure S–311 of the Central and South Florida Project, as contained in House Document 369, 90th Congress, 2d Session, at a total cost of $77,118,000, with an estimated Federal cost of $55,124,000 and an estimated non-Federal cost of $21,994,000.

SEC. 3. PICAYUNE STRAND ECOSYSTEM RESTORATION, COLLIER COUNTY, FLORIDA.

The Secretary of the Army may carry out the project for ecosystem restoration, Picayune Strand, Collier County, Florida, at a total cost of $375,328,000, with an estimated Federal cost of $187,664,000 and an estimated non-Federal cost of $187,664,000, in accordance with section 601 of the Water Resources Development Act of 2000 (114 Stat. 2680), Report of the Chief of Engineers dated September 15, 2005.

By Mr. DOMENICI (for himself and Mrs. FEINSTEIN):

S. 355. A bill to establish a National Commission on Entitlement Solvency; to the Committee on Finance.

Mr. DOMENICI. Mr. President, I rise today with my colleague, Senator FEINSTEIN to introduce the Social Security and Medicare Solvency Commission Act.

Our country is facing a looming financial crisis. The Medicare and Social Security programs face major financial problems. Current trends show that these programs are not sustainable, and that if we do not take action soon to reform both these programs, they will drive Federal spending to unprecedented levels.

Without reform, spending on these programs will consume nearly all projected federal revenues, and threaten our country's future prosperity. Social Security costs are projected to rise from about 4.2 percent of gross domestic product today to 6.3 percent of gross domestic product by 2080. Similarly, Medicare expenditures are projected to rise from 2.7 percent of gross domestic product today to more than 11 percent of gross domestic product by 2080. At this rate, no money will be left for any other federal activity. There will be no money for education, defense, federal law enforcement, or any of our other valued social programs.

Federal Reserve Board Chairman Bernacke and GAO Comptroller Walker have testified in front of the Senate Budget Committee in recent weeks that entitlement spending is already a threat to the U.S. economy. However, despite the universal recognition of out of control entitlement spending growth and the problems this will cause, Congress has repeatedly failed to come together to work on a solution.

The legislation we are introducing today will create a bipartisan commission tasked with making recommendations and creating legislation that will ensure the solvency of both Social Security and Medicare. However, unlike past commissions, these recommendations will not sit on a shelf and collect dust. This legislation will force action by Congress.

This legislation mandates that the commission seek public input through a series of public hearings, and then requires the commission to put together a report and submit accompanying legislative language. However, then this bill goes further. It sets a mandatory timelines for Congress to introduce the legislation, take committee action and for action on the floor. In short, it forces Congress to do its job.

When this legislation passes, Congress will be forced to take action that will generate a sustainable Social Security and Medicare system. And, most importantly, this will be a bipartisan effort. I am very pleased that my distinguished colleague, Senator FEINSTEIN has joined me in taking up this cause.

Though highly challenging, the financial difficulties facing Social Security and Medicare are not insurmountable. But the time has come to take action. The sooner these challenges are addressed, the more solutions will be available to us and the less pain they will cause. We need serious and thoughtful engagement from everyone to make sure that Medicare and Social Security are strengthened and sustainable for future generations.

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. 355

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 ''The Social Security and Medicare Solvency Commission Act''.

SEC. 2. DEFINITIONS.

In this subtitle:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Centers for Medicare & Medicaid Services.

(2) CALENDAR DAY.—The term ''calendar day'' means a calendar day other than one in which either House is not in session because of an adjournment of more than 3 days to a date certain.

(3) COMMISSION.—The term ''Commission'' means the National Commission on Entitlement Solvency established under section 3(a).

(4) COMMISSION BILL.—The term ''Commission bill'' means a bill consisting of the proposed legislative language submitted by the Commission under section 3(c)(2)(A) that is introduced under section 7(a).

(5) COMMISSIONER.—The term ''Commissioner'' means the Commissioner of Social Security.

(6) LONG-TERM.—The term ''long-term'' means a period of not less than 75 years beginning on the date of enactment of this Act.

(7) MEDICAID.—The term ''Medicaid'' means the program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.)

(8) MEDICARE.—The term ''Medicare'' means the program established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(9) SOCIAL SECURITY.—The term ''Social Security'' means the program of old-age, survivors, and disability insurance benefits established under title II of the Social Security Act (42 U.S.C. 401 et seq.).

(10) SOLVENCY OF MEDICARE PROGRAM.—

(A) IN GENERAL.—Subject to subparagraph (B), the term ''solvency'', in relation to the Medicare program, means any year in which there is not excess general revenue Medicare funding (as defined in section 801(c)(1) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2358)).

(B) TREATMENT OF NEW REVENUE.—

(i) IN GENERAL.—For purposes of the requirement that the Commission evaluate the solvency of the Medicare program and recommend legislation to restore such solvency as needed, the Commission shall treat any new revenue that is a result of any action

taken or any legislation enacted by Congress pursuant to the recommendations of the Commission, as being a dedicated medicare financing source (as defined in section 801(c)(3) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2358)).

(ii) DEFINITION OF NEW REVENUE.—For purposes of this subparagraph, the term ''new revenue'' means only those revenues collected as a result of legislation enacted by Congress pursuant to section 7 of this Act. The term ''new revenue'' shall not include any revenue otherwise collected under law, including any such revenue that is dedicated to the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act (42 U.S.C. 1395i) or the Federal Supplementary Medical Insurance Trust Fund under section 1841 of such Act (42 U.S.C. 1395t).

(11) SOLVENCY OF SOCIAL SECURITY PROGRAM.—The term ''solvency'', in relation to Social Security, means any year in which the balance ratio (as defined under section 709(b) of the Social Security Act (42 U.S.C. 910(b)) of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund established under section 201 of the Social Security Act (42 U.S.C. 401) is greater than zero; and

SEC. 3. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is permanently established an independent and bipartisan commission to be known as the ''National Commission on Entitlement Solvency''.

(b) PURPOSE.—The Commission shall conduct a comprehensive review of the Social Security and Medicare programs for the following purposes:

(1) REVIEW.—Reviewing relevant analyses of the current and long-term actuarial financial condition of the Social Security and Medicare programs.

(2) IDENTIFYING PROBLEMS.—Identifying problems that may threaten the long-term solvency of the Social Security and Medicare programs.

(3) ANALYZING POTENTIAL SOLUTIONS.—Analyzing potential solutions to problems that threaten the long-term solvency of the Social Security and Medicare programs.

(4) PROVIDING RECOMMENDATIONS AND PROPOSED LEGISLATIVE LANGUAGE.—Providing recommendations and proposed legislative language that will ensure the long-term solvency of the Social Security and Medicare programs and the provision of appropriate benefits.

(c) DUTIES.—

(1) IN GENERAL.—The Commission shall conduct a comprehensive review of the Social Security and Medicare programs consistent with the purposes described in subsection (b) and shall submit the report required under paragraph (2).

(2) REPORT, RECOMMENDATIONS, AND PROPOSED LEGISLATIVE LANGUAGE.—

(A) REPORT.—

(i) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and every 5 years thereafter, the Commission shall submit a report on the long-term solvency of the Social Security and Medicare programs that contains a detailed statement of the findings, conclusions, recommendations, and the proposed legislative language (as required under subparagraph (C)) of the Commission to the President, Congress, the Commissioner, and the Administrator.

(ii) PROPOSED LEGISLATIVE LANGUAGE.—The Commission shall submit the proposed legislative language (as required under clause (i)) in the form of a proposed bill for introduction in Congress.

(B) FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS.—A finding, conclusion, or recommendation of the Commission shall be included in the report under subparagraph (A) only if not less than 10 members of the Commission voted for such finding, conclusion, or recommendation.

(C) LEGISLATIVE LANGUAGE.—

(i) IN GENERAL.—If a recommendation submitted with respect to the Social Security or Medicare programs under subparagraph (A) involves legislative action, the report shall include proposed legislative language to carry out such action. Such legislative language shall only be included in the report under subparagraph (A) if the Commission has considered the impact the recommendation would have on the Medicaid program.

(ii) EXCLUSION OF RECOMMENDATIONS WITH RESPECT TO MEDICAID.—Proposed legislative language to carry out any recommendation submitted by the Commission with respect to the Medicaid program shall not be included in the legislative language submitted under clause (i).

SEC. 4. STRUCTURE AND MEMBERSHIP OF THE COMMISSION.

(a) APPOINTMENT.—

(1) IN GENERAL.—The Commission shall be composed of 15 members, of whom—

(A) 7 members shall be appointed by the President—

(i) 3 of whom shall be Democrats, appointed in consultation with the Majority Leader of the Senate and the Speaker of the House of Representatives;

(ii) 3 of whom shall be Republicans; and

(iii) 1 of whom shall not be affiliated with any political party;

(B) 2 members shall be appointed by the Majority Leader of the Senate, 1 of whom is from the Committee on Finance of the Senate;

(C) 2 members shall be appointed by the Minority Leader of the Senate, 1 of whom is from the Committee on Finance of the Senate;

(D) 2 members shall be appointed by the Speaker of the House of Representatives, 1 of whom is from the Committee on Ways and Means of the House of Representatives; and

(E) 2 members shall be appointed by the Minority Leader of the House of Representatives, 1 of whom is from the Committee on Ways and Means of the House of Representatives.

(2) QUALIFICATIONS.—The members shall be individuals who are, by reason of their education, experience, and attainments, exceptionally qualified to perform the duties of members of the Commission.

(3) DATE.—Members of the Commission shall be appointed by not later than January 1, 2008.

(4) TERMS.—A member of the Commission shall be appointed for a single term of 5 years, except the members initially appointed shall be appointed for terms of 6 years.

(b) VACANCIES.—A vacancy on the Commission shall be filled not later than 30 calendar days after the date on which the Commission is given notice of the vacancy, in the same manner as the original appointment. The individual appointed to fill the vacancy shall serve only for the unexpired portion of the term for which the individual's predecessor was appointed.

(c) COMMITTEE MEMBERS OF COMMISSION.—In the case of an individual appointed to the Commission under subsection (a)(1) who is required to be a member of the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives, if such individual is no longer a member of the required Committee they shall no longer be eligible to serve on the Commission. Such individual shall be removed from the Commission and replaced in accordance with subsection (b).

(d) CO-CHAIRPERSON.—The Commission shall designate 2 Co-Chairpersons from among the members of the Commission, neither of whom may be affiliated with the same political party.

SEC. 5. POWERS OF THE COMMISSION.

(a) MEETINGS AND HEARINGS.—

(1) MEETINGS.—The Commission shall meet at the call of the Co-Chairpersons. The Co-Chairpersons of the Commission or their designee shall convene and preside at the meetings of the Commission

(2) HEARINGS.—

(A) INITIAL TOWN-HALL STYLE PUBLIC HEARINGS.—

(i) IN GENERAL.—The Commission shall hold at least 1 town-hall style public hearing within each Federal reserve district not later than the date on which the Commission submits the report required under section 3(c)(2)(A), and shall, to the extent feasible, ensure that there is broad public participation in the hearings.

(ii) HEARING FORMAT.—During each hearing, the Commission shall present to the public, and generate comments and suggestions regarding, the issues reviewed under section 3(b), policies designed to address those issues, and tradeoffs between such policies.

(B) ADDITIONAL HEARINGS.—In addition to the hearings required under subparagraph (A), the Commission shall hold such other hearings as the Commission determines appropriate to carry out the purposes of this Act.

(3) QUORUM.—Ten members of the Commission shall constitute a quorum for purposes of voting, but a quorum is not required for members to meet and hold hearings.

(b) ADMINISTRATION.—

(1) COMPENSATION.—Each member, other than the Co-Chairpersons, shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. The Co-Chairpersons shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay prescribed for level III of the Executive Schedule under section 5314 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission.

(2) TRAVEL EXPENSES.—Members shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code, while away from their homes or regular places of business in performance of services for the Commission.

(c) FEDERAL ADVISORY COMMITTEE ACT.—The Commission shall be exempt from the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

(d) PERSONNEL.—

(1) DIRECTOR.—The Commission shall have a staff headed by an Executive Director. The Executive Director shall be paid at a rate equivalent to a rate established for the Senior Executive Service under section 5382 of title 5, United States Code.

(2) STAFF APPOINTMENT.—With the approval of the Co-Chairpersons, the Executive Director may appoint such personnel as the Executive Director and the Commission determines to be appropriate.

(3) ACTUARIAL EXPERTS AND CONSULTANTS.—With the approval of the Co-Chairpersons, the Executive Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(4) DETAIL OF GOVERNMENT EMPLOYEES.—Upon the request of the Co-Chairpersons, the

head of any Federal agency may detail, without reimbursement, any of the personnel of such agency to the Commission to assist in carrying out the duties of the Commission. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(5) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, statistical data, and other information from the Library of Congress, the Chief Actuary of Social Security, the Secretary of Health and Human Services, the Centers for Medicare & Medicaid Services, the Congressional Budget Office, and other agencies and elected representatives of the executive and legislative branches of the Federal Government. The Co-Chairpersons of the Commission shall make requests for such access in writing when necessary.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out the purposes of this Act.

SEC. 7. EXPEDITED CONSIDERATION OF COMMISSION RECOMMENDATIONS.

(a) INTRODUCTION AND COMMITTEE CONSIDERATION.—

(1) INTRODUCTION.—A Commission bill shall be introduced in the Senate by the majority leader, or the majority leader's designee, and in the House of Representatives, by the majority leader, or the majority leader's designee. Upon such introduction, the Commission bill shall be referred to the appropriate committees of Congress under paragraph (2). If the Commission bill is not introduced in accordance with the preceding sentence, then any member of Congress may introduce the Commission bill in their respective House of Congress beginning on the date that is the 5th calendar day that such House is in session following the date of the submission of the Commission report under section 3(c)(2)(A).

(2) COMMITTEE CONSIDERATION.—

(A) REFERRAL.—A Commission bill introduced in the Senate shall be referred to the Committee on Finance of the Senate. A Commission bill introduced in the House of Representatives shall be referred jointly to the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives.

(B) REPORTING.—Not later than 60 calendar days after the introduction of the Commission bill, each Committee of Congress to which the Commission bill was referred shall report the bill. Each such reported bill shall meet the requirement of ensuring the long-term solvency of the Social Security and Medicare programs, and the provision of appropriate benefits, that the proposed legislative language provided by the Commission is subject to under section 3(b)(4).

(C) DISCHARGE OF COMMITTEE.—If a committee to which is referred a Commission bill has not reported such Commission bill at the end of 60 calendar days after its introduction, such committee shall be automatically discharged from further consideration of the Commission bill and it shall be placed on the appropriate calendar.

(b) EXPEDITED PROCEDURE.—

(1) AMENDMENTS.—No amendment that is not relevant to the provisions of the Commission bill shall be in order in either the Senate or the House of Representatives. In either House, an amendment, any amendment to an amendment, or any debatable motion or appeal is debatable for not to exceed 5 hours to be divided equally between those favoring and those opposing the amendment, motion, or appeal.

(2) FLOOR CONSIDERATION IN THE SENATE.—

(A) IN GENERAL.—Not later than 30 calendar days after the date on which a committee has reported or has been discharged from consideration of a Commission bill, the majority leader of the Senate, or the majority leader's designee shall move to proceed to the consideration of the Commission bill. It shall also be in order for any member of the Senate to move to proceed to the consideration of the bill at any time after the conclusion of such 30-day period.

(B) MOTION TO PROCEED.—A motion to proceed to the consideration of a Commission bill is privileged in the Senate. The motion is not debatable and is not subject to a motion to postpone consideration of the Commission bill or to proceed to the consideration of other business. A motion to reconsider the vote by which the motion to proceed is agreed to or not agreed to shall not be in order. If the motion to proceed is agreed to, the Senate shall immediately proceed to consideration of the Commission bill without intervening motion, order, action, or other business, and the Commission bill shall remain the unfinished business of the Senate until disposed of.

(C) LIMITED DEBATE.—

(i) IN GENERAL.—Consideration in the Senate of the Commission bill and all amendments to such bill, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 40 hours, which shall be equally divided between, and controlled by, the majority leader and the minority leader of the Senate or their designees. A motion further to limit debate on the Commission bill is in order and is not debatable. All time used for consideration of the Commission bill, including time used for quorum calls (except quorum calls immediately preceding a vote), shall come from the 40 hours of consideration.

(ii) RECOMMITAL TO COMMITTEE.—Upon expiration of the 40-hour period provided under clause (i), the Commission bill shall be recommitted to committee for further consideration unless ⅗ of the Members, duly chosen and sworn, of the Senate agree to proceed to passage. Any bill reported by a committee as a result of such further consideration shall—

(I) meet the requirement of ensuring the long-term solvency of the Social Security and Medicare programs and the provision of appropriate benefits that the proposed legislative language provided by the Commission is subject to under section 3(b)(4); and

(II) be considered under the expedited procedures under this subsection.

(D) VOTE ON PASSAGE.—

(i) IN GENERAL.—The vote on passage in the Senate of the Commission bill shall occur immediately following the conclusion of the 40-hour period for consideration of the Commission bill under subparagraph (C) and a request to establish the presence of a quorum.

(ii) OTHER MOTIONS NOT IN ORDER.—A motion in the Senate to postpone consideration of the Commission bill, a motion to proceed to the consideration of other business, or a motion to recommit the Commission bill is not in order. A motion in the Senate to reconsider the vote by which the Commission bill is agreed to or not agreed to is not in order.

(3) FLOOR CONSIDERATION IN THE HOUSE.—

(A) IN GENERAL.—Not later than 30 calendar days after the date on which a committee has reported or has been discharged from consideration of a Commission bill, the majority leader of the House of Representatives, or the majority leader's designee shall move to proceed to the consideration of the Commission bill. It shall also be in order for any member of the House of Representatives to move to proceed to the consideration of the bill at any time after the conclusion of such 30-day period.

(B) MOTION TO PROCEED.—A motion to proceed to the consideration of a Commission bill is privileged in the House of Representatives. The motion is not debatable and is not subject to a motion to postpone consideration of the Commission bill or to proceed to the consideration of other business. A motion to reconsider the vote by which the motion to proceed is agreed to or not agreed to shall not be in order. If the motion to proceed is agreed to, the House of Representatives shall immediately proceed to consideration of the Commission bill without intervening motion, order, action, or other business, and the Commission bill shall remain the unfinished business of the House of Representatives until disposed of.

(C) LIMITED DEBATE.—

(i) IN GENERAL.—Consideration in the House of Representatives of the Commission bill and all amendments to such bill, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 40 hours, which shall be equally divided between, and controlled by, the majority leader and the minority leader of the House of Representatives or their designees. A motion further to limit debate on the Commission bill is in order and is not debatable. All time used for consideration of the Commission bill, including time used for quorum calls (except quorum calls immediately preceding a vote), shall come from the 40 hours of consideration.

(ii) RECOMMITAL TO COMMITTEE.—Upon expiration of the 40-hour period provided under clause (i), the Commission bill shall be recommitted to committee for further consideration unless ⅗ of the Members, duly chosen and sworn, of the House of Representatives agree to proceed to final passage. Any bill reported by a committee as a result of such further consideration shall—

(I) meet the requirement of ensuring the long-term solvency of the Social Security and Medicare programs and the provision of appropriate benefits that the proposed legislative language provided by the Commission is subject to under section 3(b)(4); and

(II) be considered under the expedited procedures under this subsection.

(D) VOTE ON PASSAGE.—

(i) IN GENERAL.—The vote on passage in the House of Representatives of the Commission bill shall occur immediately following the conclusion of the 40-hour period for consideration of the Commission bill under subparagraph (C) and a request to establish the presence of a quorum.

(ii) OTHER MOTIONS NOT IN ORDER.—A motion in the House of Representatives to postpone consideration of the Commission bill, a motion to proceed to the consideration of other business, or a motion to recommit the Commission bill is not in order. A motion in the House of Representatives to reconsider the vote by which the Commission bill is agreed to or not agreed to is not in order.

(4) CONSIDERATION BY OTHER HOUSE.—If, before the passage by one House of the Commission bill that was introduced in such House, such House receives from the other House a Commission bill as passed by such other House—

(A) the Commission bill of the other House shall not be referred to a committee and may only be considered for passage in the House that receives it under subparagraph (C);

(B) the procedure in the House in receipt of the Commission bill of the other House, with respect to the Commission bill that was introduced in the receiving House, shall be the same as if no Commission bill had been received from the other House; and

(C) notwithstanding subparagraph (B), the vote on final passage shall be on the Commission bill of the other House.

Upon disposition of a Commission bill that is received by one House from the other House, it shall no longer be in order to consider the Commission bill that was introduced in the receiving House.

(5) CONSIDERATION IN CONFERENCE.—

(A) CONVENING OF CONFERENCE.—In the case of any disagreement between the two Houses of Congress with respect to a Commission bill passed by both Houses, conferees shall be promptly appointed and a conference convened. All motions to proceed to conference are nondebatable. The committee of conference shall make and file a report with respect to such Commission bill within 30 calendar days after the day on which managers on the part of the Senate and the House of Representatives have been appointed. Notwithstanding any rule in either House concerning the printing of conference reports or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than 5 calendar days after the conference report is filed in the House in which such report is filed first. In the event the conferees are unable to agree within 30 calendar days after the date on which the conference was convened, they shall report back to their respective Houses in disagreement.

(B) CONFERENCE REPORT DEFEATED.—Should the conference report be defeated, debate on any request for a new conference and the appointment of conferees shall be limited to 1 hour, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or the minority leader's designee, and should any motion be made to instruct the conferees before the conferees are named, debate on such motion shall be limited to ½ hour, to be equally divided between, and controlled by, the mover and the manager of the conference report. Debate on any amendment to any such instructions shall be limited to 20 minutes, to be equally divided between, and controlled by, the mover and the manager of the conference report. In all cases when the manager of the conference report is in favor of any motion, appeal, or amendment, the time in opposition shall be under the control of the minority leader or the minority leader's designee.

Mrs. FEINSTEIN. Mr. President, as the new Congress begins work, I am pleased to join with Senator DOMENICI in addressing one of the most serious and intractable problems facing the Nation—restoring the long-term fiscal health of Social Security and Medicare.

Today we propose a bipartisan, independent and permanently existing commission to return these essential programs to solid financial footing for generations to come.

Our legislation mandates the periodic, comprehensive review of Social Security and Medicare to ensure their present and future solvency. By a year from the date of enactment, it requires the Commission to devise and recommend to Congress and the President a benefit and revenue structure that allows Social Security and Medicare to become, once again, stable and effective.

A key aspect of the bill is that its mission is ongoing indefinitely. Every five years the Commission returns with new recommendations—small tweaks or larger adjustments, whatever is necessary—to keep these entitlement programs in actuarial balance.

Since 2005, the President, Congress and the Nation have stalemated over the issue of privatizing Social Security. The issue remains contentious. Recent press articles suggest the Administration would be prepared to drop carve out accounts as the price of overall reform.

Meanwhile, the Social Security funding shortfall is projected to balloon to roughly $4.6 trillion over the next 75 years to pay all scheduled benefits. This unfunded obligation has increased by $600 billion alone over the last year. Medicare is in far worse shape, needing $11.3 trillion over the next seventy-five years to close the gap and remain in balance.

The 2006 report from the Trustees of Medicare and Social Security is alarming to say the least. They describe the current path of spending for both as ''problematic'', ''unsustainable,'' ''severe'', and in ''poor fiscal shape.'' In sum the Trustees say that ''the problems of both programs are driven by inexorable demographics, and, in the case of Medicare, inexorable health care cost inflation, and are not likely to be ameliorated by economic growth or mere tinkering with program financing.''

Simple numbers tell the story: growing cash flow deficits will exhaust the Medicare trust fund in 2018, and Social Security reserves will be overcome in 2040, according to the Trustees report.

Our legislation takes a new approach and is bipartisan to the core. Instead of emphasizing the merits of one proposal over another, we wipe the slate clean.

Fifteen experts, some of whom are Members of Congress from the committees of jurisdiction, are appointed. They take a full year to conduct town hall meetings nationwide, assess these trillion dollar programs from top to bottom, and rationalize their cost structure through intensive evaluation.

We advocate an open process, where all American voices can be heard. We have learned in the last two years that these issues effectively surpass the Congress' and President's ability to reach a compromise.

Relying strictly on elected officials to meet privately and out of the public view to negotiate a multi-trillion agreement I believe risks more failure. We have no demonstrated track record since 2005 of being able to achieve bipartisan consensus. And there are no new developments of late that suggest a different outcome than more partisan gridlock.

I know Majority Leader REID is instructing on certain members of the Senate to gather and discuss these issues in the coming months. I hope it works. But I basically share his outlook for the prospects of a bipartisan deal: ''It's a tremendous long shot. If you were a Las Vegas bookmaker, you'd put the odds pretty [long] for being able to do that.''

The Commission we propose would not be offering one-time solutions that get tossed aside and collect dust. Far from it: the Commission's detailed analysis, nonpartisan recommendations and findings are provided in writing and take the form of legislation that Congress formally considers.

The Senate and House, in turn, through expedited legislative procedures, will hopefully be poised to amend if need be and then enact the changes into law.

Compromise, in the form of increasing payroll tax revenues or other fees and cutting benefits, is the inevitable reality which we face. Senator DOMENICI and I are focused on creating a pathway to reach that compromise. We do not hold out, today, certain ideas that we believe Commission Members ought to consider.

We rely on their independent expertise and motivation to derive what is best for the Nation. Then we let the chips fall where they may from there.

The former Chairman of the Federal Reserve, Alan Greenspan, said two years ago that we had little time to waste in fixing Social Security. He endorsed the notion of establishing a Commission, much like the one he led in 1983 that led to historic changes in the program. His congressional testimony bears repeating:

> This is not a hugely difficult problem to solve . . . And I guess what is missing is the fact that at this stage there has been a rather low interest in actually joining, in finding out where some of the agreements are, and I have a suspicion that when that occurs, that will happen. It may well be that some mechanism such as that which we employed in 1983 may be a useful mechanism to get groups together and find out where there are agreements. I tend to think what happens in these debates is nobody talks about what they agree about but only about what they differ about. And something has got to give soon because we do not have the choice of not resolving this issue.

Chairman Greenspan is absolutely right that it is only a matter of time that we implement Social Security reform. That is because 48 million people, or 1 out of every 6 Americans, depend on it. And by 2050, an astounding 82 million Americans will receive this guaranteed benefit.

For more than 20 percent of retirees, Social Security is it: their only source of income.

For half of those 48 million, Social Security keeps them out of poverty. And for almost two-thirds, Social Security makes up more than half of their total income.

4.8 million widows and widowers rely on Social Security, as do 6.8 million disabled workers and 4 million children.

The long-term challenges are significant. It is not a crisis, we have time to implement gradual reform over time, but we need to get started.

While the current projected shortfall for Social Security amounts to about $4.6 trillion, the fact of the matter is that 100 percent of benefits can be paid until 2040 by some estimates (Social Security Administration) or 2046 by

others (CBO). Beyond that time horizon, 73 percent of benefits can be paid.

So the bottom line is, there is time, the know-how, and the resources to be able to maintain the current system, with phased adjustments occurring over many years to the Social Security Trust Fund.

The key, of course, is coming to a rational consensus—Democrats and Republicans united—in the effort to make Social Security solvent from this day forward.

Most budget experts agree that the Social Security problem pales in comparison to the enormous shortfall facing the Medicare Trust Fund (Part A)—over the next 75 years a total of $11.3 trillion. The various technical estimates are that Medicare is projected to become insolvent far sooner than Social Security.

In fact the most recent Medicare Trustees report confirms that the trust fund will be exhausted in 2018, yet the number of beneficiaries skyrockets upwards—from 42.7 million now, a number which will double by 2030—as the Baby Boom generation ages.

Compounding the problem, the Congressional Budget Office projects that Medicare spending will rise to 11 percent of the gross domestic product by 2080, up from 3.21 percent of GDP in 2006.

And the number of those paying into the system gets smaller and smaller: in 2000, 4 workers supported every Medicare beneficiary. That number shrinks to 2.4 workers per beneficiary by 2030.

The plain truth is that surging health care costs need to come under control or Medicare faces a dire situation. Because the program is financed through payroll taxes on working Americans, and general tax revenue, the pressure is building now on working Americans, given the huge demographic changes we expect when Baby Boomers retire.

In closing let me share one pertinent fact from the Social Security and Medicare Trustees and their 2006 report: ''to the extent that changes are delayed or phased in gradually, greater adjustments in scheduled benefits and revenues would be required.'' The time to act is now, and Senator DOMENICI and I believe that our legislation represents a reasonable and good faith step for curing what ills these vital safety net programs.

By Mr. BROWNBACK (for himself, Mr. ALEXANDER, Mr. BUNNING, Mr. BURR, Mr. CHAMBLISS, Mr. COBURN, Mr. COCHRAN, Mr. COLEMAN, Mr. CORNYN, Mr. DEMINT, Mrs. DOLE, Mr. ENSIGN, Mr. ENZI, Mr. GRAHAM, Mr. GRASSLEY, Mr. HAGEL, Mr. HATCH, Mr. INHOFE, Mr. ISAKSON, Mr. KYL, Mr. LOTT, Mr. MARTINEZ, Mr. MCCONNELL, Mr. ROBERTS, Mr. SESSIONS, Mr. THUNE, Mr. VITTER, and Mr. VOINOVICH):

S. 356. A bill to ensure that women seeking an abortion are fully informed regarding the pain experienced by their unborn child; to the Committee on Health, Education, Labor, and Pensions.

Mr. BROWNBACK. Mr. President, I rise today to introduce the Unborn Child Pain Awareness Act. I am joined by 27 original cosponsors.

After carefully reviewing the medical and ethical arguments that underpin this Act, I am convinced that my colleagues will agree that this legislation is pro-woman, pro-child, and pro-information.

The Unborn Child Pain Awareness Act is about empowering women with information and treating them as adults who are able to participate fully in the medical decision-making process. It is also about respecting and treating the unborn child more humanely. This legislation is, at heart, an informed consent bill which would do two simple things: first, this act would require abortion providers to present women seeking an abortion twenty or more weeks after fertilization with scientific information about what is known regarding the pain capacity of the unborn child inside of her womb.

Second, should the woman desire to continue with the abortion after being presented with this information, the legislation calls for her to be given the opportunity to choose anesthesia for the unborn child in order to lessen its pain.

No abortion procedures would be prohibited by the Unborn Child Pain Awareness Act. This is strictly an informed consent bill.

I don't believe that anyone in this chamber thinks that any patient should ever be denied her right to all the information that is available on a surgery she or her child is about to undergo simply because the patient is pregnant. Providing a woman with medical and scientific information on the development of her unborn child and the pain the child will experience during an abortion will equip her to make an informed decision about how or if to proceed. Pregnant women must be treated as intelligent, mature human beings who are capable of understanding this information and making difficult choices.

Due to amazing advances in medical technology, we have known for some time now that unborn children can and do respond to pain and to human touch in general. This is evidenced by anatomical, functional, physiological and behavioral indicators that are correlated with pain in children and adults.

In light of this knowledge, when a child undergoes prenatal surgery in order to alleviate certain types of congenital hernias which can affect the child's liver and lungs or to correct prenatal heart failure, both the child and the mother are offered anesthesia as a matter of course. Certainly everyone would agree that, at the very least, abortion is a surgical procedure performed on the fetus. Why should the medical community be required to offer anesthesia to one 20-week-old unborn baby undergoing any other type of prenatal surgery, but not require it for another 20-week-old unborn baby who is undergoing the life-terminating surgery of an abortion? Are both babies not at the same stage of development with the same capacity for pain?

Of course, this new scientific knowledge that unborn babies can experience pain is not news to most women. Any mother can tell you her unborn child can feel and respond to stimuli from outside the womb. Sometimes a voice or a sharp movement by the mother will cause the unborn child to stir. And usually, at some point in the late second trimester, even the father can feel and see the unborn child's movements. And if you push the unborn child's limb, the limb may push back. I have many fond memories of feeling my own children kick and move around inside my wife's womb. It was obvious to both of us that our children were very much alive.

In the proposed legislation, we have settled on a 20-week benchmark because there is strong medical and scientific knowledge that unborn children feel and experience pain by 20 weeks after fertilization.

Many scientists and anesthesiologists believe that unborn children actually feel pain weeks earlier, but we chose the 20 week benchmark as a point on which the most scientists and doctors can agree.

We do know that unborn children at 20 weeks' gestation can not only feel, but that their ability to experience pain is heightened. The highest density of pain receptors per square inch of skin in human development occurs in utero from 20 to 30 weeks gestation.

The Unborn Child Pain Awareness Act offers us a rare chance to transcend the traditional political boundaries on the abortion issue. It is a matter of human decency, access to information for women, and patients' rights.

It is my hope that this bill will offer us a chance to work across political divides to forge new understandings in this chamber.

I think that we can all support giving women more information when they are making life-altering decisions.

In fact, according to a Wirthlin Worldwide poll conducted after the 2004 election, 75 percent of respondents favored ''laws requiring that women who are 20 weeks or more along in their pregnancies be given information about fetal pain before having an abortion.''

During the 2006 elections, candidates from both sides of the aisle promised to support bipartisan solutions dealing with abortion, such as promoting adoption and passing parental notification requirements for minors seeking abortions.

Adoption and parental notification for minors are indeed issues on which I hope we can work together. Perhaps we

can begin with this measure. The Unborn Child Pain Awareness Act would provide a wonderful opportunity for us to affirm that the 110th Congress is pro-woman, pro-child, and pro-patient access to information.

By Mrs. FEINSTEIN (for herself, Ms. SNOWE, Mr. INOUYE, Mr. DURBIN, Mr. KERRY, Mrs. BOXER, Mr. NELSON of Florida, Ms. CANTWELL, Mr. LAUTENBERG, Mr. LIEBERMAN, Mr. MENENDEZ, and Ms. COLLINS):

S. 357. A bill to improve passenger automobile fuel economy and safety, reduce greenhouse gas emissions, reduce dependence on foreign oil, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mrs. FEINSTEIN. Mr. President, I rise today to offer a bill with my colleagues Senators SNOWE, INOUYE, DURBIN, KERRY, BOXER, BILL NELSON, CANTWELL, LAUTENBERG, LIEBERMAN, MENENDEZ, and COLLINS to close the SUV loophole.

This bill would increase Corporate Average Fuel Economy, CAFE, standards for SUVs and other light duty trucks. It would increase the combined fleet average for all automobiles—SUVs, light trucks and passenger cars—from 25 miles per gallon to 35 miles per gallon by model year 2019.

The high price of oil is not a problem we can drill our way out of. Global oil demand is rising. China imports more than 40 percent of its record 6.4 million-barrel-per-day oil demand and its consumption is growing by 7.5 percent per year, seven times faster than the U.S.

India imports approximately 70 percent of its oil, which is projected to rise to more than 90 percent by 2020. Their rapidly growing economies are fueling their growing dependence on oil—which makes continued higher prices inevitable.

The most effective step we can take to reduce gas prices is to reduce demand. We must use our finite fuel supplies more wisely.

This legislation is an important first step to limit our Nation's dependence on oil and better protect our environment.

If implemented, closing the SUV Loophole would: save the U.S. 2.1 million barrels of oil a day by 2025, almost the same amount of oil we currently import from the Persian Gulf.

It would also prevent about 350 million tons of carbon dioxide—the top greenhouse gas and biggest single cause of global warming from being emitted into our atmosphere by 2025. This is an 18 percent reduction, the equivalent of taking 60 million cars—or 50 million cars and light trucks—off the road in one year.

This bill would also save SUV and light duty truck owners hundreds of dollars each year in gasoline costs.

CAFE standards were first established in 1975. At that time, light trucks made up only a small percentage of the vehicles on the road, they were used mostly for agriculture and commerce, not as passenger cars.

Today, our roads look much different, SUVs and light duty trucks comprise more than half of the new car sales in the United States. As a result, the overall fuel economy of our Nation's fleet is the lowest it has been in two decades, because fuel economy standards for these vehicles are so much lower than they are for other passenger vehicles.

The bill we are introducing today would change that. SUVs and other light duty trucks would have to meet the same fuel economy requirements by 2013 that passenger cars meet today.

In 2002, the National Academy of Sciences, NAS, released a report stating that adequate lead time can bring about substantive increases in fuel economy standards. Automakers can meet higher CAFE standards if existing technologies are utilized and included in new models of SUVs and light trucks.

In 2003, the head of the National Highway Traffic Safety Administration said he favored an increase in vehicle fuel economy standards beyond the 1.5-mile-per-gallon hike slated to go into effect by 2007. ''We can do better,'' said Jeffrey Runge in an interview with Congressional Green Sheets. ''The overriding goal here is better fuel economy to decrease our reliance on foreign oil without compromising safety or American jobs,'' he said.

With this in mind, we have developed the following phase-in schedule which would follow up on what NHTSA has proposed for the short term and remain consistent with what the NAS report said is technologically feasible over the next decade or so. As a first step, by model year 2010, passenger cars must meet an average fuel economy standard of 29.5 mpg, and SUVs and light trucks must meet 23.5 mpg. By way of comparison, passenger cars in model year 2005 averaged 30 mpg, light trucks averaged 21.8 mpg, and the overall combined fleet average is 25.2 mpg.

The bill also increases the weight limit within which vehicles are bound by CAFE standards to make it harder for automotive manufacturers to build SUVs large enough to become exempted from CAFE standards. Because SUVs are becoming larger and larger, some may become so large that they will no longer qualify as even SUVs anymore.

We are introducing this legislation because we believe that the United States needs to take a leadership role in the fight against global warming.

We have already seen the potential destruction that global warming can cause in the United States.

Snowpacks in the Sierra Nevada are shrinking and will almost entirely disappear by the end of the century, devastating the source of California's water.

Eskimos are being forced inland in Alaska as their native homes on the coastline are melting into the sea.

Glaciers are disappearing in Glacier National Park in Montana. In 100 years, the park has gone from having 150 glaciers to fewer than 30. And the 30 that remain are two-thirds smaller than they once were.

Beyond our borders, scientists are predicting how the impact of global warming will be felt around the globe.

It has been estimated that two-thirds of the glaciers in western China will melt by 2050, seriously diminishing the water supply for the region's 300 million inhabitants. Additionally, the disappearance of glaciers in the Andes in Peru is projected to leave the population without an adequate water supply during the summer.

The United States is the largest energy consumer in the world, with 4 percent of the world's population using 25 percent of the planet's energy.

And much of this energy is used in cars and light trucks: 43 percent of the oil we use goes into our vehicles and one-third of all carbon dioxide emissions come from our transportation sector.

The U.S. is falling behind the rest of the world in the development of more fuel efficient automobiles. Quarterly auto sales reflect that consumers are buying smaller more fuel efficient cars and sales of the big, luxury vehicles that are the preferred vehicle of the American automakers have dropped significantly.

Even SUV sales have slowed. First quarter 2005 deliveries of these vehicles are down compared to the same period last year—for example, sales of the Ford Excursion is down by 29.5 percent, the Cadillac Escalade by 19.9 percent, and the Toyota Sequoia by 12.6 percent.

On the other hand, the Toyota Prius hybrid had record sales in March with a 160.9 percent increase over the previous year.

The struggling U.S. auto market cannot afford to fall behind in the development of fuel efficient vehicles. Our bill sets out a reasonable time frame for car manufacturers to design vehicles that are more fuel efficient and that will meet the growing demand for more fuel efficient vehicles.

We can do this, and we can do this today. I urge my colleagues to support this legislation.

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

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

S. 357

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 ''Ten-in-Ten Fuel Economy Act''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. AVERAGE FUEL ECONOMY STANDARDS FOR PASSENGER AUTOMOBILES AND LIGHT TRUCKS.

(a) INCREASED STANDARDS.—Section 32902 of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) by striking ''NON-PASSENGER AUTOMOBILES.—'' and inserting ''PRESCRIPTION OF STANDARDS BY REGULATION.—''; and

(B) by striking ''(except passenger automobiles)'' and inserting ''(except passenger automobiles and light trucks)''; and

(2) by amending subsection (b) to read as follows:

''(b) STANDARDS FOR PASSENGER AUTOMOBILES AND LIGHT TRUCKS.—

''(1) IN GENERAL.—The Secretary of Transportation, after consultation with the Administrator of the Environmental Protection Agency, shall prescribe average fuel economy standards for passenger automobiles and light trucks manufactured by a manufacturer in each model year beginning with model year 2010 in order to achieve a combined average fuel economy standard for passenger automobiles and light trucks for model year 2019 of at least 35 miles per gallon (or such other number of miles per gallon as the Secretary may prescribe under subsection (c)).

''(2) ELIMINATION OF SUV LOOPHOLE.—Beginning not later than model year 2013, the regulations prescribed under this section may not make any distinction between passenger automobiles and light trucks.

''(3) PROGRESS TOWARD STANDARD REQUIRED.—In prescribing average fuel economy standards under paragraph (1), the Secretary shall prescribe appropriate annual fuel economy standard increases for passenger automobiles and light trucks that—

''(A) increase the applicable average fuel economy standard ratably beginning with model year 2010 and ending with model year 2019;

''(B) require that each manufacturer achieve—

''(i) a fuel economy standard for passenger automobiles manufactured by that manufacturer of at least 29.5 miles per gallon not later than model year 2010; and

''(ii) a fuel economy standard for light trucks manufactured by that manufacturer of at least 23.5 miles per gallon not later than model year 2010.

''(4) FUEL ECONOMY BASELINE FOR PASSENGER AUTOMOBILES.—Notwithstanding the maximum feasible average fuel economy level established by regulations prescribed under subsection (c), the minimum fleetwide average fuel economy standard for passenger automobiles manufactured by a manufacturer in a model year for that manufacturer's domestic fleet and foreign fleet, as calculated under section 32904 as in effect before the date of the enactment of the Ten-in-Ten Fuel Economy Act, shall be the greater of—

''(A) 27.5 miles per gallon; or

''(B) 92 percent of the average fuel economy projected by the Secretary for the combined domestic and foreign fleets manufactured by all manufacturers in that model year.

''(5) DEADLINE FOR REGULATIONS.—The Secretary shall promulgate the regulations required by paragraphs (1) and (2) in final form not later than 18 months after the date of the enactment of the Ten-in-Ten Fuel Economy Act.''.

SEC. 3. PASSENGER CAR PROGRAM REFORM.

Section 32902(c) of title 49, United States Code, is amended to read as follows:

''(c) AMENDING PASSENGER AUTOMOBILE STANDARDS.—Not later than 18 months before the beginning of each model year, the Secretary of Transportation may prescribe regulations amending a standard prescribed under subsection (b) for a model year to a level that the Secretary determines to be the maximum feasible average fuel economy level for that model year. Section 553 of title 5 applies to a proceeding to amend any standard prescribed under subsection (b). Any interested person may make an oral presentation and a transcript shall be taken of that presentation. The Secretary may prescribe separate standards for different classes of passenger automobiles.''.

SEC. 4. DEFINITION OF WORK TRUCK.

(a) DEFINITION OF WORK TRUCK.—Section 32901(a) of title 49 is amended by adding at the end the following:

''(17) 'work truck' means an automobile that the Secretary determines by regulation—

''(A) is rated at between 8,500 and 10,000 pounds gross vehicle weight; and

''(B) is not a medium-duty passenger vehicle (as defined in section 86.1803–01 of title 40, Code of Federal Regulations).''.

(b) DEADLINE FOR REGULATIONS.—The Secretary of Transportation—

(1) shall issue proposed regulations implementing the amendment made by subsection (a) not later than 1 year after the date of the enactment of this Act; and

(2) shall issue final regulations implementing the amendment not later than 18 months after the date of the enactment of this Act.

(c) FUEL ECONOMY STANDARDS FOR WORK TRUCKS.—The Secretary of Transportation, in consultation with the Administrator of the Environmental Protection Agency, shall prescribe standards to achieve the maximum feasible fuel economy for work trucks (as defined in section 32901(a)(17) of title 49, United States Code) manufactured by a manufacturer in each model year beginning with model year 2013.

SEC. 5. DEFINITION OF LIGHT TRUCK.

(a) DEFINITION OF LIGHT TRUCK.—

(1) IN GENERAL.—Section 32901(a) of title 49, United States Code, is amended by inserting after paragraph (11) the following:

''(11) 'light truck' means an automobile that the Secretary determines by regulation—

''(A) is manufactured primarily for transporting not more than 10 individuals;

''(B) is rated at not more than 10,000 pounds gross vehicle weight;

''(C) is not a passenger automobile; and

''(D) is not a work truck.''.

(2) DEADLINE FOR REGULATIONS.—The Secretary of Transportation—

(A) shall issue proposed regulations implementing the amendment made by paragraph (1) not later than 1 year after the date of the enactment of this Act; and

(B) shall issue final regulations implementing the amendment not later than 18 months after the date of the enactment of this Act.

(3) EFFECTIVE DATE.—Regulations prescribed under paragraph (1) shall apply beginning with model year 2010.

(b) APPLICABILITY OF EXISTING STANDARDS.—This section does not affect the application of section 32902 of title 49, United States Code, to passenger automobiles or non-passenger automobiles manufactured before model year 2010.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $25,000,000 for each of fiscal years 2009 through 2021 to carry out the provisions of chapter 329 of title 49, United States Code.

SEC. 6. ENSURING SAFETY OF PASSENGER AUTOMOBILES AND LIGHT TRUCKS.

(a) IN GENERAL.—The Secretary of Transportation shall exercise such authority under Federal law as the Secretary may have to ensure that—

(1) passenger automobiles and light trucks (as such terms are defined in section 32901 of title 49, United States Code) are safe;

(2) progress is made in improving the overall safety of passenger automobiles and light trucks; and

(3) progress is made in maximizing United States employment.

(b) VEHICLE SAFETY.—Subchapter II of chapter 301 of title 49, United States Code, is amended by adding at the end the following:

''§ 30129. Vehicle compatibility and aggressivity reduction standard

''(a) STANDARDS.—The Secretary of Transportation shall issue a motor vehicle safety standard to reduce vehicle incompatibility and aggressivity between passenger vehicles and non-passenger vehicles. The standard shall address characteristics necessary to ensure better management of crash forces in multiple vehicle frontal and side impact crashes between different types, sizes, and weights of vehicles with a gross vehicle weight of 10,000 pounds or less in order to decrease occupant deaths and injuries.

''(b) CONSUMER INFORMATION.—The Secretary shall develop and implement a public information side and frontal compatibility crash test program with vehicle ratings based on risks to occupants, risks to other motorists, and combined risks by vehicle make and model.''.

(c) RULEMAKING DEADLINES.—

(1) RULEMAKING.—The Secretary of Transportation shall issue—

(A) a notice of a proposed rulemaking under section 30129 of title 49, United States Code, not later than January 1, 2010; and

(B) a final rule under such section not later than December 31, 2011.

(2) EFFECTIVE DATE OF REQUIREMENTS.—Any requirement imposed under the final rule issued under paragraph (1) shall become fully effective not later than September 1, 2013.

(d) CONFORMING AMENDMENT.—The chapter analysis for chapter 301 is amended by inserting after the item relating to section 30128 the following:

''30129. Vehicle compatibility and aggressivity reduction standard''.

SEC. 7. ONBOARD FUEL ECONOMY INDICATORS AND DEVICES.

(a) IN GENERAL.—Chapter 329 of title 49, United States Code, is amended by adding at the end the following:

''§ 32920. Fuel economy indicators and devices

''(a) IN GENERAL.—The Secretary of Transportation, in consultation with the Administrator of the Environmental Protection Agency, shall prescribe a fuel economy standard for passenger automobiles and light trucks manufactured by a manufacturer in each model year beginning with model year 2014 that requires each such automobile and light truck to be equipped with—

''(1) an onboard electronic instrument that provides real-time and cumulative fuel economy data;

''(2) an onboard electronic instrument that signals a driver when inadequate tire pressure may be affecting fuel economy; and

''(3) a device that will allow drivers to place the automobile or light truck in a mode that will automatically produce greater fuel economy.

''(b) EXCEPTION.—Subsection (a) shall not apply to any vehicle that is not subject to an average fuel economy standard under section 32902(b).

''(c) ENFORCEMENT.—Subchapter IV of chapter 301 of this title shall apply to a fuel economy standard prescribed under subsection (a) to the same extent and in the same manner as if that standard were a motor vehicle safety standard under chapter 301.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 329 of title 49, United States Code, is amended by inserting after the item relating to section 32919 the following:

''32920. Fuel economy indicators and devices''.

SEC. 8. SECRETARY OF TRANSPORTATION TO CERTIFY BENEFITS.

Beginning with model year 2010, the Secretary of Transportation, in consultation with the Administrator of the Environmental Protection Agency, shall annually determine and certify to Congress the reduction in United States consumption of gasoline and petroleum distillates used for vehicle fuel and the reduction in greenhouse gas emissions during the most recent year that are properly attributable to the implementation of the average fuel economy standards imposed under section 32902 of title 49, United States Code, as a result of the amendments made by this Act.

SEC. 9. CREDIT TRADING PROGRAM.

Section 32903 of title 49, United States Code, is amended—

(1) by striking ''passenger'' each place it appears;

(2) by striking ''section 32902(b)–(d) of this title'' each place it appears and inserting ''subsection (a), (c), or (d) of section 32902'';

(3) in subsection (a)(2), by striking ''clause (1) of this subsection'' and inserting ''paragraph (1)''; and

(4) by amending subsection (e) to read as follows:

''(e) CREDIT TRADING AMONG MANUFACTURERS.—The Secretary of Transportation may establish, by regulation, a corporate average fuel economy credit trading program to allow manufacturers whose automobiles exceed the average fuel economy standards prescribed under section 32902 to earn credits to be sold to manufacturers whose automobiles fail to achieve the prescribed standards.''.

SEC. 10. REPORT TO CONGRESS.

Not later than December 31, 2014, the Secretary of Transportation shall submit to Congress a report on the progress made by the automobile manufacturing industry towards meeting the 35 miles per gallon average fuel economy standard required under section 32902(b)(1) of title 49, United States Code.

SEC. 11. LABELS FOR FUEL ECONOMY AND GREENHOUSE GAS EMISSIONS.

Section 32908 of title 49, United States Code, is amended—

(1) in subsection (a)(1), by striking ''of this title'' and inserting ''and a light truck manufactured by a manufacturer in a model year after model year 2010; and'';

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by redesignating subparagraph (F) as subparagraph (H); and

(ii) by inserting after subparagraph (E) the following:

''(F) a label (or a logo imprinted on a label required by this paragraph) that—

''(i) reflects an automobile's performance on the basis of criteria developed by the Administrator to reflect the fuel economy and greenhouse gas and other emissions consequences of operating the automobile over its likely useful life;

''(ii) permits consumers to compare performance results under clause (i) among all passenger automobiles and light duty trucks; and

''(iii) is designed to encourage the manufacture and sale of passenger automobiles and light trucks that meet or exceed applicable fuel economy standards under section 32902.

''(G) a fuelstar under paragraph (5).''; and

(B) by adding at the end the following:

''(4) GREEN LABEL PROGRAM.—

''(A) MARKETING ANALYSIS.—Not later than 2 years after the date of the enactment of the Ten-in-Ten Fuel Economy Act, the Administrator shall complete a study of social marketing strategies with the goal of maximizing consumer understanding of point-of-sale labels or logos described in paragraph (1)(F).

''(B) ELIGIBILITY.—Not later than 3 years after the date described in subparagraph (A), the Administrator shall issue requirements for the label or logo required under paragraph (1)(F) to ensure that a passenger automobile or light truck is not eligible for the label or logo unless it—

''(i) meets or exceeds the applicable fuel economy standard; or

''(ii) will have the lowest greenhouse gas emissions over the useful life of the vehicle of all vehicles in the vehicle class to which it belongs in that model year.

''(C) CRITERIA.—In developing criteria for the label or logo, the Administrator shall also consider, among others as appropriate, the following factors:

''(i) The recyclability of the automobile.

''(ii) Any other pollutants or harmful byproducts related to the automobile, which may include those generated during manufacture of the automobile, those issued during use of the automobile, or those generated after the automobile ceases to be operated.

''(5) FUELSTAR PROGRAM.—

''(A) IN GENERAL.—The Secretary shall establish a program, to be known as the 'Fuelstar Program', under which stars shall be imprinted on or attached to the label required by paragraph (1).

''(B) GREEN STARS.—Under the Fuelstar Program, a manufacturer may include on the label maintained on an automobile under paragraph (1)—

''(i) 1 green star for any automobile that meets the average fuel economy standard for the model year under section 32902; and

''(ii) 1 additional green star for each 2 miles per gallon by which the automobile exceeds such standard.

''(C) GOLD STARS.—Under the Fuelstar Program, a manufacturer may include a gold star on the label maintained on an automobile under paragraph (1) if—

''(i) in the case of a passenger automobile, the automobile attains a fuel economy of at least 50 miles per gallon; and

''(ii) in the case of a light truck, the truck attains a fuel economy of at least 37 miles per gallon.''.

Mr. INOUYE. Mr. President: I rise today to join my colleague Senator FEINSTEIN in introducing probably one of the most important bills we can consider this Congress in terms of energy, economic, and environmental security: the Ten-In-Ten Fuel Economy Act of 2007. Simply put, this bill would raise the average fuel economy standards for all passenger cars and light trucks from 25 miles per gallon to 35 miles per gallon by the year 2019.

While Senator FEINSTEIN and I have taken the lead on this issue, the bill we are introducing today is the product of considerable input and expertise provided by our colleagues Senators SNOWE, DURBIN, and CANTWELL.

I also want to thank Senators KERRY, BOXER, BILL NELSON, LAUTENBERG, LIEBERMAN, MENENDEZ, and COLLINS for joining us in this effort.

This bill is a win-win for the American public. It will substantially reduce America's dependence on foreign oil from unstable governments, as well as decrease the amount of harmful emissions coming from our nation's passenger vehicles. At the same time, it will save American families money by reducing their fuel costs.

According to the Union of Concerned Scientists, this bill, if enacted, would save 6 billion gallons of gas—equating to $12 billion in fuel cost savings for motorists in this country—within 6 years of the first model year requiring improvement.

That $12 billion in fuel cost savings also translates into a reduction of 65 million metric tons of carbon dioxide emissions—one of the largest contributors to global warming. This level of savings after only 6 years would be accomplished before the full contribution of the bill is achieved.

By 2025, assuming today's price for a gallon of gas, enactment of this bill would effectively reduce consumption of foreign oil by 2.1 million barrels a day by saving over 35 billion gallons of gasoline annually. It would provide motorists with $64 billion in fuel cost savings, and reduce emissions of carbon dioxide by 358 million metric tons. This decrease in carbon dioxide emissions would be the equivalent of taking 52 million cars and trucks off the road. This incredible savings is achieved by simply raising the fuel economy standard from 25 miles per gallon to 35 miles per gallon in a 10 year period.

Some of our colleagues may question whether this proposed standard can be achieved. Let me just note that the Commerce Committee helped establish the first CAFE standards in 1975, against the cries of critics then. History, however, shows that Congress' action then was largely responsible for the Nation's decreased demand for oil during the 1980s necessitated by the Arab Oil Embargo. Since the 1980s, however, the fuel economy average for cars and light trucks combined has remained essentially flat even though advances in technology have continued. It is time to update CAFE standards. The benefits gained from undertaking this endeavor are many, and too long overdue.

By Ms. SNOWE (for herself, Mr. KENNEDY, Mr. ENZI, Mr. DODD, Mr. GREGG, Mr. HARKIN, Ms. MURKOWSKI, Ms. MIKULSKI, Mr.

HATCH, Mr. BINGAMAN, Mr. ALLARD, Mrs. MURRAY, Mr. REED, Mrs. CLINTON, Mr. OBAMA, Mr. SANDERS, Mr. BROWN, Mr. BIDEN, Mr. LAUTENBERG, Mr. NELSON of Florida, Mr. SALAZAR, Mr. CARDIN, and Ms. COLLINS):

S. 358. A bill to prohibit discrimination on the basis of genetic information with respect to health insurance and employment; to the Committee on Health, Education, Labor, and Pensions.

Ms. SNOWE. Mr. President, I rise today to introduce the Genetic Information Nondiscrimination Act of 2007 and I am joined in doing so by a number of my colleagues including the Chairman and Ranking Member of the Senate HELP Committee, Senators KENNEDY and ENZI. The bill we are introducing today represents a triumph of bipartisan collaboration—true consensus-building which is so vital to achieving substantive action for our constituents. Such efforts are certainly not always easy—as so many here today know—I have worked with many of you for more than 10 years on this issue.

Today we are on the threshold of a new era, as for the first time, we act to prevent discrimination before it has taken firm hold. Indeed, Senator GREGG described this legislation so well when he said it is, truly, ''the first civil rights act of the 21st Century.''

And that is what makes this legislation so unique. For in the past Congress has had to act to address existing discrimination. But today we are acting proactively to address genetic bias, before discrimination becomes entrenched.

This type of discrimination is so different than other forms. Because most discrimination is a response to an obvious trait, such as one's gender or the color of your skin. But discrimination based on one's genetic makeup involves actively looking for information on which to discriminate. Because it is so deliberate, one cannot even argue it was—on any level—subconscious or unintentional.

It used to be difficult to find such information on which to discriminate. You might be asked if you had a family history of a disorder. But today things have changed dramatically.

We have long known about a small number of genes which play a role in some diseases—such as Huntington's Disease, and early onset Alzheimer's. Yet the progress of discovery and study was so slow and tedious. But the Human Genome Project changed all that. Today, with new technology we are seeing an explosive increase in our understanding of genetics and human health.

That growing genetic knowledge offers the potential of disease cures and even customized therapies. Even more promising, genetic advances will enable us to actually prevent the development of disease. But this potential . . . and the billions spent in discovering genetic relationships and developing treatments and preventive agents . . . will certainly be in vain if Americans do not avail themselves of these advances.

To do so, Americans will need to take genetic tests. But would you do so if you knew that the information about your genetic makeup would be used against you—to deny you employment or health coverage?

Some say that kind of discrimination is but a future possibility—that we can afford to wait until genetic discrimination begins to take a toll. But it already has done so. I learned from the real life experience of one of my constituents, Bonnie Lee Tucker. In 1997, Bonnie Lee wrote me about her fear of having the BRCA test for breast cancer, even though she has nine women in her immediate family who were diagnosed with breast cancer, and she herself is a survivor. She wrote to me about her fear of having the BRCA test, because she worried it will ruin her daughter's ability to obtain insurance in the future. And Bonnie Lee isn't the only one who has this fear. When the National Institutes of Health offered women genetic testing, nearly 32 percent of those who were offered a test for breast cancer risk declined to take it citing concerns about health insurance discrimination. Mr. President, what good is scientific progress if it cannot be applied to those who would most benefit?

And we have seen cases where some attempted to mandate genetic testing. Even when this is done to improve the delivery of health care, it must be recognized that once that information is disclosed . . . and is unprotected . . . a future employer or insurer may not necessarily use that information in such a benign way. Yet we recognize that if an individual can avail themselves of a genetic test, they may be able to take action as a result which prevents disease or premature death, and reduces the burden of high health costs. And wouldn't everyone want to see that?

I recall the testimony before Congress of Dr. Francis Collins, the Director of the National Human Genome Research Institute, without whom we wouldn't have reached this day. In speaking of the next step for those involved in the Genome project, he explained that the project's scientists were engaged in a major endeavor to ''uncover the connections between particular genes and particular diseases,'' to apply the knowledge they just unlocked. In order to do this, Dr. Collins said, ''we need a vigorous research enterprise with the involvement of large numbers of individuals, so that we can draw more precise connections between a particular spelling of a gene and a particular outcome.'' Well, this effort cannot be successful if people are afraid of possible repercussions of their participation in genetic testing.

The bottom line is that, given the advances in science, there are two separate issues at hand. The first is to restrict discrimination by health insurers. The second is to prevent employment discrimination based simply upon an individual's genetic information.

Some of us saw this danger 10 years ago and the threat it could pose to millions of Americans. I think back to when Representative LOUISE SLAUGHTER and I first introduced our bills to ban genetic discrimination in health insurance back in the 104th Congress. At that time the completion of the human genome seemed far away. But the science has certainly out-paced Congressional action.

The following year, with the commitment of Senators Frist and Jeffords to address this issue, I introduced a bill to ensure we would effectively provide the needed protections to prevent genetic discrimination in the health insurance industry. In turn, that bill was the basis for an amendment offered by Senator Jeffords, to the Fiscal Year 2001 Departments of Labor, Health and Human Services Appropriations bill which passed the Senate by a vote of 58–40.

While that victory was a notable step forward, unfortunately, it was not followed by the enactment of our bill. It did, however, re-spark the debate—which helped lay the foundation for our subsequent efforts.

Indeed, in March of 2002, I was again joined by Senators Frist and Jeffords in introducing an updated version of our bill with the added support of Senator GREGG and Senator ENZI. That bill not only addressed what had become the real threat of employment discrimination but also captured the changing world of science as this was the first bill to include what we had learned with the completion of the Genome Project.

In June of 2003, after sixteen months of bipartisan negotiation, we achieved a unified, bipartisan agreement to address genetic discrimination. Today we again introduce the legislation encompassing that agreement, which the Senate has twice passed . . . unanimously.

The bill we are introducing again today addresses genetic discrimination in both employment and health insurance based on the firm foundation of current law. With regard to health insurance, the issues are clear and familiar, and something the Senate has debated before, in the context of the consideration of larger privacy issues. Indeed, as Congress considered what is now the Health Insurance Portability and Accountability Act of 1996, we also addressed the issues of privacy of medical information.

Moreover, any legislation that seeks to fully address these issues must consider the interaction of the new protections with the privacy rule which was mandated by HIPAA—and our legislation does just that. Specifically, we clarify the protections of genetic information as well as information on the request or receipt of genetic tests, from being used by the insurer against the patient.

Because the fact of the matter is, genetic information only detects the potential for a genetically linked disease or disorder—and potential does not equal a diagnosis of disease. At the same time, it is critical that this information be available to doctors and other health care professionals when necessary to diagnose, or treat, an illness. This is a distinction that begs our acknowledgment, as we discuss protect patients from potential discriminatory practices by insurers.

On the subject of employment discrimination, unlike our legislative history on debating health privacy matters, the issues surrounding protecting genetic information from workplace discrimination is not as extensive. To that end, our bipartisan bill creates these protections in the workplace—and there should be no question of this need.

As demonstrated by the Burlington Northern case, the threat of employment discrimination is very real, and therefore it is essential that we take this information off the table, so to speak, before the use of this information becomes more widespread. While Congress has not yet debated this specific type of employment discrimination, we have a great deal of employment case law and legislative history on which to build.

Indeed, as we considered the need for this type of protection, we agreed that we must extend current law discrimination protections to genetic information. We reviewed current employment discrimination law and considered what sort of remedies people would have for instances of genetic discrimination and if these remedies would be different from those available to people under current law—for instance under the ADA or the EEOC. The bill we introduce today creates new protections by paralleling current law and clarifies the remedies available to victims of discrimination. Ensuring that regardless of whether a person is discriminated against because of their religion, their race or their DNA, these people will all receive the same strong protections under the law.

Indeed, I believe those who have questioned the need for this legislation will see that if we can provide these protections, then individuals can avail themselves of medical knowledge which will not only improve their health, but will reduce health care costs. For employers attempting to address the escalating cost of coverage, isn't it essential to utilize our investment in advancing medical knowledge to prevent disease and disability? Isn't that just the sort of action we need to encourage to reduce health costs and make our businesses, large and small, more competitive?

Indeed we have seen the business community recognizing the critical importance of putting our medical investment to work to reduce health costs . . . not discouraging employees from undergoing tests that could prevent disease or death. To that end, I noted during the last Congress that IBM pledged to not use genetic information in its hiring practices or in deciding eligibility for health insurance coverage. This demonstrates an admirable understanding of how such discrimination can harm both individuals and business.

It has been more than six years since the completion of the working draft of the Human Genome. Like a book which is never opened, the wonders of the Human Genome are useless unless people are willing to take advantage of it. This bill is the product of over a year of bipartisan negotiations and is a shining example of what we can accomplish if we set aside partisan differences in order to address the challenges facing the American people. Certainly this bill was only possible due to the commitment of members working together—setting aside partisanship—and for that I am grateful.

I know I speak for my colleagues when I say that it is my hope that we shall see this bill again receive the unanimous support of the Senate and that this will allow the House of Representatives to act swiftly to pass this legislation so that the President can sign this bill into law and finally ensure the American public is protected from this newest form of discrimination.

Mr. KENNEDY. Mr. President, it is a privilege to introduce the Genetic Information Nondiscrimination Act of 2007. It is an honor to join Senator SNOWE, Senator ENZI, Senator DODD, Senator HARKIN, Senator GREGG, and other members of our committee in support of this needed legislation.

I especially commend Senator SNOWE for her leadership in this effort to establish protections for the public against genetic discrimination. It is now over a decade since Senator SNOWE first introduced legislation on the issue. It passed the Senate 98–0 in the last Congress, and I am very hopeful we can work with our colleagues in the House and enact it into law, so that our people will finally have the protections they need against the misuse of genetic information.

In this century of the life sciences, much of what we learn through biomedical research is being translated into new treatments and cures, and nowhere is the explosion of scientific progress more apparent than in the field of genetics. Four years after the remarkable achievement of discovering the sequence of the human genome, clinical testing is now possible for over a thousand genetic diseases. It has led to rapid growth in the field of personalized medicine, in which patients' treatment and care is individualized according to their genetic makeup.

In the absence of federal protections, however, patients fear that undergoing genetic tests may lead to disqualification from future insurance coverage, or that an employer will fire them or deny a promotion based on the results of a genetic test. The consequence is that many Americans are choosing not to be tested, and are declining to participate in clinical trials so important for the development of new treatments.

Discrimination based on genetics is just as wrong as discrimination based on race or gender. Our bill provides specific protections for citizens against genetic discrimination. It prohibits health insurers from picking and choosing their customers based on genetics. Employers cannot fire or refuse to hire persons because of their genetic characteristics. It enables Americans to benefit from better health care through the use of genetic information, without the fear that it will be misused against them.

It is difficult to imagine information more personal or more private than a person's genetic makeup. It should not be shared by insurers or employers, or be used in making decisions about health coverage or a job. It should only be used by patients and their doctors to make the best diagnostic and treatment decisions they can.

In the near future, genetic tests will become even cheaper and more widely available. If we don't ban discrimination now, it may soon be routine for employers to use genetic tests to deny jobs to employees, based on their risk for disease.

If Congress enacts clear protections against genetic discrimination in employment and health insurance, all Americans will be able to enjoy the benefits of genetic research, free from the fear that their personal genetic information will be misused. If Congress fails to make sure that genetic information is used only for legitimate purposes, we may well squander the vast potential of genetic research to improve the nation's health.

The bill that we are considering today has been unanimously approved by the full Senate in the past two Congresses. We passed it 95–0 in the 108th Congress, and 98–0 in the 109th Congress. It had over 240 cosponsors in the House in both Congresses, but the leadership refused to bring it to a vote.

As President Bush himself has said, ''Genetic information should be an opportunity to prevent and treat disease, not an excuse for discrimination. Just as our nation addressed discrimination based on race, we must now prevent discrimination based on genetic information.''

We are closer than ever to enactment. I urge the Senate to approve the bill, and this time, I think we will finally see it become law.

By Mr. KENNEDY (for himself, Ms. MIKULSKI, Mr. LIEBERMAN, Mr. SCHUMER, Mr. DURBIN, and Mr. OBAMA):

S. 359. A bill to amend the Higher Education Act of 1965 to provide additional support to students; to the Committee on Finance.

Mr. KENNEDY. Mr. President, today I rise to introduce the Student Debt Relief Act of 2007.

It's long past time for Congress to take action to address the crisis in college affordability. The cost of college has more than tripled in the last 20 years. Today, the average cost of attendance at a 4-year public college is almost $13,000.

As a result, students and families are pinching pennies more than ever to pay for higher education. Increasingly, more and more students are finding it's just not possible. Every year, 400,000 students who are qualified to attend a 4-year college find themselves shut out because of cost factors.

At a time when 6 out of 10 jobs require some form of post-secondary training, this is completely unacceptable. When qualified students are blocked from the college gates because of cost, they're also blocked from their ticket to the American Dream. It's a situation that's putting our prosperity and economic security as a country at risk.

But the crisis on college affordability is not just limited to those most in need. Every low and middle income family in America is affected by it.

Today, the average student in the U.S. leaves college saddled with more than $17,000 in federal student loans on graduation day. At private universities, the level of student loan debt has increased 108 percent over the past decade. And at public universities, student loan debt has increased an astonishing 116 percent.

This mountain of debt is distorting countless young Americans' basic life choices, from decisions on their career, to getting married, to buying a home, and to starting a family. It's discouraging many from occupations such as teaching, social work and law enforcement, which are lower paying, but bring large rewards for our society. And it's perpetuating a shameful status quo, in which low-income and first-generation students are far less likely to earn a college degree than other students.

It's obvious we need to act immediately to make both college costs and student debt more manageable—and that is what this bill is all about. The Student Debt Relief Act will help lift the financial yoke that burdens our students and families as they try to pay for college.

To assist our neediest students, it will immediately increase the maximum Pell Grant from $4050 to $5100 with mandatory funding. The Pell Grant has been the indispensable lifeline to college for low-income and middle income students for more than 40 years. But today—after five years of broken promises from the President to increase the maximum grant—we've seen its buying power erode.

Twenty years ago, the maximum Pell grant covered 55 percent of the cost of tuition, fees, room and board at a public 4-year college. Now it covers less than 32 percent of those costs. Over the last five years, the gap between the cost of attending college and the maximum Pell grant has continued to grow.

In addition, for the first time in six years, the average Pell Grant has declined. We must reverse this trend. It's time to say, No more broken promises. That's what we'll do by passing the Student Debt Relief Act. The Act will also cut interest rates in half—from 6.8 percent to 3.4 percent—on new student loans for our neediest students.

Last year, the Republican Congress allowed interest rates to rise on student loans, putting college even further out of reach for millions of students. Because of this interest rate hike, typical student borrowers—already straining with more than $17,000 in debt—will be forced to pay an additional $5,800 for their college loans.

But a new day has now dawned in Congress, and last week, our colleagues in the House showed they have their priorities right on college costs by cutting student loan interest rates in half. Now it's our turn in the Senate. But we won't stop there.

We also need to do more to help students manage the burden of unreasonable debt on their student loans. No student should have to mortgage their future to pay for college. And no one should have their lives thrown into disarray when unexpected financial hardship makes it much harder for them to make their student loan payments.

That's why the Student Debt Relief Act caps student loan payments at 15 percent of monthly discretionary income. It forgives loans after 25 years, and also provides a 10-year loan forgiveness option for students who work in public service professions.

This Act will also help reform our broken student loan system, which is larded with inexcusably large subsidies to big lenders and filled with rules that are unfriendly to borrowers.

Like my Student Aid Reward Act, it gives colleges new incentives to offer loans to students through the Direct Loan program—which is cheaper for taxpayers—rather than the more expensive loan FFEL program that's operated through private lenders.

President Bush's own figures back this up. According to his 2007 education budget, the privately-funded student loan program costs taxpayers $6 more for every $100 lent than the same loans made through the Direct Loan program.

When colleges switch to the less-expensive program, the Student Debt Relief Act will let them keep a portion of the savings to the government generated by that switch by giving it back to the schools, in the form of increased Pell Grant aid to students.

The savings generated by this Act will be enough to increase federal Pell Grants by $1000 each at many colleges, making higher education more affordable for millions of students. For example, in my home state of Massachusetts, college students would reap an extra $53 million in Pell Grant scholarships per year. And all told, it could generate an additional $13 billion in Pell Grants for students over 10 years.

The Student Debt Relief Act also extends the college tuition tax deduction, increasing the allowable deduction to $12,000. It repeals the student-unfriendly rule that prevents students from consolidating their loans while they're still in school, and allows them to reconsolidate them as well.

In the Direct Loan program, it also reduces the origination fee that students pay when loans are made, also helping to ease the burden on borrowers. In short, it's a comprehensive plan to ease the double blow of soaring college costs and heavy student loan burdens. It's a plan we must move forward—for the sake of our students, their future, and the future of our Nation.

Access to college is the key to our opportunity, to our economy, and to our values. So we must act now.

Today, in communities across America, students are dreaming about what they want to be when they become adults. And as their parents watch tomorrow's doctors, teachers, engineers and lawyers in action, they know that all of those dreams depend on a college education.

When our children dream about their future, they need to know that those dreams are within their reach. A college education is the foundation of the opportunity society that will keep this country strong and growing in the 21st century. So let's work together to get it done.

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. 359

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 ''Student Debt Relief Act of 2007''.

SEC. 2. INCREASE IN FEDERAL PELL GRANTS.

(a) PROGRAM AUTHORITY.—Section 401(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1070a(a)(1)) is amended by striking ''2004'' and inserting ''2012''.

(b) AMOUNT OF GRANTS.—Section 401(b)(2)(A) of the Higher Education Act of 1965 (20 U.S.C. 1070a(b)(2)(A)) is amended by striking clauses (i) through (v) and inserting the following:

''(i) $5,100 for academic year 2007–2008;

''(ii) $5,400 for academic year 2008–2009;

''(iii) $5,700 for academic year 2009–2010;

''(iv) $6,000 for academic year 2010–2011; and

''(v) $6,300 for academic year 2011–2012,''.

(c) ADDITIONAL FUNDS.—

(1) IN GENERAL.—For an academic year, there are authorized to be appropriated, and there are appropriated, to carry out paragraph (2) (in addition to any other amounts appropriated to carry out section 401 of the Higher Education Act of 1965 (20 U.S.C. 1070a) and out of any money in the Treasury not otherwise appropriated) as follows:

(A) For academic year 2007–2008, $4,331,000,000.

(B) For academic year 2008–2009, $5,674,000,000.

(C) For academic year 2009–2010, $7,050,000,000.
(D) For academic year 2010–2011, $8,452,000,000.
(E) For academic year 2011–2012, $9,894,000,000.

(2) INCREASE IN PELL GRANTS.—The amounts made available pursuant to paragraph (1) shall be used to increase the amount of the maximum Federal Pell Grant under section 401 of the Higher Education Act of 1965 (20 U.S.C. 1070a) for which funds are appropriated under appropriations Acts for a fiscal year by—

(A) $1,050 for award year 2007–2008;
(B) $1,350 for award year 2008–2009;
(C) $1,650 for award year 2009–2010;
(D) $1,950 for award year 2010–2011; and
(E) $2,250 for award year 2011–2012.

SEC. 3. STUDENT AID REWARD PROGRAM.

Part G of title IV of the Higher Education Act of 1965 (20 U.S.C. 1088 et seq.) is amended by inserting after section 489 the following:

''SEC. 489A. STUDENT AID REWARD PROGRAM.

''(a) PROGRAM AUTHORIZED.—The Secretary shall carry out a Student Aid Reward Program to encourage institutions of higher education to participate in the student loan program under this title that is most cost-effective for taxpayers.

''(b) PROGRAM REQUIREMENTS.—In carrying out the Student Aid Reward Program, the Secretary shall—

''(1) provide to each institution of higher education participating in the student loan program under this title that is most cost-effective for taxpayers, a Student Aid Reward Payment, in an amount determined in accordance with subsection (c), to encourage the institution to participate in that student loan program;

''(2) require each institution of higher education receiving a payment under this section to provide student loans under such student loan program for a period of 5 years after the date the first payment is made under this section;

''(3) where appropriate, require that funds paid to institutions of higher education under this section be used to award students a supplement to such students' Federal Pell Grants under subpart 1 of part A;

''(4) permit such funds to also be used to award need-based grants to lower- and middle-income graduate students; and

''(5) encourage all institutions of higher education to participate in the Student Aid Reward Program under this section.

''(c) AMOUNT.—The amount of a Student Aid Reward Payment under this section shall be not less than 50 percent of the savings to the Federal Government generated by the institution of higher education's participation in the student loan program under this title that is most cost-effective for taxpayers instead of the institution's participation in the student loan program that is not most cost-effective for taxpayers.

''(d) TRIGGER TO ENSURE COST NEUTRALITY.—

''(1) LIMIT TO ENSURE COST NEUTRALITY.—Notwithstanding subsection (c), the Secretary shall not distribute Student Aid Reward Payments under the Student Aid Reward Program that, in the aggregate, exceed the Federal savings resulting from the implementation of the Student Aid Reward Program.

''(2) FEDERAL SAVINGS.—In calculating Federal savings, as used in paragraph (1), the Secretary shall determine Federal savings on loans made to students at institutions of higher education that participate in the student loan program under this title that is most cost-effective for taxpayers and that, on the date of enactment of this section, participated in the student loan program that is not most cost-effective for taxpayers, resulting from the difference of—

''(A) the Federal cost of loan volume made under the student loan program under this title that is most cost-effective for taxpayers; and

''(B) the Federal cost of an equivalent type and amount of loan volume made, insured, or guaranteed under the student loan program under this title that is not most cost-effective for taxpayers.

''(3) DISTRIBUTION RULES.—If the Federal savings determined under paragraph (2) is not sufficient to distribute full Student Aid Reward Payments under the Student Aid Reward Program, the Secretary shall—

''(A) first make Student Aid Reward Payments to those institutions of higher education that participated in the student loan program under this title that is not most cost-effective for taxpayers on the date of enactment of this section; and

''(B) with any remaining Federal savings after making Student Aid Reward Payments under subparagraph (A), make Student Aid Reward Payments to the institutions of higher education eligible for a Student Aid Reward Payment and not described in subparagraph (A) on a pro-rata basis.

''(4) DISTRIBUTION TO STUDENTS.—Any institution of higher education that receives a Student Aid Reward Payment under this section—

''(A) shall distribute, where appropriate, part or all of such payment among the students of such institution who are Federal Pell Grant recipients by awarding such students a supplemental grant; and

''(B) may distribute part of such payment as a supplemental grant to graduate students in financial need.

''(5) ESTIMATES, ADJUSTMENTS, AND CARRY OVER.—

''(A) ESTIMATES AND ADJUSTMENTS.—The Secretary shall make Student Aid Reward Payments to institutions of higher education on the basis of estimates, using the best data available at the beginning of an academic or fiscal year. If the Secretary determines thereafter that loan program costs for that academic or fiscal year were different than such estimate, the Secretary shall adjust by reducing or increasing subsequent Student Aid Reward Payments rewards paid to such institutions of higher education to reflect such difference.

''(B) CARRY OVER.—Any institution of higher education that receives a reduced Student Aid Reward Payment under paragraph (3)(B), shall remain eligible for the unpaid portion of such institution's financial reward payment, as well as any additional financial reward payments for which the institution is otherwise eligible, in subsequent academic or fiscal years.

''(e) DEFINITION.—In this section:

''(1) STUDENT LOAN PROGRAM UNDER THIS TITLE THAT IS MOST COST-EFFECTIVE FOR TAXPAYERS.—The term 'student loan program under this title that is most cost-effective for taxpayers' means the loan program under part B or D of this title that has the lowest overall cost to the Federal Government (including administrative costs) for the loans authorized by such parts.

''(2) STUDENT LOAN PROGRAM UNDER THIS TITLE THAT IS NOT MOST COST-EFFECTIVE FOR TAXPAYERS.—The term 'student loan program under this title that is not most cost-effective for taxpayers' means the loan program under part B or D of this title that does not have the lowest overall cost to the Federal Government (including administrative costs) for the loans authorized by such parts.''.

SEC. 4. INTEREST RATE REDUCTIONS.

(a) FFEL INTEREST RATES.—

(1) Section 427A(*l*) of the Higher Education Act of 1965 (20 U.S.C. 1077a(*l*)) is amended by adding at the end the following:

''(4) REDUCED RATES FOR UNDERGRADUATE SUBSIDIZED LOANS.—Notwithstanding subsection (h) and paragraph (1) of this subsection, with respect to any loan to an undergraduate student made, insured, or guaranteed under this part (other than a loan made pursuant to section 428B, 428C, or 428H) for which the first disbursement is made on or after July 1, 2006, and before July 1, 2012, the applicable rate of interest shall be as follows:

''(A) For a loan for which the first disbursement is made on or after July 1, 2006, and before July 1, 2007, 6.8 percent on the unpaid principal balance of the loan.

''(B) For a loan for which the first disbursement is made on or after July 1, 2007, and before July 1, 2008, 6.12 percent on the unpaid principal balance of the loan.

''(C) For a loan for which the first disbursement is made on or after July 1, 2008, and before July 1, 2009, 5.44 percent on the unpaid principal balance of the loan.

''(D) For a loan for which the first disbursement is made on or after July 1, 2009, and before July 1, 2010, 4.76 percent on the unpaid principal balance of the loan.

''(E) For a loan for which the first disbursement is made on or after July 1, 2010, and before July 1, 2011, 4.08 percent on the unpaid principal balance of the loan.

''(F) For a loan for which the first disbursement is made on or after July 1, 2011, and before July 1, 2012, 3.40 percent on the unpaid principal balance of the loan.''.

(2) SPECIAL ALLOWANCE CROSS REFERENCE.—Section 438(b)(2)(I)(ii)(II) of such Act is amended by striking ''section 427A(l)(1)'' and inserting ''section 427A(*l*)(1) or (*l*)(4)''.

(b) DIRECT LOAN INTEREST RATES.—Section 455(b)(7) of the Higher Education Act of 1965 (20 U.S.C. 1087e(b)(7)) is amended by adding at the end the following:

''(D) REDUCED RATES FOR UNDERGRADUATE FDSL.—Notwithstanding the preceding paragraphs of this subsection, for Federal Direct Stafford Loans made to undergraduate students for which the first disbursement is made on or after July 1, 2006, and before July 1, 2012, the applicable rate of interest shall be as follows:

''(i) For a loan for which the first disbursement is made on or after July 1, 2006, and before July 1, 2007, 6.8 percent on the unpaid principal balance of the loan.

''(ii) For a loan for which the first disbursement is made on or after July 1, 2007, and before July 1, 2008, 6.12 percent on the unpaid principal balance of the loan.

''(iii) For a loan for which the first disbursement is made on or after July 1, 2008, and before July 1, 2009, 5.44 percent on the unpaid principal balance of the loan.

''(iv) For a loan for which the first disbursement is made on or after July 1, 2009, and before July 1, 2010, 4.76 percent on the unpaid principal balance of the loan.

''(v) For a loan for which the first disbursement is made on or after July 1, 2010, and before July 1, 2011, 4.08 percent on the unpaid principal balance of the loan.

''(vi) For a loan for which the first disbursement is made on or after July 1, 2011, and before July 1, 2012, 3.40 percent on the unpaid principal balance of the loan.''.

SEC. 5. INCOME CONTINGENT REPAYMENT FOR PUBLIC SECTOR EMPLOYEES.

Section 455(e) of the Higher Education Act of 1965 (20 U.S.C. 1087e(e)) is amended by adding at the end the following:

''(7) REPAYMENT PLAN FOR PUBLIC SECTOR EMPLOYEES.—

''(A) IN GENERAL.—The Secretary shall forgive the balance due on any loan made under

this part or section 428C(b)(5) for a borrower—

''(i) who has made 120 payments on such loan pursuant to income contingent repayment; and

''(ii) who is employed, and was employed for the 10-year period in which the borrower made the 120 payments described in clause (i), in a public sector job.

''(B) PUBLIC SECTOR JOB.—In this paragraph, the term 'public sector job' means a full-time job in emergency management, government, public safety, law enforcement, public health, education (including early childhood education), social work in a public child or family service agency, or public interest legal services (including prosecution or public defense).

''(8) RETURN TO STANDARD REPAYMENT.—A borrower who is repaying a loan made under this part pursuant to income contingent repayment may choose, at any time, to terminate repayment pursuant to income contingent repayment and repay such loan under the standard repayment plan.''.

SEC. 6. FAIR PAYMENT ASSURANCE.

(a) AMENDMENT.—Part G of title IV of the Higher Education Act of 1965 (20 U.S.C. 1088 et seq.) is further amended by adding at the end the following:

''SEC. 493C. FAIR PAYMENT ASSURANCE.

''(a) DEFINITIONS.—In this section:

''(1) EXCEPTED PLUS LOAN.—The term 'excepted PLUS loan' means a loan under section 428B, or a Federal Direct PLUS Loan, that is made, insured, or guaranteed on behalf of a dependent student.

''(2) PARTIAL FINANCIAL HARDSHIP.—The term 'partial financial hardship' means the amount by which the annual amount due on the total amount of loans made, insured, or guaranteed under part B or D (other than an excepted PLUS loan) to a borrower as calculated under the standard repayment plan under section 428(b)(9)(A)(i) or 455(d)(1)(A) exceeds 15 percent of the result obtained by calculating the amount by which—

''(A) the borrower's adjusted gross income; exceeds

''(B) 150 percent of the poverty line applicable to the borrower's family size as determined under section 673(2) of the Community Services Block Grant Act.

''(b) FAIR PAYMENT ASSURANCE PROGRAM AUTHORIZED.—Notwithstanding any other provision of this Act, the Secretary shall carry out a program under which—

''(1) a borrower of any loan made, insured or guaranteed under part B or D (other than an excepted PLUS loan) who has a partial financial hardship may elect, during any period the borrower has the partial financial hardship, to have the borrower's aggregate monthly payment for all such loans not exceed 15 percent of the result described in subsection (a)(2) divided by 12;

''(2) the holder of such a loan shall apply the borrower's monthly payment under this subsection first toward interest due on the loan and then toward the principal of the loan;

''(3) any interest due and not paid under paragraph (2)—

''(A) in the case of a Federal Stafford Loan or Federal Direct Stafford Loan, shall be paid by the Secretary; or

''(B) in the case of any other loan under part B or D (other than a loan described in subparagraph (A) or an excepted PLUS loan), shall be capitalized;

''(4) any principal due and not paid under paragraph (2) shall be deferred in the same manner as deferments under section 428(b)(1)(M);

''(5) the amount of time the borrower makes monthly payments under paragraph (1) may exceed 10 years;

''(6) if the borrower no longer has a partial financial hardship or no longer wishes to continue the election under this subsection, then—

''(A) the maximum monthly payment required to be paid for all loans made to the borrower under part B or D (other than an excepted PLUS loan) shall not exceed the monthly amount calculated under section 428(b)(9)(A)(i) or 455(d)(1)(A) when the borrower first made the election described in this subsection; and

''(B) the amount of time the borrower is permitted to repay such loans may exceed 10 years; and

''(7) the Secretary shall repay or cancel any outstanding balance of principal and interest due on all loans made under part B or D (other than an excepted PLUS Loan) to a borrower who—

''(A) is in deferment due to an economic hardship described in section 435(o) for a period of time prescribed by the Secretary, not to exceed 25 years; or

''(B)(i) makes the election under this subsection; and

''(ii) for a period of time prescribed by the Secretary, not to exceed 25 years (including any period during which the borrower is in deferment due to an economic hardship described in section 435(o)), meets any 1 or more of the following requirements:

''(I) Has made reduced monthly payments under paragraph (1).

''(II) Has made monthly payments of not less than the monthly amount calculated under section 428(b)(9)(A)(i) or 455(d)(1)(A) when the borrower first made the election described in this subsection.

''(III) Has made payments under a standard repayment plan under section 428(b)(9)(A)(i) or 455(d)(1)(A).

''(IV) Has made payments under an income contingent repayment plan under section 455(d)(1)(D).''.

(b) CONFORMING ICR AMENDMENT.—Section 455(d)(1)(D) of the Higher Education Act of 1965 (20 U.S.C. 1087e(d)(1)(D)) is amended by inserting ''made on behalf of a dependent student'' after ''PLUS loan''.

SEC. 7. DEFINITION OF ECONOMIC HARDSHIP.

Section 435(o) of the Higher Education Act of 1965 (20 U.S.C. 1085(o)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)(ii), by striking ''100 percent of the poverty line for a family of 2'' and inserting ''150 percent of the poverty line applicable to the borrower's family size'';

(B) by striking subparagraph (B); and

(C) by redesignating subparagraph (C) as subparagraph (B); and

(2) in paragraph (2), by striking ''(1)(C)'' and inserting ''(1)(B)''.

SEC. 8. DEFERRALS.

(a) FISL.—Section 427(a)(2)(C)(iii) of the Higher Education Act of 1965 (20 U.S.C. 1077(a)(2)(C)(iii)) is amended by striking ''not in excess of 3 years''.

(b) INTEREST SUBSIDIES.—Section 428(b)(1)(M)(iv) of the Higher Education Act of 1965 (20 U.S.C. 1078(b)(1)(M)(iv)) is amended by striking ''not in excess of 3 years''.

(c) DIRECT LOANS.—Section 455(f)(2)(D) of the Higher Education Act of 1965 (20 U.S.C. 1087e(f)(2)(D)) is amended by striking ''not in excess of 3 years''.

(d) PERKINS.—Section 464(c)(2)(A)(iv) of the Higher Education Act of 1965 (20 U.S.C. 1087dd(c)(2)(A)(iv)) is amended by striking ''not in excess of 3 years''.

SEC. 9. MAXIMUM REPAYMENT PERIOD.

(a) IN GENERAL.—Section 455(e) of the Higher Education Act of 1965 (20 U.S.C. 1087e(e)) is amended by adding at the end the following:

''(7) MAXIMUM REPAYMENT PERIOD.—In calculating the extended period of time for which an income contingent repayment plan under this subsection may be in effect for a borrower, the Secretary shall include all time periods during which a borrower of loans under part B, part D, or part E—

''(A) is not in default on any loan that is included in the income contingent repayment plan; and

''(B)(i) is in deferment due to an economic hardship described in section 435(o);

''(ii) makes monthly payments under paragraph (1) or (6) of section 493C(b); or

''(iii) makes payments under a standard repayment plan described in section 428(b)(9)(A)(i) or subsection (d)(1)(A).''.

(b) TECHNICAL CORRECTION.—Section 455(d)(1)(C)) (20 U.S.C. 1087e(d)(1)(C)) is amended by striking ''428(b)(9)(A)(v)'' and inserting ''428(b)(9)(A)(iv)''.

SEC. 10. IN-SCHOOL CONSOLIDATION.

Section 428(b)(7)(A) of the Higher Education Act of 1965 (20 U.S.C. 1078(b)(7)(A)) is amended by striking ''shall begin'' and all that follows through the period and inserting ''shall begin—

''(i) the day after 6 months after the date the student ceases to carry at least one-half the normal full-time academic workload (as determined by the institution); or

''(ii) on an earlier date if the borrower requests and is granted a repayment schedule that provides for repayment to commence at an earlier date.''.

SEC. 11. CONSOLIDATION LOAN CHANGES.

Section 428C(a)(3) of the Higher Education Act of 1965 (20 U.S.C. 1078–3(a)(3)) is amended to read as follows:

''(3) DEFINITION OF ELIGIBLE BORROWER.—For the purpose of this section, the term 'eligible borrower' means a borrower who—

''(A) is not subject to a judgment secured through litigation with respect to a loan under this title or to an order for wage garnishment under section 488A; and

''(B) at the time of application for a consolidation loan—

''(i) is in repayment status as determined under section 428(b)(7)(A);

''(ii) is in a grace period preceding repayment; or

''(iii) is a defaulted borrower who has made arrangements to repay the obligation on the defaulted loans satisfactory to the holders of the defaulted loans.''.

SEC. 12. REDUCTION OF DIRECT LOAN ORIGINATION FEES.

Section 455(c) of the Higher Education Act of 1965 (20 U.S.C. 1087e(c)) is amended—

(1) in paragraph (1)—

(A) by striking ''4.0 percent'' and inserting ''3.0 percent''; and

(B) by striking ''shall'' and inserting ''is authorized to''; and

(2) in paragraph (2)—

(A) in subparagraph (A), by striking '' '3.0 percent' for '4.0 percent' '' and inserting '' '2.0 percent' for '3.0 percent' '';

(B) in subparagraph (B), by striking '' '2.5 percent' for '4.0 percent' '' and inserting '' '1.5 percent' for '3.0 percent' '';

(C) in subparagraph (C), by striking '' '2.0 percent' for '4.0 percent' '' and inserting '' '1.0 percent' for '3.0 percent' '';

(D) in subparagraph (D), by striking '' '1.5 percent' for '4.0 percent' '' and inserting '' '0.5 percent' for '3.0 percent' ''; and

(E) in subparagraph (E), by striking '' '1.0 percent' for '4.0 percent' '' and inserting '' '0.0 percent' for '3.0 percent' ''.

SEC. 13. ADMINISTRATIVE ACCOUNT FOR DIRECT LOAN PROGRAM.

Section 458 of the Higher Education Act of 1965 (20 U.S.C. 1087h) is amended—

(1) in subsection (a)—

(A) by striking paragraphs (2) and (3) and inserting the following:

''(2) MANDATORY FUNDS FOR FISCAL YEARS 2007 THROUGH 2011.—Each fiscal year there

shall be available to the Secretary, from funds not otherwise appropriated, funds to be obligated for—

''(A) administrative costs under this part and part B, including the costs of the direct student loan programs under this part; and

''(B) account maintenance fees payable to guaranty agencies under part B and calculated in accordance with subsection (b),

not to exceed (from such funds not otherwise appropriated) $904,000,000 (less any amounts previously appropriated for the costs and fees described this paragraph for fiscal year 2007) for fiscal year 2007, $943,000,000 for fiscal year 2008, $983,000,000 for fiscal year 2009, $1,023,000,000 for fiscal year 2010, $1,064,000,000 for fiscal year 2011, and $1,106,000,000 for fiscal year 2012.'';

(B) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively; and

(C) in paragraph (3) (as redesignated in subparagraph (B)), by striking ''paragraph (3)'' and inserting ''paragraph (2)''; and

(2) in subsection (b), by striking ''(a)(3)'' and inserting ''(a)(2)''.

SEC. 14. COLLEGE TUITION DEDUCTION AND CREDIT FOR INTEREST ON HIGHER EDUCATION LOANS.

(a) EXPANSION OF DEDUCTION FOR HIGHER EDUCATION EXPENSES.—

(1) AMOUNT OF DEDUCTION.—Subsection (b) of section 222 of the Internal Revenue Code of 1986 (relating to deduction for qualified tuition and related expenses) is amended to read as follows:

''(b) LIMITATIONS.—

''(1) DOLLAR LIMITATIONS.—

''(A) IN GENERAL.—Except as provided in paragraph (2), the amount allowed as a deduction under subsection (a) with respect to the taxpayer for any taxable year shall not exceed the applicable dollar limit.

''(B) APPLICABLE DOLLAR LIMIT.—The applicable dollar limit for any taxable year shall be determined as follows:

''Taxable year:	Applicable dollar amount:
2007	$8,000
2008 and thereafter	$12,000.

''(2) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

''(A) IN GENERAL.—The amount which would (but for this paragraph) be taken into account under subsection (a) shall be reduced (but not below zero) by the amount determined under subparagraph (B).

''(B) AMOUNT OF REDUCTION.—The amount determined under this subparagraph equals the amount which bears the same ratio to the amount which would be so taken into account as—

''(i) the excess of—

''(I) the taxpayer's modified adjusted gross income for such taxable year, over

''(II) $65,000 ($130,000 in the case of a joint return), bears to

''(ii) $15,000 ($30,000 in the case of a joint return).

''(C) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this paragraph, the term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year determined—

''(i) without regard to this section and sections 199, 911, 931, and 933, and

''(ii) after the application of sections 86, 135, 137, 219, 221, and 469.

For purposes of the sections referred to in clause (ii), adjusted gross income shall be determined without regard to the deduction allowed under this section.

''(D) INFLATION ADJUSTMENTS.—

''(i) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2007, both of the dollar amounts in subparagraph (B)(i)(II) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 2006' for 'calendar year 1992' in subparagraph (B) thereof.

''(ii) ROUNDING.—If any amount as adjusted under clause (i) is not a multiple of $50, such amount shall be rounded to the nearest multiple of $50.''.

(2) QUALIFIED TUITION AND RELATED EXPENSES OF ELIGIBLE STUDENTS.—

(A) IN GENERAL.—Section 222(a) of the Internal Revenue Code of 1986 (relating to allowance of deduction) is amended by inserting ''of eligible students'' after ''expenses''.

(B) DEFINITION OF ELIGIBLE STUDENT.—Section 222(d) of such Code (relating to definitions and special rules) is amended by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively, and by inserting after paragraph (1) the following new paragraph:

''(2) ELIGIBLE STUDENT.—The term 'eligible student' has the meaning given such term by section 25A(b)(3).''.

(3) DEDUCTION MADE PERMANENT.—Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 (relating to sunset of provisions of such Act) shall not apply to the amendments made by section 431 of such Act.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to payments made in taxable years beginning after December 31, 2006.

(b) CREDIT FOR INTEREST ON HIGHER EDUCATION LOANS.—

(1) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 25D the following new section:

''SEC. 25E. INTEREST ON HIGHER EDUCATION LOANS.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the interest paid by the taxpayer during the taxable year on any qualified education loan.

''(b) MAXIMUM CREDIT.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the credit allowed by subsection (a) for the taxable year shall not exceed $1,500.

''(2) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

''(A) IN GENERAL.—If the modified adjusted gross income of the taxpayer for the taxable year exceeds $50,000 ($100,000 in the case of a joint return), the amount which would (but for this paragraph) be allowable as a credit under this section shall be reduced (but not below zero) by the amount which bears the same ratio to the amount which would be so allowable as such excess bears to $20,000 ($40,000 in the case of a joint return).

''(B) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means adjusted gross income determined without regard to sections 199, 222, 911, 931, and 933.

''(C) INFLATION ADJUSTMENT.—In the case of any taxable year beginning after 2007, the $50,000 and $100,000 amounts referred to in subparagraph (A) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section (1)(f)(3) for the calendar year in which the taxable year begins, by substituting '2006' for '1992'.

''(D) ROUNDING.—If any amount as adjusted under subparagraph (C) is not a multiple of $50, such amount shall be rounded to the nearest multiple of $50.

''(c) DEPENDENTS NOT ELIGIBLE FOR CREDIT.—No credit shall be allowed by this section to an individual for the taxable year if a deduction under section 151 with respect to such individual is allowed to another taxpayer for the taxable year beginning in the calendar year in which such individual's taxable year begins.

''(d) LIMIT ON PERIOD CREDIT ALLOWED.—A credit shall be allowed under this section only with respect to interest paid on any qualified education loan during the first 60 months (whether or not consecutive) in which interest payments are required. For purposes of this paragraph, any loan and all refinancings of such loan shall be treated as 1 loan.

''(e) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED EDUCATION LOAN.—The term 'qualified education loan' has the meaning given such term by section 221(d)(1).

''(2) DEPENDENT.—The term 'dependent' has the meaning given such term by section 152.

''(f) SPECIAL RULES.—

''(1) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section for any amount taken into account for any deduction under any other provision of this chapter.

''(2) MARRIED COUPLES MUST FILE JOINT RETURN.—If the taxpayer is married at the close of the taxable year, the credit shall be allowed under subsection (a) only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

''(3) MARITAL STATUS.—Marital status shall be determined in accordance with section 7703.''.

(2) CONFORMING AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 25D the following new item:

''Sec. 25E. Interest on higher education loans.''.

(3) EFFECTIVE DATE.—The amendments made by this section shall apply to any qualified education loan (as defined in section 25E(e)(1) of the Internal Revenue Code of 1986, as added by this section) incurred on, before, or after the date of the enactment of this Act, but only with respect to any loan interest payment due after December 31, 2006.

Mr. OBAMA. Mr. President, since coming to the Senate two years ago, I have worked to fulfill pledges I made during my campaign. The first piece of legislation I introduced, the HOPE Act, addressed my pledge to make college more affordable. The HOPE Act arose from what I heard when meeting people across Illinois during my Senate campaign, and what I now continue to hear from students and families across the Nation.

The dreams of our Nation's youth increasingly require a college diploma, but that diploma is becoming, for many, ever more difficult to attain. That difficulty arises not from lack of ambition or aptitude, but from lack of any realistic way for many American families to afford the requisite college education.

This difficulty impacts not only the dreams of millions of students, but also the wellbeing of our Nation. Competition in the global economy requires the attainment of a college degree, in order to create and strengthen the innovative and flexible workforce America needs.

But as college costs increase, financial aid lags. The College Board reports that over the most recent five-year period, the cost of tuition and fees at public four-year colleges jumped 35 percent, even adjusting for inflation. Over that same five-year period, the maximum award offered by the Federal Government through Pell grants increased little. As a result, the proportion of college expenses met by Pell Grants decreased from 42 percent to 33 percent over that five-year period. At the same time, we see that qualified high school graduates from low- and moderate-income families are much less likely to earn that college degree than their wealthier peers.

That is why I am pleased to support Senator KENNEDY as he introduces the Student Debt Relief Act. Not only does it substantially increase Federal support for the Pell Grant, it also takes other steps to make college more affordable. The Act proposes to cut student loan interest rates, to make loan reconsolidation more feasible for many students, and to cap the amount of monthly loan payments for graduates who enter public service careers.

These measures require a major investment. I believe we must continue to support qualified students who deserve the opportunity to turn their dreams into reality. I will continue to work to increase support for our students though the Pell Grant Program, and other measure that make a college degree attainable for many. This remains a priority for me, and I ask all my colleagues to join in this effort.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 35—EXPRESSING SUPPORT FOR PRAYER AT SCHOOL BOARD MEETINGS

Mr. VITTER (for himself and Mr. GRASSLEY) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 35

Whereas the freedom to practice religion and to express religious thought is acknowledged to be a fundamental and unalienable right belonging to all individuals;

Whereas the United States was founded on the principle of freedom of religion and not freedom from religion;

Whereas the framers intended that the first amendment to the Constitution would prohibit the Federal Government from enacting any law that favors one religious denomination over another, not prohibit any mention of religion or reference to God in civic dialogue;

Whereas in 1983, the Supreme Court held in Marsh v. Chambers, 463 U.S. 783, that the practice of opening legislative sessions with prayer has become part of the fabric of our society and invoking divine guidance on a public body entrusted with making the laws is not a violation of the Establishment Clause of the first amendment, but rather is simply a tolerable acknowledgment of beliefs widely held among the people of the Nation;

Whereas voluntary prayer in elected bodies should not be limited to prayer in State legislatures and Congress;

Whereas school boards are deliberative bodies of adults similar to a legislature in that they are elected by the people, act in the public interest, and hold sessions that are open to the public for voluntary attendance; and

Whereas voluntary prayer by an elected body should be protected under law and encouraged in society because voluntary prayer has become a part of the fabric of our society, voluntary prayer acknowledges beliefs widely held among the people of the Nation, and the Supreme Court has held that it is not a violation of the Establishment Clause for a public body to invoke divine guidance: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes that prayer before school board meetings is a protected act in accordance with the fundamental principles upon which the Nation was founded; and

(2) expresses support for the practice of prayer at the beginning of school board meetings.

SENATE RESOLUTION 36—HONORING WOMEN'S HEALTH ADVOCATE CYNTHIA BOLES DAILARD

MS. SNOWE (for herself and Mrs. CLINTON) submitted the following resolution; which was referred to the Committee on Judiciary.

S. RES. 36

Whereas women's health advocate Cynthia Boles Dailard was born on February 29, 1968 and grew up in Syosset, New York;

Whereas Cynthia Dailard excelled as a student both at Harvard University, from which she graduated cum laude with a bachelor's degree in English in 1990, and at the University of California at Berkeley's Boalt Hall School of Law, from which she graduated in 1994;

Whereas Cynthia Dailard entered the nonprofit sector upon graduating from law school, receiving a year-long fellowship at the National Women's Law Center in Washington, D.C.;

Whereas Cynthia Dailard worked as legislative assistant and counsel for Senator Olympia J. Snowe, bringing to bear her keen intelligence, vision, energy, expertise, and talent in service to the Nation and the women of the United States;

Whereas Cynthia Dailard worked as associate director for domestic policy for President William J. Clinton;

Whereas Cynthia Dailard worked for 8 years for the Guttmacher Institute, a respected public policy think tank devoted to women's health;

Whereas Cynthia Dailard spearheaded the Guttmacher Institute's policy work on issues related to domestic family planning programs and sex education;

Whereas Cynthia Dailard was a member of the National Family Planning and Reproductive Health Association Board of Directors;

Whereas Cynthia Dailard spoke and wrote prolifically on matters including family planning, adolescent sexual behavior, and insurance coverage for contraception;

Whereas Cynthia Dailard worked in a bipartisan fashion with elected officials and their staffs to promote the health and well-being of women and families;

Whereas Cynthia Dailard was a gifted and passionate voice within the women's health community;

Whereas Cynthia Dailard was driven by an abiding concern for human relationships and the health and well-being of all individuals;

Whereas Cynthia Dailard has left a thoughtful and enduring mark on women's health policy and will remain a role model for advocates by virtue of her wisdom, character, commitment, and scholarship; and

Whereas Cynthia Dailard is survived by her husband Scott and her daughters Miranda and Julia: Now, therefore, be it

Resolved, That the Senate—

(1) notes with deep sorrow the death of Cynthia Boles Dailard on December 24, 2006;

(2) extends its heartfelt sympathy to Scott, Miranda, and Julia Dailard; and

(3) directs the Secretary of the Senate to transmit a copy of this resolution to the family of Cynthia Boles Dailard.

Mrs. CLINTON. I rise today to join my good friend Senator SNOWE in introducing a resolution recognizing the life and untimely loss of a distinguished women's advocate and beloved friend to so many in New York, Washington and beyond: Cynthia Boles Dailard. A native New Yorker, Cynthia will be remembered not only for her incredible work and impressive career, but also for the way she touched so many in her all too short life.

Throughout her career, Cynthia impressed and inspired countless colleagues at the National Women's Law Center, as a legislative assistant and counsel for Senator SNOWE and as an associate director for domestic policy in the Clinton Administration. She was known for working in a bipartisan manner to promote her passion: the health and wellbeing of women and their families. This passion was matched by a genuine concern for the lives of others.

Cynthia then moved to the Guttmacher Institute, where her passionate and talented voice catalyzed research and policy regarding family planning, adolescent sexual behavior and insurance coverage for contraception. In remembering Cynthia, her friends at the Institute noted how her prolific writings pushed the women's health community ''to think deeply and to stretch in new directions.'' Indeed, it is the sort of innovative work that Cynthia was known for that impacts lives the most, as it spurs policy that can truly make a difference.

As we reflect upon Cynthia's life, we can see a path paved with far more than laudatory academic and professional achievement. Cynthia's legacy is one of commitment, thoughtfulness, character and kindness.

I remain touched by the myriad of ways Cynthia made a difference in people's lives as a wife and a mother, as a lawyer and a writer, and as an advocate and a friend.

I had the pleasure of working with Cynthia on numerous occasions and was always impressed with her intellect, knowledge and passion for women's health.

I extend my deepest sympathies to Cynthia's husband of 14 years, Scott and her daughters Miranda and Julia. And it is with the utmost respect that I pledge to celebrate Cynthia's work and her life through this resolution to honor her memory and through my work in the future to honor the health

and wellbeing of women across America and throughout the world.

Ms. SNOWE. Mr. President, I rise today to submit a Senate resolution honoring an exceptional women's health advocate, Cynthia Boles Dailard, who tragically passed away on December 24, 2006.

Cynthia was an extraordinary person and a consummate professional who was passionately committed to the issues she believed in to the everlasting benefit of those who were helped by her enormous dedication. Her zest for living and the spark she carried within her inspired the same in others, especially with respect to improving the lives of America's women.

As a United States Senator from Maine, I was immensely pleased to have Cynthia work for me as a legislative aide for issues of particular importance to women. As one of only sixteen females in the Senate currently—and even fewer in the past—one of my major goals has always been ensuring that matters critical to girls and women are represented and addressed in our government. And Cynthia's family should be incredibly proud that, in that regard—and as I began my very first years in the Senate—I couldn't have asked for a better partner with the keen intelligence, vision, energy, and talent she brought to my office. I was extremely grateful to have the benefit of her service to the country and her wide-ranging expertise and acumen—and no one was more committed to the goal of advancing policy pertaining to America's women than Cynthia Dailard.

In developing groundbreaking initiatives, she not only served me well, but most critically she served the Nation well with her unfailing dedication to efforts that will reverberate for generations. As such, she was invaluable to me as she helped champion the campaign to improve the quality of life of those in my State and across the country.

But above all in her work, Cynthia was effective as an advocate because she was engaged in causes that were a true labor of love. She adhered to those beliefs that motivated her to action, and as a result she made a tremendous difference. She stood as a testament to the ideal of finding a passion and following it—to the fulfillment of oneself and the betterment of all. She also exemplified an intellectual curiosity and a steadfast devotion to learning, for their own sake as well as instruments for improving the greater community—traits that are instructive to us all.

All of us who were touched by Cynthia's life are greatly saddened—she will be forever missed but always remembered and we will hold dear in perpetuity the countless and timeless memories of her. Our thoughts and prayers are with her husband, Scott, and their daughters, Miranda and Julia.

AMENDMENTS SUBMITTED AND PROPOSED

SA 100. Mr. REID (for Mr. BAUCUS) proposed an amendment to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage.

SA 101. Mr. MCCONNELL (for Mr. GREGG (for himself, Mr. DEMINT, Mr. MCCONNELL, Mr. LOTT, Mr. KYL, Mrs. HUTCHISON, Mr. CORNYN, Mr. ALLARD, Mr. CRAPO, Mr. BUNNING, Mr. VITTER, Mr. BROWNBACK, Mrs. DOLE, Mr. ALEXANDER, Mr. THOMAS, Mr. CRAIG, Mr. BURR, Mr. MCCAIN, Mr. SUNUNU, Mr. ENZI, Mr. MARTINEZ, Mr. CHAMBLISS, Mr. SESSIONS, Mr. COLEMAN, Mr. GRAHAM, Mr. VOINOVICH, Mr. ISAKSON, Mr. COBURN, Mr. ENSIGN, and Mr. THUNE)) proposed an amendment to amendment SA 100 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, supra.

SA 102. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 103. Mr. ENZI (for Ms. SNOWE (for herself, Mr. ENZI, and Ms. LANDRIEU)) proposed an amendment to amendment SA 100 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, supra.

SA 104. Mr. WYDEN (for himself, Mr. SMITH, Mrs. FEINSTEIN, and Mrs. BOXER) submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 105. Mr. MARTINEZ submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 106. Mr. SESSIONS (for himself, Mr. KOHL, and Mrs. HUTCHISON) proposed an amendment to amendment SA 100 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, supra.

SA 107. Mr. SESSIONS proposed an amendment to amendment SA 100 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, supra.

SA 108. Mr. SESSIONS proposed an amendment to amendment SA 100 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, supra.

SA 109. Mr. REID proposed an amendment to the concurrent resolution H. Con. Res. 38, providing for a joint session of Congress to receive a message from the President.

SA 110. Mr. VITTER (for himself and Mr. VOINOVICH) submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 100. Mr. REID (for Mr. BAUCUS) proposed an amendment to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; as follows:

Strike all after the enacting clause and insert the following:

TITLE I—FAIR MINIMUM WAGE

SEC. 100. SHORT TITLE.

This title may be cited as the ''Fair Minimum Wage Act of 2007''.

SEC. 101. MINIMUM WAGE.

(a) IN GENERAL.—Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

''(1) except as otherwise provided in this section, not less than—

''(A) $5.85 an hour, beginning on the 60th day after the date of enactment of the Fair Minimum Wage Act of 2007;

''(B) $6.55 an hour, beginning 12 months after that 60th day; and

''(C) $7.25 an hour, beginning 24 months after that 60th day;''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 60 days after the date of enactment of this Act.

SEC. 102. APPLICABILITY OF MINIMUM WAGE TO THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.

(a) IN GENERAL.—Section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) shall apply to the Commonwealth of the Northern Mariana Islands.

(b) TRANSITION.—Notwithstanding subsection (a), the minimum wage applicable to the Commonwealth of the Northern Mariana Islands under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) shall be—

(1) $3.55 an hour, beginning on the 60th day after the date of enactment of this Act; and

(2) increased by $0.50 an hour (or such lesser amount as may be necessary to equal the minimum wage under section 6(a)(1) of such Act), beginning 6 months after the date of enactment of this Act and every 6 months thereafter until the minimum wage applicable to the Commonwealth of the Northern Mariana Islands under this subsection is equal to the minimum wage set forth in such section.

TITLE II—SMALL BUSINESS TAX INCENTIVES

SEC. 200. SHORT TITLE; AMENDMENT OF CODE.

(a) SHORT TITLE.—This title may be cited as the ''Small Business and Work Opportunity Act of 2007''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Small Business Tax Relief Provisions

PART I—GENERAL PROVISIONS

SEC. 201. EXTENSION OF INCREASED EXPENSING FOR SMALL BUSINESSES.

Section 179 (relating to election to expense certain depreciable business assets) is amended by striking ''2010'' each place it appears and inserting ''2011''.

SEC. 202. EXTENSION AND MODIFICATION OF 15-YEAR STRAIGHT-LINE COST RECOVERY FOR QUALIFIED LEASEHOLD IMPROVEMENTS AND QUALIFIED RESTAURANT IMPROVEMENTS; 15-YEAR STRAIGHT-LINE COST RECOVERY FOR CERTAIN IMPROVEMENTS TO RETAIL SPACE.

(a) EXTENSION OF LEASEHOLD AND RESTAURANT IMPROVEMENTS.—

(1) IN GENERAL.—Clauses (iv) and (v) of section 168(e)(3)(E) (relating to 15-year property) are each amended by striking ''January 1, 2008'' and inserting ''April 1, 2008''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to property placed in service after December 31, 2007.

(b) MODIFICATION OF TREATMENT OF QUALIFIED RESTAURANT PROPERTY AS 15-YEAR PROPERTY FOR PURPOSES OF DEPRECIATION DEDUCTION.—

(1) TREATMENT TO INCLUDE NEW CONSTRUCTION.—Paragraph (7) of section 168(e) (relating to classification of property) is amended to read as follows:

''(7) QUALIFIED RESTAURANT PROPERTY.—The term 'qualified restaurant property' means any section 1250 property which is a

building (or its structural components) or an improvement to such building if more than 50 percent of such building's square footage is devoted to preparation of, and seating for on-premises consumption of, prepared meals.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to any property placed in service after the date of the enactment of this Act, the original use of which begins with the taxpayer after such date.

(c) RECOVERY PERIOD FOR DEPRECIATION OF CERTAIN IMPROVEMENTS TO RETAIL SPACE.—

(1) 15-YEAR RECOVERY PERIOD.—Section 168(e)(3)(E) (relating to 15-year property) is amended by striking ''and'' at the end of clause (vii), by striking the period at the end of clause (viii) and inserting '', and'', and by adding at the end the following new clause:

''(ix) any qualified retail improvement property placed in service before April 1, 2008.''.

(2) QUALIFIED RETAIL IMPROVEMENT PROPERTY.—Section 168(e) is amended by adding at the end the following new paragraph:

''(8) QUALIFIED RETAIL IMPROVEMENT PROPERTY.—

''(A) IN GENERAL.—The term 'qualified retail improvement property' means any improvement to an interior portion of a building which is nonresidential real property if—

''(i) such portion is open to the general public and is used in the retail trade or business of selling tangible personal property to the general public, and

''(ii) such improvement is placed in service more than 3 years after the date the building was first placed in service.

''(B) IMPROVEMENTS MADE BY OWNER.—In the case of an improvement made by the owner of such improvement, such improvement shall be qualified retail improvement property (if at all) only so long as such improvement is held by such owner. Rules similar to the rules under paragraph (6)(B) shall apply for purposes of the preceding sentence.

''(C) CERTAIN IMPROVEMENTS NOT INCLUDED.—Such term shall not include any improvement for which the expenditure is attributable to—

''(i) the enlargement of the building,

''(ii) any elevator or escalator,

''(iii) any structural component benefitting a common area, or

''(iv) the internal structural framework of the building.''.

(3) REQUIREMENT TO USE STRAIGHT LINE METHOD.—Section 168(b)(3) is amended by adding at the end the following new subparagraph:

''(I) Qualified retail improvement property described in subsection (e)(8).''.

(4) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) is amended by inserting after the item relating to subparagraph (E)(viii) the following new item:

''(E)(ix) ..... 39''.

(5) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 203. CLARIFICATION OF CASH ACCOUNTING RULES FOR SMALL BUSINESS.

(a) CASH ACCOUNTING PERMITTED.—

(1) IN GENERAL.—Section 446 (relating to general rule for methods of accounting) is amended by adding at the end the following new subsection:

''(g) CERTAIN SMALL BUSINESS TAXPAYERS PERMITTED TO USE CASH ACCOUNTING METHOD WITHOUT LIMITATION.—

''(1) IN GENERAL.—An eligible taxpayer shall not be required to use an accrual method of accounting for any taxable year.

''(2) ELIGIBLE TAXPAYER.—For purposes of this subsection, a taxpayer is an eligible taxpayer with respect to any taxable year if—

''(A) for each of the prior taxable years ending on or after the date of the enactment of this subsection, the taxpayer (or any predecessor) met the gross receipts test in effect under section 448(c) for such taxable year, and

''(B) the taxpayer is not subject to section 447 or 448.''.

(2) EXPANSION OF GROSS RECEIPTS TEST.—

(A) IN GENERAL.—Paragraph (3) of section 448(b) (relating to entities with gross receipts of not more than $5,000,000) is amended to read as follows:

''(3) ENTITIES MEETING GROSS RECEIPTS TEST.—Paragraphs (1) and (2) of subsection (a) shall not apply to any corporation or partnership for any taxable year if, for each of the prior taxable years ending on or after the date of the enactment of the Small Business and Work Opportunity Act of 2007, the entity (or any predecessor) met the gross receipts test in effect under subsection (c) for such prior taxable year.''.

(B) CONFORMING AMENDMENTS.—Section 448(c) of such Code is amended—

(i) by striking ''$5,000,000'' in the heading thereof,

(ii) by striking ''$5,000,000'' each place it appears in paragraph (1) and inserting ''$10,000,000'', and

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

''(4) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2008, the dollar amount contained in paragraph (1) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 2007' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under this subparagraph is not a multiple of $100,000, such amount shall be rounded to the nearest multiple of $100,000.''.

(b) CLARIFICATION OF INVENTORY RULES FOR SMALL BUSINESS.—

(1) IN GENERAL.—Section 471 (relating to general rule for inventories) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) SMALL BUSINESS TAXPAYERS NOT REQUIRED TO USE INVENTORIES.—

''(1) IN GENERAL.—A qualified taxpayer shall not be required to use inventories under this section for a taxable year.

''(2) TREATMENT OF TAXPAYERS NOT USING INVENTORIES.—If a qualified taxpayer does not use inventories with respect to any property for any taxable year beginning after the date of the enactment of this subsection, such property shall be treated as a material or supply which is not incidental.

''(3) QUALIFIED TAXPAYER.—For purposes of this subsection, the term 'qualified taxpayer' means—

''(A) any eligible taxpayer (as defined in section 446(g)(2)), and

''(B) any taxpayer described in section 448(b)(3).''.

(2) CONFORMING AMENDMENTS.—

(A) Subpart D of part II of subchapter E of chapter 1 is amended by striking section 474.

(B) The table of sections for subpart D of part II of subchapter E of chapter 1 is amended by striking the item relating to section 474.

(c) EFFECTIVE DATE AND SPECIAL RULES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer changing the taxpayer's method of accounting for any taxable year under the amendments made by this section—

(A) such change shall be treated as initiated by the taxpayer;

(B) such change shall be treated as made with the consent of the Secretary of the Treasury; and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account over a period (not greater than 4 taxable years) beginning with such taxable year.

SEC. 204. EXTENSION AND MODIFICATION OF COMBINED WORK OPPORTUNITY TAX CREDIT AND WELFARE-TO-WORK CREDIT.

(a) EXTENSION.—Section 51(c)(4)(B) (relating to termination) is amended by striking ''2007'' and inserting ''2012''.

(b) INCREASE IN MAXIMUM AGE FOR DESIGNATED COMMUNITY RESIDENTS.—

(1) IN GENERAL.—Paragraph (5) of section 51(d) is amended to read as follows:

''(5) DESIGNATED COMMUNITY RESIDENTS.—

''(A) IN GENERAL.—The term 'designated community resident' means any individual who is certified by the designated local agency—

''(i) as having attained age 18 but not age 40 on the hiring date, and

''(ii) as having his principal place of abode within an empowerment zone, enterprise community, or renewal community.

''(B) INDIVIDUAL MUST CONTINUE TO RESIDE IN ZONE OR COMMUNITY.—In the case of a designated community resident, the term 'qualified wages' shall not include wages paid or incurred for services performed while the individual's principal place of abode is outside an empowerment zone, enterprise community, or renewal community.''.

(2) CONFORMING AMENDMENT.—Subparagraph (D) of section 51(d)(1) is amended to read as follows:

''(D) a designated community resident,''.

(c) CLARIFICATION OF TREATMENT OF INDIVIDUALS UNDER INDIVIDUAL WORK PLANS.—Subparagraph (B) of section 51(d)(6) (relating to vocational rehabilitation referral) is amended by striking ''or'' at the end of clause (i), by striking the period at the end of clause (ii) and inserting '', or'', and by adding at the end the following new clause:

''(iii) an individual work plan developed and implemented by an employment network pursuant to subsection (g) of section 1148 of the Social Security Act with respect to which the requirements of such subsection are met.''.

(d) TREATMENT OF DISABLED VETERANS UNDER THE WORK OPPORTUNITY TAX CREDIT.—

(1) DISABLED VETERANS TREATED AS MEMBERS OF TARGETED GROUP.—

(A) IN GENERAL.—Subparagraph (A) of section 51(d)(3) (relating to qualified veteran) is amended by striking ''agency as being a member of a family'' and all that follows and inserting ''agency as—

''(i) being a member of a family receiving assistance under a food stamp program under

the Food Stamp Act of 1977 for at least a 3-month period ending during the 12-month period ending on the hiring date, or

''(ii) entitled to compensation for a service-connected disability incurred after September 10, 2001.''.

(B) DEFINITIONS.—Paragraph (3) of section 51(d) is amended by adding at the end the following new subparagraph:

''(C) OTHER DEFINITIONS.—For purposes of subparagraph (A), the terms 'compensation' and 'service-connected' have the meanings given such terms under section 101 of title 38, United States Code.''.

(2) INCREASE IN AMOUNT OF WAGES TAKEN INTO ACCOUNT FOR DISABLED VETERANS.—Paragraph (3) of section 51(b) is amended—

(A) by inserting ''($12,000 per year in the case of any individual who is a qualified veteran by reason of subsection (d)(3)(A)(ii))'' before the period at the end, and

(B) by striking ''ONLY FIRST $6,000 OF'' in the heading and inserting ''LIMITATION ON''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 205. CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.

(a) EMPLOYMENT TAXES.—Chapter 25 (relating to general provisions relating to employment taxes) is amended by adding at the end the following new section:

''SEC. 3511. CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.

''(a) GENERAL RULES.—For purposes of the taxes, and other obligations, imposed by this subtitle—

''(1) a certified professional employer organization shall be treated as the employer (and no other person shall be treated as the employer) of any work site employee performing services for any customer of such organization, but only with respect to remuneration remitted by such organization to such work site employee, and

''(2) exclusions, definitions, and other rules which are based on the type of employer and which would (but for paragraph (1)) apply shall apply with respect to such taxes imposed on such remuneration.

''(b) SUCCESSOR EMPLOYER STATUS.—For purposes of sections 3121(a)(1), 3231(e)(2)(C), and 3306(b)(1)—

''(1) a certified professional employer organization entering into a service contract with a customer with respect to a work site employee shall be treated as a successor employer and the customer shall be treated as a predecessor employer during the term of such service contract, and

''(2) a customer whose service contract with a certified professional employer organization is terminated with respect to a work site employee shall be treated as a successor employer and the certified professional employer organization shall be treated as a predecessor employer.

''(c) LIABILITY OF CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATION.—Solely for purposes of its liability for the taxes, and other obligations, imposed by this subtitle—

''(1) a certified professional employer organization shall be treated as the employer of any individual (other than a work site employee or a person described in subsection (f)) who is performing services covered by a contract meeting the requirements of section 7705(e)(2), but only with respect to remuneration remitted by such organization to such individual, and

''(2) exclusions, definitions, and other rules which are based on the type of employer and which would (but for paragraph (1)) apply shall apply with respect to such taxes imposed on such remuneration.

''(d) TREATMENT OF CREDITS.—

''(1) IN GENERAL.—For purposes of any credit specified in paragraph (2)—

''(A) such credit with respect to a work site employee performing services for the customer applies to the customer, not the certified professional employer organization,

''(B) the customer, and not the certified professional employer organization, shall take into account wages and employment taxes—

''(i) paid by the certified professional employer organization with respect to the work site employee, and

''(ii) for which the certified professional employer organization receives payment from the customer, and

''(C) the certified professional employer organization shall furnish the customer with any information necessary for the customer to claim such credit.

''(2) CREDITS SPECIFIED.—A credit is specified in this paragraph if such credit is allowed under—

''(A) section 41 (credit for increasing research activity),

''(B) section 45A (Indian employment credit),

''(C) section 45B (credit for portion of employer social security taxes paid with respect to employee cash tips),

''(D) section 45C (clinical testing expenses for certain drugs for rare diseases or conditions),

''(E) section 51 (work opportunity credit),

''(F) section 51A (temporary incentives for employing long-term family assistance recipients),

''(G) section 1396 (empowerment zone employment credit),

''(H) 1400(d) (DC Zone employment credit),

''(I) Section 1400H (renewal community employment credit), and

''(J) any other section as provided by the Secretary.

''(e) SPECIAL RULE FOR RELATED PARTY.—This section shall not apply in the case of a customer which bears a relationship to a certified professional employer organization described in section 267(b) or 707(b). For purposes of the preceding sentence, such sections shall be applied by substituting '10 percent' for '50 percent'.

''(f) SPECIAL RULE FOR CERTAIN INDIVIDUALS.—For purposes of the taxes imposed under this subtitle, an individual with net earnings from self-employment derived from the customer's trade or business is not a work site employee with respect to remuneration paid by a certified professional employer organization.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATION DEFINED.—Chapter 79 (relating to definitions) is amended by adding at the end the following new section:

''SEC. 7705. CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS DEFINED.

''(a) IN GENERAL.—For purposes of this title, the term 'certified professional employer organization' means a person who has been certified by the Secretary for purposes of section 3511 as meeting the requirements of subsection (b).

''(b) GENERAL REQUIREMENTS.—A person meets the requirements of this subsection if such person—

''(1) demonstrates that such person (and any owner, officer, and such other persons as may be specified in regulations) meets such requirements as the Secretary shall establish with respect to tax status, background, experience, business location, and annual financial audits,

''(2) computes its taxable income using an accrual method of accounting unless the Secretary approves another method,

''(3) agrees that it will satisfy the bond and independent financial review requirements of subsection (c) on an ongoing basis,

''(4) agrees that it will satisfy such reporting obligations as may be imposed by the Secretary,

''(5) agrees to verify on such periodic basis as the Secretary may prescribe that it continues to meet the requirements of this subsection, and

''(6) agrees to notify the Secretary in writing within such time as the Secretary may prescribe of any change that materially affects whether it continues to meet the requirements of this subsection.

''(c) BOND AND INDEPENDENT FINANCIAL REVIEW REQUIREMENTS.—

''(1) IN GENERAL.—An organization meets the requirements of this paragraph if such organization—

''(A) meets the bond requirements of paragraph (2), and

''(B) meets the independent financial review requirements of paragraph (3).

''(2) BOND.—

''(A) IN GENERAL.—A certified professional employer organization meets the requirements of this paragraph if the organization has posted a bond for the payment of taxes under subtitle C (in a form acceptable to the Secretary) in an amount at least equal to the amount specified in subparagraph (B).

''(B) AMOUNT OF BOND.—For the period April 1 of any calendar year through March 31 of the following calendar year, the amount of the bond required is equal to the greater of—

''(i) 5 percent of the organization's liability under section 3511 for taxes imposed by subtitle C during the preceding calendar year (but not to exceed $1,000,000), or

''(ii) $50,000.

''(3) INDEPENDENT FINANCIAL REVIEW REQUIREMENTS.—A certified professional employer organization meets the requirements of this paragraph if such organization—

''(A) has, as of the most recent review date, caused to be prepared and provided to the Secretary (in such manner as the Secretary may prescribe) an opinion of an independent certified public accountant that the certified professional employer organization's financial statements are presented fairly in accordance with generally accepted accounting principles, and

''(B) provides, not later than the last day of the second month beginning after the end of each calendar quarter, to the Secretary from an independent certified public accountant an assertion regarding Federal employment tax payments and an examination level attestation on such assertion.

Such assertion shall state that the organization has withheld and made deposits of all taxes imposed by chapters 21, 22, and 24 of the Internal Revenue Code in accordance with regulations imposed by the Secretary for such calendar quarter and such examination level attestation shall state that such assertion is fairly stated, in all material respects.

''(4) CONTROLLED GROUP RULES.—For purposes of the requirements of paragraphs (2) and (3), all professional employer organizations that are members of a controlled group within the meaning of sections 414(b) and (c) shall be treated as a single organization.

''(5) FAILURE TO FILE ASSERTION AND ATTESTATION.—If the certified professional employer organization fails to file the assertion and attestation required by paragraph (3) with respect to any calendar quarter, then the requirements of paragraph (3) with respect to such failure shall be treated as not

satisfied for the period beginning on the due date for such attestation.

''(6) REVIEW DATE.—For purposes of paragraph (3)(A), the review date shall be 6 months after the completion of the organization's fiscal year.

''(d) SUSPENSION AND REVOCATION AUTHORITY.—The Secretary may suspend or revoke a certification of any person under subsection (b) for purposes of section 3511 if the Secretary determines that such person is not satisfying the representations or requirements of subsections (b) or (c), or fails to satisfy applicable accounting, reporting, payment, or deposit requirements.

''(e) WORK SITE EMPLOYEE.—For purposes of this title—

''(1) IN GENERAL.—The term 'work site employee' means, with respect to a certified professional employer organization, an individual who—

''(A) performs services for a customer pursuant to a contract which is between such customer and the certified professional employer organization and which meets the requirements of paragraph (2), and

''(B) performs services at a work site meeting the requirements of paragraph (3).

''(2) SERVICE CONTRACT REQUIREMENTS.—A contract meets the requirements of this paragraph with respect to an individual performing services for a customer if such contract is in writing and provides that the certified professional employer organization shall—

''(A) assume responsibility for payment of wages to such individual, without regard to the receipt or adequacy of payment from the customer for such services,

''(B) assume responsibility for reporting, withholding, and paying any applicable taxes under subtitle C, with respect to such individual's wages, without regard to the receipt or adequacy of payment from the customer for such services,

''(C) assume responsibility for any employee benefits which the service contract may require the organization to provide, without regard to the receipt or adequacy of payment from the customer for such services,

''(D) assume responsibility for hiring, firing, and recruiting workers in addition to the customer's responsibility for hiring, firing and recruiting workers,

''(E) maintain employee records relating to such individual, and

''(F) agree to be treated as a certified professional employer organization for purposes of section 3511 with respect to such individual.

''(3) WORK SITE COVERAGE REQUIREMENT.—The requirements of this paragraph are met with respect to an individual if at least 85 percent of the individuals performing services for the customer at the work site where such individual performs services are subject to 1 or more contracts with the certified professional employer organization which meet the requirements of paragraph (2) (but not taking into account those individuals who are excluded employees within the meaning of section 414(q)(5)).

''(f) DETERMINATION OF EMPLOYMENT STATUS.—Except to the extent necessary for purposes of section 3511, nothing in this section shall be construed to affect the determination of who is an employee or employer for purposes of this title.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 3302 is amended by adding at the end the following new subsection:

''(h) TREATMENT OF CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—If a certified professional employer organization (as defined in section 7705), or a customer of such organization, makes a contribution to the State's unemployment fund with respect to a work site employee, such organization shall be eligible for the credits available under this section with respect to such contribution.''.

(2) Section 3303(a) is amended—

(A) by striking the period at the end of paragraph (3) and inserting ''; and'' and by inserting after paragraph (3) the following new paragraph:

''(4) if the taxpayer is a certified professional employer organization (as defined in section 7705) that is treated as the employer under section 3511, such certified professional employer organization is permitted to collect and remit, in accordance with paragraphs (1), (2), and (3), contributions during the taxable year to the State unemployment fund with respect to a work site employee.'', and

(B) in the last sentence—

(i) by striking ''paragraphs (1), (2), and (3)'' and inserting ''paragraphs (1), (2), (3), and (4)'', and

(ii) by striking ''paragraph (1), (2), or (3)'' and inserting ''paragraph (1), (2), (3), or (4)''.

(3) Section 6053(c) (relating to reporting of tips) is amended by adding at the end the following new paragraph:

''(8) CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—For purposes of any report required by this subsection, in the case of a certified professional employer organization that is treated under section 3511 as the employer of a work site employee, the customer with respect to whom a work site employee performs services shall be the employer for purposes of reporting under this section and the certified professional employer organization shall furnish to the customer any information necessary to complete such reporting no later than such time as the Secretary shall prescribe.''.

(d) CLERICAL AMENDMENTS.—

(1) The table of sections for chapter 25 is amended by adding at the end the following new item:

''Sec. 3511. Certified professional employer organizations.''.

(2) The table of sections for chapter 79 is amended by inserting after the item relating to section 7704 the following new item:

''Sec. 7705. Certified professional employer organizations defined.''.

(e) REPORTING REQUIREMENTS AND OBLIGATIONS.—The Secretary of the Treasury shall develop such reporting and recordkeeping rules, regulations, and procedures as the Secretary determines necessary or appropriate to ensure compliance with the amendments made by this section with respect to entities applying for certification as certified professional employer organizations or entities that have been so certified. Such rules shall be designed in a manner which streamlines, to the extent possible, the application of requirements of such amendments, the exchange of information between a certified professional employer organization and its customers, and the reporting and recordkeeping obligations of the certified professional employer organization.

(f) USER FEES.—Subsection (b) of section 7528 (relating to Internal Revenue Service user fees) is amended by adding at the end the following new paragraph:

''(4) CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—The fee charged under the program in connection with the certification by the Secretary of a professional employer organization under section 7705 shall not exceed $500.''.

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to wages for services performed on or after January 1 of the first calendar year beginning more than 12 months after the date of the enactment of this Act.

(2) CERTIFICATION PROGRAM.—The Secretary of the Treasury shall establish the certification program described in section 7705(b) of the Internal Revenue Code of 1986, as added by subsection (b), not later than 6 months before the effective date determined under paragraph (1).

(h) NO INFERENCE.—Nothing contained in this section or the amendments made by this section shall be construed to create any inference with respect to the determination of who is an employee or employer—

(1) for Federal tax purposes (other than the purposes set forth in the amendments made by this section), or

(2) for purposes of any other provision of law.

PART II—SUBCHAPTER S PROVISIONS

SEC. 211. CAPITAL GAIN OF S CORPORATION NOT TREATED AS PASSIVE INVESTMENT INCOME.

(a) IN GENERAL.—Section 1362(d)(3) is amended by striking subparagraphs (B), (C), (D), (E), and (F) and inserting the following new subparagraph:

''(B) PASSIVE INVESTMENT INCOME DEFINED.—

''(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the term 'passive investment income' means gross receipts derived from royalties, rents, dividends, interest, and annuities.

''(ii) EXCEPTION FOR INTEREST ON NOTES FROM SALES OF INVENTORY.—The term 'passive investment income' shall not include interest on any obligation acquired in the ordinary course of the corporation's trade or business from its sale of property described in section 1221(a)(1).

''(iii) TREATMENT OF CERTAIN LENDING OR FINANCE COMPANIES.—If the S corporation meets the requirements of section 542(c)(6) for the taxable year, the term 'passive investment income' shall not include gross receipts for the taxable year which are derived directly from the active and regular conduct of a lending or finance business (as defined in section 542(d)(1)).

''(iv) TREATMENT OF CERTAIN DIVIDENDS.—If an S corporation holds stock in a C corporation meeting the requirements of section 1504(a)(2), the term 'passive investment income' shall not include dividends from such C corporation to the extent such dividends are attributable to the earnings and profits of such C corporation derived from the active conduct of a trade or business.

''(v) EXCEPTION FOR BANKS, ETC.—In the case of a bank (as defined in section 581) or a depository institution holding company (as defined in section 3(w)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)(1)), the term 'passive investment income' shall not include—

''(I) interest income earned by such bank or company, or

''(II) dividends on assets required to be held by such bank or company, including stock in the Federal Reserve Bank, the Federal Home Loan Bank, or the Federal Agricultural Mortgage Bank or participation certificates issued by a Federal Intermediate Credit Bank.''.

(b) CONFORMING AMENDMENT.—Clause (i) of section 1042(c)(4)(A) is amended by striking ''section 1362(d)(3)(C)'' and inserting ''section 1362(d)(3)(B)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 212. TREATMENT OF BANK DIRECTOR SHARES.

(a) IN GENERAL.—Section 1361 (defining S corporation) is amended by adding at the end the following new subsection:

''(f) RESTRICTED BANK DIRECTOR STOCK.—

''(1) IN GENERAL.—Restricted bank director stock shall not be taken into account as outstanding stock of the S corporation in applying this subchapter (other than section 1368(f)).

''(2) RESTRICTED BANK DIRECTOR STOCK.—For purposes of this subsection, the term 'restricted bank director stock' means stock in a bank (as defined in section 581) or a depository institution holding company (as defined in section 3(w)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)(1)), if such stock—

''(A) is required to be held by an individual under applicable Federal or State law in order to permit such individual to serve as a director, and

''(B) is subject to an agreement with such bank or company (or a corporation which controls (within the meaning of section 368(c)) such bank or company) pursuant to which the holder is required to sell back such stock (at the same price as the individual acquired such stock) upon ceasing to hold the office of director.

''(3) CROSS REFERENCE.—

''For treatment of certain distributions with respect to restricted bank director stock, see section 1368(f)''.

(b) DISTRIBUTIONS.—Section 1368 (relating to distributions) is amended by adding at the end the following new subsection:

''(f) RESTRICTED BANK DIRECTOR STOCK.—If a director receives a distribution (not in part or full payment in exchange for stock) from an S corporation with respect to any restricted bank director stock (as defined in section 1361(f)), the amount of such distribution—

''(1) shall be includible in gross income of the director, and

''(2) shall be deductible by the corporation for the taxable year of such corporation in which or with which ends the taxable year in which such amount in included in the gross income of the director.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

(2) SPECIAL RULE FOR TREATMENT AS SECOND CLASS OF STOCK.—In the case of any taxable year beginning after December 31, 1996, restricted bank director stock (as defined in section 1361(f) of the Internal Revenue Code of 1986, as added by this section) shall not be taken into account in determining whether an S corporation has more than 1 class of stock.

SEC. 213. SPECIAL RULE FOR BANK REQUIRED TO CHANGE FROM THE RESERVE METHOD OF ACCOUNTING ON BECOMING S CORPORATION.

(a) IN GENERAL.—Section 1361, as amended by this Act, is amended by adding at the end the following new subsection:

''(g) SPECIAL RULE FOR BANK REQUIRED TO CHANGE FROM THE RESERVE METHOD OF ACCOUNTING ON BECOMING S CORPORATION.—In the case of a bank which changes from the reserve method of accounting for bad debts described in section 585 or 593 for its first taxable year for which an election under section 1362(a) is in effect, the bank may elect to take into account any adjustments under section 481 by reason of such change for the taxable year immediately preceding such first taxable year.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

SEC. 214. TREATMENT OF THE SALE OF INTEREST IN A QUALIFIED SUBCHAPTER S SUBSIDIARY.

(a) IN GENERAL.—Subparagraph (C) of section 1361(b)(3) (relating to treatment of terminations of qualified subchapter S subsidiary status) is amended—

(1) by striking ''For purposes of this title,'' and inserting the following:

''(i) IN GENERAL.—For purposes of this title,'', and

(2) by inserting at the end the following new clause:

''(ii) TERMINATION BY REASON OF SALE OF STOCK.—If the failure to meet the requirements of subparagraph (B) is by reason of the sale of stock of a corporation which is a qualified subchapter S subsidiary, the sale of such stock shall be treated as if—

''(I) the sale were a sale of an undivided interest in the assets of such corporation (based on the percentage of the corporation's stock sold), and

''(II) the sale were followed by an acquisition by such corporation of all of its assets (and the assumption by such corporation of all of its liabilities) in a transaction to which section 351 applies.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006 .

SEC. 215. ELIMINATION OF ALL EARNINGS AND PROFITS ATTRIBUTABLE TO PRE-1983 YEARS FOR CERTAIN CORPORATIONS.

In the case of a corporation which is—

(1) described in section 1311(a)(1) of the Small Business Job Protection Act of 1996, and

(2) not described in section 1311(a)(2) of such Act,

the amount of such corporation's accumulated earnings and profits (for the first taxable year beginning after the date of the enactment of this Act) shall be reduced by an amount equal to the portion (if any) of such accumulated earnings and profits which were accumulated in any taxable year beginning before January 1, 1983, for which such corporation was an electing small business corporation under subchapter S of the Internal Revenue Code of 1986.

SEC. 216. EXPANSION OF QUALIFYING BENEFICIARIES OF AN ELECTING SMALL BUSINESS TRUST.

(a) NO LOOK THROUGH FOR ELIGIBILITY PURPOSES.—Clause (v) of section 1361(c)(2)(B) is amended by adding at the end the following new sentence: ''This clause shall not apply for purposes of subsection (b)(1)(C).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

Subtitle B—Revenue Provisions

SEC. 221. MODIFICATION OF EFFECTIVE DATE OF LEASING PROVISIONS OF THE AMERICAN JOBS CREATION ACT OF 2004.

(a) LEASES TO FOREIGN ENTITIES.—Section 849(b) of the American Jobs Creation Act of 2004 is amended by adding at the end the following new paragraph:

''(5) LEASES TO FOREIGN ENTITIES.—In the case of tax-exempt use property leased to a tax-exempt entity which is a foreign person or entity, the amendments made by this part shall apply to taxable years beginning after December 31, 2006, with respect to leases entered into on or before March 12, 2004.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the enactment of the American Jobs Creation Act of 2004.

SEC. 222. APPLICATION OF RULES TREATING INVERTED CORPORATIONS AS DOMESTIC CORPORATIONS TO CERTAIN TRANSACTIONS OCCURRING AFTER MARCH 20, 2002.

(a) IN GENERAL.—Section 7874(b) (relating to inverted corporations treated as domestic corporations) is amended to read as follows:

''(b) INVERTED CORPORATIONS TREATED AS DOMESTIC CORPORATIONS.—

''(1) IN GENERAL.—Notwithstanding section 7701(a)(4), a foreign corporation shall be treated for purposes of this title as a domestic corporation if such corporation would be a surrogate foreign corporation if subsection (a)(2) were applied by substituting '80 percent' for '60 percent'.

''(2) SPECIAL RULE FOR CERTAIN TRANSACTIONS OCCURRING AFTER MARCH 20, 2002.—

''(A) IN GENERAL.—If—

''(i) paragraph (1) does not apply to a foreign corporation, but

''(ii) paragraph (1) would apply to such corporation if, in addition to the substitution under paragraph (1), subsection (a)(2) were applied by substituting 'March 20, 2002' for 'March 4, 2003' each place it appears,

then paragraph (1) shall apply to such corporation but only with respect to taxable years of such corporation beginning after December 31, 2006.

''(B) SPECIAL RULES.—Subject to such rules as the Secretary may prescribe, in the case of a corporation to which paragraph (1) applies by reason of this paragraph—

''(i) the corporation shall be treated, as of the close of its last taxable year beginning before January 1, 2007, as having transferred all of its assets, liabilities, and earnings and profits to a domestic corporation in a transaction with respect to which no tax is imposed under this title,

''(ii) the bases of the assets transferred in the transaction to the domestic corporation shall be the same as the bases of the assets in the hands of the foreign corporation, subject to any adjustments under this title for built-in losses,

''(iii) the basis of the stock of any shareholder in the domestic corporation shall be the same as the basis of the stock of the shareholder in the foreign corporation for which it is treated as exchanged, and

''(iv) the transfer of any earnings and profits by reason of clause (i) shall be disregarded in determining any deemed dividend or foreign tax creditable to the domestic corporation with respect to such transfer.

''(C) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this paragraph, including regulations to prevent the avoidance of the purposes of this paragraph.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2006.

SEC. 223. DENIAL OF DEDUCTION FOR PUNITIVE DAMAGES.

(a) DISALLOWANCE OF DEDUCTION.—

(1) IN GENERAL.—Section 162(g) (relating to treble damage payments under the antitrust laws) is amended—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(B) by striking ''If'' and inserting:

''(1) TREBLE DAMAGES.—If'', and

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

''(2) PUNITIVE DAMAGES.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).''.

(2) CONFORMING AMENDMENT.—The heading for section 162(g) is amended by inserting ''OR PUNITIVE DAMAGES'' after ''LAWS''.

(b) INCLUSION IN INCOME OF PUNITIVE DAMAGES PAID BY INSURER OR OTHERWISE.—

(1) IN GENERAL.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end the following new section:

''SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSURANCE OR OTHERWISE.

''Gross income shall include any amount paid to or on behalf of a taxpayer as insurance or otherwise by reason of the taxpayer's liability (or agreement) to pay punitive damages.''.

(2) REPORTING REQUIREMENTS.—Section 6041 (relating to information at source) is amended by adding at the end the following new subsection:

''(h) SECTION TO APPLY TO PUNITIVE DAMAGES COMPENSATION.—This section shall apply to payments by a person to or on behalf of another person as insurance or otherwise by reason of the other person's liability (or agreement) to pay punitive damages.''.

(3) CONFORMING AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end the following new item:

''Sec. 91. Punitive damages compensated by insurance or otherwise.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to damages paid or incurred on or after the date of the enactment of this Act.

SEC. 224. DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

(a) IN GENERAL.—Subsection (f) of section 162 (relating to trade or business expenses) is amended to read as follows:

''(f) FINES, PENALTIES, AND OTHER AMOUNTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no deduction otherwise allowable shall be allowed under this chapter for any amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or entity described in paragraph (4) in relation to the violation of any law or the investigation or inquiry by such government or entity into the potential violation of any law.

''(2) EXCEPTION FOR AMOUNTS CONSTITUTING RESTITUTION OR PAID TO COME INTO COMPLIANCE WITH LAW.—Paragraph (1) shall not apply to any amount which—

''(A) the taxpayer establishes—

''(i) constitutes restitution (including remediation of property) for damage or harm caused by or which may be caused by the violation of any law or the potential violation of any law, or

''(ii) is paid to come into compliance with any law which was violated or involved in the investigation or inquiry, and

''(B) is identified as restitution or as an amount paid to come into compliance with the law, as the case may be, in the court order or settlement agreement.

A taxpayer shall not meet the requirements of subparagraph (A) solely by reason an identification under subparagraph (B). This paragraph shall not apply to any amount paid or incurred as reimbursement to the government or entity for the costs of any investigation or litigation.

''(3) EXCEPTION FOR AMOUNTS PAID OR INCURRED AS THE RESULT OF CERTAIN COURT ORDERS.—Paragraph (1) shall not apply to any amount paid or incurred by order of a court in a suit in which no government or entity described in paragraph (4) is a party.

''(4) CERTAIN NONGOVERNMENTAL REGULATORY ENTITIES.—An entity is described in this paragraph if it is—

''(A) a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) in connection with a qualified board or exchange (as defined in section 1256(g)(7)), or

''(B) to the extent provided in regulations, a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) as part of performing an essential governmental function.

''(5) EXCEPTION FOR TAXES DUE.—Paragraph (1) shall not apply to any amount paid or incurred as taxes due.''.

(b) REPORTING OF DEDUCTIBLE AMOUNTS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by inserting after section 6050V the following new section:

''SEC. 6050W. INFORMATION WITH RESPECT TO CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

''(a) REQUIREMENT OF REPORTING.—

''(1) IN GENERAL.—The appropriate official of any government or entity which is described in section 162(f)(4) which is involved in a suit or agreement described in paragraph (2) shall make a return in such form as determined by the Secretary setting forth—

''(A) the amount required to be paid as a result of the suit or agreement to which paragraph (1) of section 162(f) applies,

''(B) any amount required to be paid as a result of the suit or agreement which constitutes restitution or remediation of property, and

''(C) any amount required to be paid as a result of the suit or agreement for the purpose of coming into compliance with any law which was violated or involved in the investigation or inquiry.

''(2) SUIT OR AGREEMENT DESCRIBED.—

''(A) IN GENERAL.—A suit or agreement is described in this paragraph if—

''(i) it is—

''(I) a suit with respect to a violation of any law over which the government or entity has authority and with respect to which there has been a court order, or

''(II) an agreement which is entered into with respect to a violation of any law over which the government or entity has authority, or with respect to an investigation or inquiry by the government or entity into the potential violation of any law over which such government or entity has authority, and

''(ii) the aggregate amount involved in all court orders and agreements with respect to the violation, investigation, or inquiry is $600 or more.

''(B) ADJUSTMENT OF REPORTING THRESHOLD.—The Secretary may adjust the $600 amount in subparagraph (A)(ii) as necessary in order to ensure the efficient administration of the internal revenue laws.

''(3) TIME OF FILING.—The return required under this subsection shall be filed not later than—

''(A) 30 days after the date on which a court order is issued with respect to the suit or the date the agreement is entered into, as the case may be, or

''(B) the date specified Secretary.

''(b) STATEMENTS TO BE FURNISHED TO INDIVIDUALS INVOLVED IN THE SETTLEMENT.—Every person required to make a return under subsection (a) shall furnish to each person who is a party to the suit or agreement a written statement showing—

''(1) the name of the government or entity, and

''(2) the information supplied to the Secretary under subsection (a)(1).

The written statement required under the preceding sentence shall be furnished to the person at the same time the government or entity provides the Secretary with the information required under subsection (a).

''(c) APPROPRIATE OFFICIAL DEFINED.—For purposes of this section, the term 'appropriate official' means the officer or employee having control of the suit, investigation, or inquiry or the person appropriately designated for purposes of this section.''.

(2) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6050V the following new item:

''Sec. 6050W. Information with respect to certain fines, penalties, and other amounts.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred on or after the date of the enactment of this Act, except that such amendments shall not apply to amounts paid or incurred under any binding order or agreement entered into before such date. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained before such date.

SEC. 225. REVISION OF TAX RULES ON EXPATRIATION OF INDIVIDUALS.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

''SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

''(a) GENERAL RULES.—For purposes of this subtitle—

''(1) MARK TO MARKET.—Except as provided in subsections (d) and (f), all property of a covered expatriate to whom this section applies shall be treated as sold on the day before the expatriation date for its fair market value.

''(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

''(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale, and

''(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply to any such loss.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence.

''(3) EXCLUSION FOR CERTAIN GAIN.—

''(A) IN GENERAL.—The amount which, but for this paragraph, would be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

''(B) COST-OF-LIVING ADJUSTMENT.—

''(i) IN GENERAL.—In the case of an expatriation date occurring in any calendar year after 2007, the $600,000 amount under subparagraph (A) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 2006' for 'calendar year 1992' in subparagraph (B) thereof.

''(ii) ROUNDING RULES.—If any amount after adjustment under clause (i) is not a multiple of $1,000, such amount shall be rounded to the next lower multiple of $1,000.

''(4) ELECTION TO CONTINUE TO BE TAXED AS UNITED STATES CITIZEN.—

''(A) IN GENERAL.—If a covered expatriate elects the application of this paragraph—

''(i) this section (other than this paragraph and subsection (i)) shall not apply to the expatriate, but

''(ii) in the case of property to which this section would apply but for such election, the expatriate shall be subject to tax under this title in the same manner as if the individual were a United States citizen.

''(B) REQUIREMENTS.—Subparagraph (A) shall not apply to an individual unless the individual—

''(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

''(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

''(iii) complies with such other requirements as the Secretary may prescribe.

''(C) ELECTION.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

''(b) ELECTION TO DEFER TAX.—

''(1) IN GENERAL.—If the taxpayer elects the application of this subsection with respect to any property treated as sold by reason of subsection (a), the payment of the additional tax attributable to such property shall be postponed until the due date of the return for the taxable year in which such property is disposed of (or, in the case of property disposed of in a transaction in which gain is not recognized in whole or in part, until such other date as the Secretary may prescribe).

''(2) DETERMINATION OF TAX WITH RESPECT TO PROPERTY.—For purposes of paragraph (1), the additional tax attributable to any property is an amount which bears the same ratio to the additional tax imposed by this chapter for the taxable year solely by reason of subsection (a) as the gain taken into account under subsection (a) with respect to such property bears to the total gain taken into account under subsection (a) with respect to all property to which subsection (a) applies.

''(3) TERMINATION OF POSTPONEMENT.—No tax may be postponed under this subsection later than the due date for the return of tax imposed by this chapter for the taxable year which includes the date of death of the expatriate (or, if earlier, the time that the security provided with respect to the property fails to meet the requirements of paragraph (4), unless the taxpayer corrects such failure within the time specified by the Secretary).

''(4) SECURITY.—

''(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided to the Secretary with respect to such property.

''(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

''(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2) for the property, or

''(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

''(5) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

''(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be made under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

''(7) INTEREST.—For purposes of section 6601—

''(A) the last date for the payment of tax shall be determined without regard to the election under this subsection, and

''(B) section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

''(c) COVERED EXPATRIATE.—For purposes of this section—

''(1) IN GENERAL.—Except as provided in paragraph (2), the term 'covered expatriate' means an expatriate.

''(2) EXCEPTIONS.—An individual shall not be treated as a covered expatriate if—

''(A) the individual—

''(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

''(ii) has not been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) during the 5 taxable years ending with the taxable year during which the expatriation date occurs, or

''(B)(i) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

''(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

''(d) EXEMPT PROPERTY; SPECIAL RULES FOR PENSION PLANS.—

''(1) EXEMPT PROPERTY.—This section shall not apply to the following:

''(A) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the day before the expatriation date, meet the requirements of section 897(c)(2).

''(B) SPECIFIED PROPERTY.—Any property or interest in property not described in subparagraph (A) which the Secretary specifies in regulations.

''(2) SPECIAL RULES FOR CERTAIN RETIREMENT PLANS.—

''(A) IN GENERAL.—If a covered expatriate holds on the day before the expatriation date any interest in a retirement plan to which this paragraph applies—

''(i) such interest shall not be treated as sold for purposes of subsection (a)(1), but

''(ii) an amount equal to the present value of the expatriate's nonforfeitable accrued benefit shall be treated as having been received by such individual on such date as a distribution under the plan.

''(B) TREATMENT OF SUBSEQUENT DISTRIBUTIONS.—In the case of any distribution on or after the expatriation date to or on behalf of the covered expatriate from a plan from which the expatriate was treated as receiving a distribution under subparagraph (A), the amount otherwise includible in gross income by reason of the subsequent distribution shall be reduced by the excess of the amount includible in gross income under subparagraph (A) over any portion of such amount to which this subparagraph previously applied.

''(C) TREATMENT OF SUBSEQUENT DISTRIBUTIONS BY PLAN.—For purposes of this title, a retirement plan to which this paragraph applies, and any person acting on the plan's behalf, shall treat any subsequent distribution described in subparagraph (B) in the same manner as such distribution would be treated without regard to this paragraph.

''(D) APPLICABLE PLANS.—This paragraph shall apply to—

''(i) any qualified retirement plan (as defined in section 4974(c)),

''(ii) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A), and

''(iii) to the extent provided in regulations, any foreign pension plan or similar retirement arrangements or programs.

''(e) DEFINITIONS.—For purposes of this section—

''(1) EXPATRIATE.—The term 'expatriate' means—

''(A) any United States citizen who relinquishes citizenship, and

''(B) any long-term resident of the United States who—

''(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

''(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

''(2) EXPATRIATION DATE.—The term 'expatriation date' means—

''(A) the date an individual relinquishes United States citizenship, or

''(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

''(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing United States citizenship on the earliest of—

''(A) the date the individual renounces such individual's United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

''(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

''(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

''(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

''(4) LONG-TERM RESIDENT.—The term 'long-term resident' has the meaning given to such term by section 877(e)(2).

''(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES' INTERESTS IN TRUST.—

''(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust on the day before the expatriation date—

''(A) the individual shall not be treated as having sold such interest,

''(B) such interest shall be treated as a separate share in the trust, and

''(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

''(ii) the separate trust shall be treated as having sold its assets on the day before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

''(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a

distribution described in subparagraph (C)(ii). In determining the amount of such distribution, proper adjustments shall be made for liabilities of the trust allocable to an individual's share in the trust.

''(2) SPECIAL RULES FOR INTERESTS IN QUALIFIED TRUSTS.—

''(A) IN GENERAL.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

''(i) paragraph (1) and subsection (a) shall not apply, and

''(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

''(B) AMOUNT OF TAX.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

''(i) the highest rate of tax imposed by section 1(e) for the taxable year which includes the day before the expatriation date, multiplied by the amount of the distribution, or

''(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

''(C) DEFERRED TAX ACCOUNT.—For purposes of subparagraph (B)(ii)—

''(i) OPENING BALANCE.—The opening balance in a deferred tax account with respect to any trust interest is an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

''(ii) INCREASE FOR INTEREST.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods, except that section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

''(iii) DECREASE FOR TAXES PREVIOUSLY PAID.—The balance in the tax deferred account shall be reduced—

''(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

''(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

''(D) ALLOCABLE EXPATRIATION GAIN.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust is the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

''(E) TAX DEDUCTED AND WITHHELD.—

''(i) IN GENERAL.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

''(ii) EXCEPTION WHERE FAILURE TO WAIVE TREATY RIGHTS.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

''(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

''(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

''(F) DISPOSITION.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

''(i) the tax determined under paragraph (1) as if the day before the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

''(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

''(G) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

''(i) QUALIFIED TRUST.—The term 'qualified trust' means a trust which is described in section 7701(a)(30)(E).

''(ii) VESTED INTEREST.—The term 'vested interest' means any interest which, as of the day before the expatriation date, is vested in the beneficiary.

''(iii) NONVESTED INTEREST.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

''(iv) ADJUSTMENTS.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

''(v) COORDINATION WITH RETIREMENT PLAN RULES.—This subsection shall not apply to an interest in a trust which is part of a retirement plan to which subsection (d)(2) applies.

''(3) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—

''(A) DETERMINATIONS UNDER PARAGRAPH (1).—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar adviser.

''(B) OTHER DETERMINATIONS.—For purposes of this section—

''(i) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

''(ii) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

''(I) the methodology used to determine that taxpayer's trust interest under this section, and

''(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

''(g) TERMINATION OF DEFERRALS, ETC.—In the case of any covered expatriate, notwithstanding any other provision of this title—

''(1) any period during which recognition of income or gain is deferred shall terminate on the day before the expatriation date, and

''(2) any extension of time for payment of tax shall cease to apply on the day before the expatriation date and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

''(h) IMPOSITION OF TENTATIVE TAX.—

''(1) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

''(2) DUE DATE.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

''(3) TREATMENT OF TAX.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

''(4) DEFERRAL OF TAX.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

''(i) SPECIAL LIENS FOR DEFERRED TAX AMOUNTS.—

''(1) IMPOSITION OF LIEN.—

''(A) IN GENERAL.—If a covered expatriate makes an election under subsection (a)(4) or (b) which results in the deferral of any tax imposed by reason of subsection (a), the deferred amount (including any interest, additional amount, addition to tax, assessable penalty, and costs attributable to the deferred amount) shall be a lien in favor of the United States on all property of the expatriate located in the United States (without regard to whether this section applies to the property).

''(B) DEFERRED AMOUNT.—For purposes of this subsection, the deferred amount is the amount of the increase in the covered expatriate's income tax which, but for the election under subsection (a)(4) or (b), would have occurred by reason of this section for the taxable year including the expatriation date.

''(2) PERIOD OF LIEN.—The lien imposed by this subsection shall arise on the expatriation date and continue until—

''(A) the liability for tax by reason of this section is satisfied or has become unenforceable by reason of lapse of time, or

''(B) it is established to the satisfaction of the Secretary that no further tax liability may arise by reason of this section.

''(3) CERTAIN RULES APPLY.—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this subsection as if it were a lien imposed by section 6324A.

''(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) INCLUSION IN INCOME OF GIFTS AND BEQUESTS RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS FROM EXPATRIATES.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

''(d) GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—

''(1) TREATMENT OF GIFTS AND INHERITANCES.—

''(A) IN GENERAL.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date.

''(B) DETERMINATION OF BASIS.—Notwithstanding sections 1015 or 1022, the basis of any property described in subparagraph (A)

in the hands of the donee or the person acquiring such property from the decedent shall be equal to the fair market value of the property at the time of the gift, bequest, devise, or inheritance.

''(2) EXCEPTIONS FOR TRANSFERS OTHERWISE SUBJECT TO ESTATE OR GIFT TAX.—Paragraph (1) shall not apply to any property if either—

''(A) the gift, bequest, devise, or inheritance is—

''(i) shown on a timely filed return of tax imposed by chapter 12 as a taxable gift by the covered expatriate, or

''(ii) included in the gross estate of the covered expatriate for purposes of chapter 11 and shown on a timely filed return of tax imposed by chapter 11 of the estate of the covered expatriate, or

''(B) no such return was timely filed but no such return would have been required to be filed even if the covered expatriate were a citizen or long-term resident of the United States.

''(3) DEFINITIONS.—For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.''.

(c) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) is amended by adding at the end the following new paragraph:

''(50) TERMINATION OF UNITED STATES CITIZENSHIP.—

''(A) IN GENERAL.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).

''(B) DUAL CITIZENS.—Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.''.

(d) INELIGIBILITY FOR VISA OR ADMISSION TO UNITED STATES.—

(1) IN GENERAL.—Section 212(a)(10)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(E)) is amended to read as follows:

''(E) FORMER CITIZENS NOT IN COMPLIANCE WITH EXPATRIATION REVENUE PROVISIONS.—Any alien who is a former citizen of the United States who relinquishes United States citizenship (within the meaning of section 877A(e)(3) of the Internal Revenue Code of 1986) and who is not in compliance with section 877A of such Code (relating to expatriation) is inadmissible.''.

(2) AVAILABILITY OF INFORMATION.—

(A) IN GENERAL.—Section 6103(l) (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

''(21) DISCLOSURE TO DENY VISA OR ADMISSION TO CERTAIN EXPATRIATES.—Upon written request of the Attorney General or the Attorney General's delegate, the Secretary shall disclose whether an individual is in compliance with section 877A (and if not in compliance, any items of noncompliance) to officers and employees of the Federal agency responsible for administering section 212(a)(10)(E) of the Immigration and Nationality Act solely for the purpose of, and to the extent necessary in, administering such section 212(a)(10)(E).''.

(B) SAFEGUARDS.—Section 6103(p)(4) (relating to safeguards) is amended by striking ''or (20)'' each place it appears and inserting ''(20), or (21)''.

(3) EFFECTIVE DATES.—The amendments made by this subsection shall apply to individuals who relinquish United States citizenship on or after the date of the enactment of this Act.

(e) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

''(h) APPLICATION.—This section shall not apply to an expatriate (as defined in section 877A(e)) whose expatriation date (as so defined) occurs on or after the date of the enactment of this subsection.''.

(2) Section 2107 is amended by adding at the end the following new subsection:

''(f) APPLICATION.—This section shall not apply to any expatriate subject to section 877A.''.

(3) Section 2501(a)(3) is amended by adding at the end the following new subparagraph:

''(C) APPLICATION.—This paragraph shall not apply to any expatriate subject to section 877A.''.

(4) Section 6039G(a) is amended by inserting ''or 877A'' after ''section 877(b)''.

(5) The second sentence of section 6039G(d) is amended by inserting ''or who relinquishes United States citizenship (within the meaning of section 877A(e)(3))'' after ''section 877(a))''.

(f) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

''Sec. 877A. Tax responsibilities of expatriation.''.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after the date of the enactment of this Act.

(2) GIFTS AND BEQUESTS.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to gifts and bequests received on or after the date of the enactment of this Act, from an individual or the estate of an individual whose expatriation date (as so defined) occurs after such date.

(3) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(2) of the Internal Revenue Code of 1986, as added by this section, shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 226. LIMITATION ON ANNUAL AMOUNTS WHICH MAY BE DEFERRED UNDER NONQUALIFIED DEFERRED COMPENSATION ARRANGEMENTS.

(a) IN GENERAL.—Section 409A(a) of the Internal Revenue Code of 1986 (relating to inclusion of gross income under nonqualified deferred compensation plans) is amended—

(1) by striking ''and (4)'' in subclause (I) of paragraph (1)(A)(i) and inserting ''(4), and (5)'', and

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

''(5) ANNUAL LIMITATION ON AGGREGATE DEFERRED AMOUNTS.—

''(A) LIMITATION.—The requirements of this paragraph are met if the plan provides that the aggregate amount of compensation which is deferred for any taxable year with respect to a participant under the plan may not exceed the applicable dollar amount for the taxable year.

''(B) INCLUSION OF FUTURE EARNINGS.—If an amount is includible under paragraph (1) in the gross income of a participant for any taxable year by reason of any failure to meet the requirements of this paragraph, any income (whether actual or notional) for any subsequent taxable year shall be included in gross income under paragraph (1)(A) in such subsequent taxable year to the extent such income—

''(i) is attributable to compensation (or income attributable to such compensation) required to be included in gross income by reason of such failure (including by reason of this subparagraph), and

''(ii) is not subject to a substantial risk of forfeiture and has not been previously included in gross income.

''(C) AGGREGATION RULE.—For purposes of this paragraph, all nonqualified deferred compensation plans maintained by all employers treated as a single employer under subsection (d)(6) shall be treated as 1 plan.

''(D) APPLICABLE DOLLAR AMOUNT.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'applicable dollar amount' means, with respect to any participant, the lesser of—

''(I) the average annual compensation which was payable during the base period to the participant by the employer maintaining the nonqualified deferred compensation plan (or any predecessor of the employer) and which was includible in the participant's gross income for taxable years in the base period, or

''(II) $1,000,000.

''(ii) BASE PERIOD.—

''(I) IN GENERAL.—The term 'base period' means, with respect to any computation year, the 5-taxable year period ending with the taxable year preceding the computation year.

''(II) ELECTIONS MADE BEFORE COMPUTATION YEAR.—If, before the beginning of the computation year, an election described in paragraph (4)(B) is made by the participant to have compensation for services performed in the computation year deferred under a nonqualified deferred compensation plan, the base period shall be the 5-taxable year period ending with the taxable year preceding the taxable year in which the election is made.

''(III) COMPUTATION YEAR.—For purposes of this clause, the term 'computation year' means any taxable year of the participant for which the limitation under subparagraph (A) is being determined.

''(IV) SPECIAL RULE FOR EMPLOYEES OF LESS THAN 5 YEARS.—If a participant did not perform services for the employer maintaining the nonqualified deferred compensation plan (or any predecessor of the employer) during the entire 5-taxable year period referred to in subparagraph (A) or (B), only the portion of such period during which the participant performed such services shall be taken into account.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006, except that—

(A) the amendments shall only apply to amounts deferred after December 31, 2006 (and to earnings on such amounts), and

(B) taxable years beginning on or before December 31, 2006, shall be taken into account in determining the average annual compensation of a participant during any base period for purposes of section 409A(a)(5)(D) of the Internal Revenue Code of 1986 (as added by such amendments).

(2) GUIDANCE RELATING TO CERTAIN EXISTING ARRANGEMENTS.—Not later than 60 days after the date of the enactment of this Act, the Secretary of the Treasury shall issue guidance providing a limited period during which a nonqualified deferred compensation plan adopted before December 31, 2006, may, without violating the requirements of section 409A(a) of such Code, be amended—

(A) to provide that a participant may, no later than December 31, 2007, cancel or modify an outstanding deferral election with regard to all or a portion of amounts deferred after December 31, 2006, to the extent necessary for the plan to meet the requirements of section 409A(a)(5) of such Code (as added by the amendments made by this section),

but only if amounts subject to the cancellation or modification are, to the extent not previously included in gross income, includible in income of the participant when no longer subject to substantial risk of forfeiture, and

(B) to conform to the requirements of section 409A(a)(5) of such Code (as added by the amendments made by this section) with regard to amounts deferred after December 31, 2006.

SEC. 227. INCREASE IN CRIMINAL MONETARY PENALTY LIMITATION FOR THE UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.

(a) IN GENERAL.—Section 7206 (relating to fraud and false statements) is amended—

(1) by striking ''Any person who—'' and inserting ''(a) IN GENERAL.—'', and

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

''(b) INCREASE IN MONETARY LIMITATION FOR UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.—If any portion of any underpayment (as defined in section 6664(a)) or overpayment (as defined in section 6401(a)) of tax required to be shown on a return is attributable to fraudulent action described in subsection (a), the applicable dollar amount under subsection (a) shall in no event be less than an amount equal to such portion. A rule similar to the rule under section 6663(b) shall apply for purposes of determining the portion so attributable.''.

(b) INCREASE IN PENALTIES.—

(1) ATTEMPT TO EVADE OR DEFEAT TAX.—Section 7201 is amended—

(A) by striking ''$100,000'' and inserting ''$500,000'',

(B) by striking ''$500,000'' and inserting ''$1,000,000'', and

(C) by striking ''5 years'' and inserting ''10 years''.

(2) WILLFUL FAILURE TO FILE RETURN, SUPPLY INFORMATION, OR PAY TAX.—Section 7203 is amended—

(A) in the first sentence—

(i) by striking ''Any person'' and inserting the following:

''(a) IN GENERAL.—Any person'', and

(ii) by striking ''$25,000'' and inserting ''$50,000'',

(B) in the third sentence, by striking ''section'' and inserting ''subsection'', and

(C) by adding at the end the following new subsection:

''(b) AGGRAVATED FAILURE TO FILE.—

''(1) IN GENERAL.—In the case of any failure described in paragraph (2), the first sentence of subsection (a) shall be applied by substituting—

''(A) 'felony' for 'misdemeanor',

''(B) '$500,000 ($1,000,000' for '$25,000 ($100,000', and

''(C) '10 years' for '1 year'.''.

''(2) FAILURE DESCRIBED.—A failure described in this paragraph is a failure to make a return described in subsection (a) for a period of 3 or more consecutive taxable years if the aggregate tax liability for such period is not less than $100,000.''.

(3) FRAUD AND FALSE STATEMENTS.—Section 7206(a) (as redesignated by subsection (a)) is amended—

(A) by striking ''$100,000'' and inserting ''$500,000'',

(B) by striking ''$500,000'' and inserting ''$1,000,000'', and

(C) by striking ''3 years'' and inserting ''5 years''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to actions, and failures to act, occurring after the date of the enactment of this Act.

SEC. 228. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENTS.

(a) DETERMINATION OF PENALTY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, in the case of an applicable taxpayer—

(A) the determination as to whether any interest or applicable penalty is to be imposed with respect to any arrangement described in paragraph (2), or to any underpayment of Federal income tax attributable to items arising in connection with any such arrangement, shall be made without regard to the rules of subsections (b), (c), and (d) of section 6664 of the Internal Revenue Code of 1986, and

(B) if any such interest or applicable penalty is imposed, the amount of such interest or penalty shall be equal to twice that determined without regard to this section.

(2) APPLICABLE TAXPAYER.—For purposes of this subsection—

(A) IN GENERAL.—The term ''applicable taxpayer'' means a taxpayer which—

(i) has underreported its United States income tax liability with respect to any item which directly or indirectly involves—

(I) any financial arrangement which in any manner relies on the use of offshore payment mechanisms (including credit, debit, or charge cards) issued by banks or other entities in foreign jurisdictions, or

(II) any offshore financial arrangement (including any arrangement with foreign banks, financial institutions, corporations, partnerships, trusts, or other entities), and

(ii) has neither signed a closing agreement pursuant to the Voluntary Offshore Compliance Initiative established by the Department of the Treasury under Revenue Procedure 2003–11 nor voluntarily disclosed its participation in such arrangement by notifying the Internal Revenue Service of such arrangement prior to the issue being raised by the Internal Revenue Service during an examination.

(B) AUTHORITY TO WAIVE.—The Secretary of the Treasury or the Secretary's delegate may waive the application of paragraph (1) to any taxpayer if the Secretary or the Secretary's delegate determines that the use of such offshore payment mechanisms is incidental to the transaction and, in addition, in the case of a trade or business, such use is conducted in the ordinary course of the type of trade or business of the taxpayer.

(C) ISSUES RAISED.—For purposes of subparagraph (A)(ii), an item shall be treated as an issue raised during an examination if the individual examining the return—

(i) communicates to the taxpayer knowledge about the specific item, or

(ii) has made a request to the taxpayer for information and the taxpayer could not make a complete response to that request without giving the examiner knowledge of the specific item.

(b) APPLICABLE PENALTY.—For purposes of this section, the term ''applicable penalty'' means any penalty, addition to tax, or fine imposed under chapter 68 of the Internal Revenue Code of 1986.

(c) EFFECTIVE DATE.—The provisions of this section shall apply to interest, penalties, additions to tax, and fines with respect to any taxable year if, as of the date of the enactment of this Act, the assessment of any tax, penalty, or interest with respect to such taxable year is not prevented by the operation of any law or rule of law.

SEC. 229. INCREASE IN PENALTY FOR BAD CHECKS AND MONEY ORDERS.

(a) IN GENERAL.—Section 6657 (relating to bad checks) is amended—

(1) by striking ''$750'' and inserting ''$1,250'', and

(2) by striking ''$15'' and inserting ''$25''.

(b) EFFECTIVE DATE.—The amendments made by this section apply to checks or money orders received after the date of the enactment of this Act.

SEC. 230. TREATMENT OF CONTINGENT PAYMENT CONVERTIBLE DEBT INSTRUMENTS.

(a) IN GENERAL.—Section 1275(d) (relating to regulation authority) is amended—

(1) by striking ''The Secretary'' and inserting the following:

''(1) IN GENERAL.—The Secretary'', and

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

''(2) TREATMENT OF CONTINGENT PAYMENT CONVERTIBLE DEBT.—

''(A) IN GENERAL.—In the case of a debt instrument which—

''(i) is convertible into stock of the issuing corporation, into stock or debt of a related party (within the meaning of section 267(b) or 707(b)(1)), or into cash or other property in an amount equal to the approximate value of such stock or debt, and

''(ii) provides for contingent payments,

any regulations which require original issue discount to be determined by reference to the comparable yield of a noncontingent fixed-rate debt instrument shall be applied as if the regulations require that such comparable yield be determined by reference to a noncontingent fixed-rate debt instrument which is convertible into stock.

''(B) SPECIAL RULE.—For purposes of subparagraph (A), the comparable yield shall be determined without taking into account the yield resulting from the conversion of a debt instrument into stock.''.

(b) CROSS REFERENCE.—Section 163(e)(6) (relating to cross references) is amended by adding at the end the following:

''For the treatment of contingent payment convertible debt, see section 1275(d)(2).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to debt instruments issued on or after the date of the enactment of this Act.

SEC. 231. EXTENSION OF IRS USER FEES.

Subsection (c) of section 7528 (relating to Internal Revenue Service user fees) is amended by striking ''September 30, 2014'' and inserting ''September 30, 2016''.

SEC. 232. MODIFICATION OF COLLECTION DUE PROCESS PROCEDURES FOR EMPLOYMENT TAX LIABILITIES.

(a) IN GENERAL.—Section 6330(f) (relating to jeopardy and State refund collection) is amended—

(1) by striking ''; or'' at the end of paragraph (1) and inserting a comma,

(2) by adding ''or'' at the end of paragraph (2), and

(3) by inserting after paragraph (2) the following new paragraph:

''(3) the Secretary has served a levy in connection with the collection of taxes under chapter 21, 22, 23, or 24,''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to levies issued on or after the date that is 120 days after the date of the enactment of this Act.

SEC. 233. MODIFICATIONS TO WHISTLEBLOWER REFORMS.

(a) MODIFICATION OF TAX THRESHOLD FOR AWARDS.—Subparagraph (B) of section 7623(b)(5), as added by the Tax Relief and Health Care Act of 2006, is amended by striking ''$2,000,000'' and inserting ''$20,000''.

(b) WHISTLEBLOWER OFFICE.—

(1) IN GENERAL.—Section 7623 is amended by adding at the end the following new subsections:

''(c) WHISTLEBLOWER OFFICE.—

''(1) IN GENERAL.—There is established in the Internal Revenue Service an office to be known as the 'Whistleblower Office' which—

''(A) shall at all times operate at the direction of the Commissioner and coordinate and

consult with other divisions in the Internal Revenue Service as directed by the Commissioner,

''(B) shall analyze information received from any individual described in subsection (b) and either investigate the matter itself or assign it to the appropriate Internal Revenue Service office,

''(C) shall monitor any action taken with respect to such matter,

''(D) shall inform such individual that it has accepted the individual's information for further review,

''(E) may require such individual and any legal representative of such individual to not disclose any information so provided,

''(F) in its sole discretion, may ask for additional assistance from such individual or any legal representative of such individual, and

''(G) shall determine the amount to be awarded to such individual under subsection (b).

''(2) FUNDING FOR OFFICE.—There is authorized to be appropriated $10,000,000 for each fiscal year for the Whistleblower Office. These funds shall be used to maintain the Whistleblower Office and also to reimburse other Internal Revenue Service offices for related costs, such as costs of investigation and collection.

''(3) REQUEST FOR ASSISTANCE.—

''(A) IN GENERAL.—Any assistance requested under paragraph (1)(F) shall be under the direction and control of the Whistleblower Office or the office assigned to investigate the matter under subparagraph (A). No individual or legal representative whose assistance is so requested may by reason of such request represent himself or herself as an employee of the Federal Government.

''(B) FUNDING OF ASSISTANCE.—From the amounts available for expenditure under subsection (b), the Whistleblower Office may, with the agreement of the individual described in subsection (b), reimburse the costs incurred by any legal representative of such individual in providing assistance described in subparagraph (A).

''(d) REPORTS.—The Secretary shall each year conduct a study and report to Congress on the use of this section, including—

''(1) an analysis of the use of this section during the preceding year and the results of such use, and

''(2) any legislative or administrative recommendations regarding the provisions of this section and its application.''.

(2) CONFORMING AMENDMENT.—Section 406 of division A of the Tax Relief and Health Care Act of 2006 is amended by striking subsections (b) and (c).

(3) REPORT ON IMPLEMENTATION.—Not later than 6 months after the date of the enactment of this Act, the Secretary of the Treasury shall submit to Congress a report on the establishment and operation of the Whistleblower Office under section 7623(c) of the Internal Revenue Code of 1986.

(c) PUBLICITY OF AWARD APPEALS.—Paragraph (4) of section 7623(b), as added by the Tax Relief and Health Care Act of 2006, is amended to read as follows:

''(4) APPEAL OF AWARD DETERMINATION.—

''(A) IN GENERAL.—Any determination regarding an award under paragraph (1), (2), or (3) may, within 30 days of such determination, be appealed to the Tax Court (and the Tax Court shall have jurisdiction with respect to such matter).

''(B) PUBLICITY OF APPEALS.—Notwithstanding sections 7458 and 7461, the Tax Court may, in order to preserve the anonymity, privacy, or confidentiality of any person under this subsection, provide by rules adopted under section 7453 that portions of filings, hearings, testimony, evidence, and reports in connection with proceedings under this subsection may be closed to the public or to inspection by the public.''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to information provided on or after the date of the enactment of this Act.

(2) PUBLICITY OF AWARD APPEALS.—The amendment made by subsection (c) shall take effect as if included in the amendments made by section 406 of the Tax Relief and Health Care Act of 2006.

SEC. 234. MODIFICATIONS OF DEFINITION OF EMPLOYEES COVERED BY DENIAL OF DEDUCTION FOR EXCESSIVE EMPLOYEE REMUNERATION.

(a) IN GENERAL.—Paragraph (3) of section 162(m) is amended to read as follows:

''(3) COVERED EMPLOYEE.—For purposes of this subsection, the term 'covered employee' means, with respect to any taxpayer for any taxable year, an individual who—

''(A) was the chief executive officer of the taxpayer, or an individual acting in such a capacity, at any time during the taxable year,

''(B) is 1 of the 4 highest compensated officers of the taxpayer for the taxable year (other than the individual described in subparagraph (A)), or

''(C) was a covered employee of the taxpayer (or any predecessor) for any preceding taxable year beginning after December 31, 2006.

In the case of an individual who was a covered employee for any taxable year beginning after December 31, 2006, the term 'covered employee' shall include a beneficiary of such employee with respect to any remuneration for services performed by such employee as a covered employee (whether or not such services are performed during the taxable year in which the remuneration is paid).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2006.

SA 101. Mr. MCCONNELL (for Mr. GREGG (for himself, Mr. DEMINT, Mr. MCCONNELL, Mr. LOTT, Mr. KYL, Mrs. HUTCHISON, Mr. CORNYN, Mr. ALLARD, Mr. CRAPO, Mr. BUNNING, Mr. VITTER, Mr. BROWNBACK, Mrs. DOLE, Mr. ALEXANDER, Mr. THOMAS, Mr. CRAIG, Mr. BURR, Mr. MCCAIN, Mr. SUNUNU, Mr. ENZI, Mr. MARTINEZ, Mr. CHAMBLISS, Mr. SESSIONS, Mr. COLEMAN, Mr. GRAHAM, Mr. VOINOVICH, Mr. ISAKSON, Mr. COBURN, Mr. ENSIGN, and Mr. THUNE)) proposed an amendment to amendment SA 100 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; as follows:

At the end, insert the following:

TITLE _____—SECOND LOOK AT WASTEFUL SPENDING ACT OF 2007

SEC. __01. SHORT TITLE.

This title may be cited as the ''Second Look at Wasteful Spending Act of 2007''.

SEC. __02. ENHANCED RESCISSION AUTHORITY.

(a) IN GENERAL.—Title X of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621 et seq.) is amended by striking part C and inserting the following:

''PART C—ENHANCED RESCISSION AUTHORITY

''SEC. 1021. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS.

''(a) PROPOSED RESCISSIONS.—The President may send a special message, at the time and in the manner provided in subsection (b), that proposes to rescind dollar amounts of discretionary budget authority, items of direct spending, and targeted tax benefits.

''(b) TRANSMITTAL OF SPECIAL MESSAGE.—

''(1) SPECIAL MESSAGE.—

''(A) IN GENERAL.—

''(i) FOUR MESSAGES.—The President may transmit to Congress not to exceed 4 special messages per calendar year, proposing to rescind dollar amounts of discretionary budget authority, items of direct spending, and targeted tax benefits.

''(ii) TIMING.—Special messages may be transmitted under clause (i)—

''(I) with the President's budget submitted pursuant to section 1105 of title 31, United States Code; and

''(II) 3 other times as determined by the President.

''(iii) LIMITATIONS.—

''(I) IN GENERAL.—Special messages shall be submitted within 1 calendar year of the date of enactment of any dollar amount of discretionary budget authority, item of direct spending, or targeted tax benefit the President proposes to rescind pursuant to this Act.

''(II) RESUBMITTAL REJECTED.—If Congress rejects a bill introduced under this part, the President may not resubmit any of the dollar amounts of discretionary budget authority, items of direct spending, or targeted tax benefits in that bill under this part, or part B with respect to dollar amounts of discretionary budget authority.

''(III) RESUBMITAL AFTER SINE DIE.—If Congress does not complete action on a bill introduced under this part because Congress adjourns sine die, the President may resubmit some or all of the dollar amounts of discretionary budget authority, items of direct spending, and targeted tax benefits in that bill in not more than 1 subsequent special message under this part, or part B with respect to dollar amounts of discretionary budget authority.

''(B) CONTENTS OF SPECIAL MESSAGE.—Each special message shall specify, with respect to the dollar amount of discretionary budget authority, item of direct spending, or targeted tax benefit proposed to be rescinded—

''(i) the dollar amount of discretionary budget authority available and proposed for rescission from accounts, departments, or establishments of the government and the dollar amount of the reduction in outlays that would result from the enactment of such rescission of discretionary budget authority for the time periods set forth in clause (iii);

''(ii) the specific items of direct spending and targeted tax benefits proposed for rescission and the dollar amounts of the reductions in budget authority and outlays or increases in receipts that would result from enactment of such rescission for the time periods set forth in clause (iii);

''(iii) the budgetary effects of proposals for rescission, estimated as of the date the President submits the special message, relative to the most recent levels calculated consistent with the methodology described in section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 and included with a budget submission under section 1105(a) of title 31, United States Code, for the time periods of—

''(I) the fiscal year in which the proposal is submitted; and

''(II) each of the 10 following fiscal years beginning with the fiscal year after the fiscal year in which the proposal is submitted;

''(iv) any account, department, or establishment of the Government to which such dollar amount of discretionary budget authority or item of direct spending is available for obligation, and the specific project or governmental functions involved;

''(v) the reasons why such dollar amount of discretionary budget authority or item of direct spending or targeted tax benefit should be rescinded;

''(vi) the estimated fiscal and economic impacts, of the proposed rescission;

''(vii) to the maximum extent practicable, all facts, circumstances, and considerations relating to or bearing upon the proposed rescission and the decision to effect the proposed rescission, and the estimated effect of the proposed rescission upon the objects, purposes, and programs for which the budget authority or items of direct spending or targeted tax benefits are provided; and

''(viii) a draft bill that, if enacted, would rescind the budget authority, items of direct spending and targeted tax benefits proposed to be rescinded in that special message.

''(2) ANALYSIS BY CONGRESSIONAL BUDGET OFFICE AND JOINT COMMITTEE ON TAXATION.—

''(A) IN GENERAL.—Upon the receipt of a special message under this part proposing to rescind dollar amounts of discretionary budget authority, items of direct spending, and targeted tax benefits—

''(i) the Director of the Congressional Budget Office shall prepare an estimate of the savings in budget authority or outlays resulting from such proposed rescission and shall include in its estimate, an analysis prepared by the Joint Committee on Taxation related to targeted tax benefits; and

''(ii) the Director of the Joint Committee on Taxation shall prepare an estimate and forward such estimate to the Congressional Budget Office, of the savings from repeal of targeted tax benefits.

''(B) METHODOLOGY.—The estimates required by subparagraph (A) shall be made relative to the most recent levels calculated consistent with the methodology used to calculate a baseline under section 257 of the Balanced Budget and Emergency Control Act of 1985 and included with a budget submission under section 1105(a) of title 31, United States Code, and transmitted to the chairmen of the Committees on the Budget of the House of Representatives and Senate.

''(3) ENACTMENT OF RESCISSION BILL.—

''(A) DEFICIT REDUCTION.—Amounts of budget authority or items of direct spending or targeted tax benefit that are rescinded pursuant to enactment of a bill as provided under this part shall be dedicated only to deficit reduction and shall not be used as an offset for other spending increases or revenue reductions.

''(B) ADJUSTMENT OF BUDGET TARGETS.—Not later than 5 days after the date of enactment of a rescission bill as provided under this part, the chairs of the Committees on the Budget of the Senate and the House of Representatives shall revise spending and revenue levels under section 311(a) of the Congressional Budget Act of 1974 and adjust the committee allocations under section 302(a) of the Congressional Budget Act of 1974 or any other adjustments as may be appropriate to reflect the rescission. The adjustments shall reflect the budgetary effects of such rescissions as estimated by the President pursuant to paragraph (1)(B)(iii). The appropriate committees shall report revised allocations pursuant to section 302(b) of the Congressional Budget Act of 1974. Notwithstanding any other provision of law, the revised allocations and aggregates shall be considered to have been made under a concurrent resolution on the budget agreed to under the Congressional Budget Act of 1974 and shall be enforced under the procedures of that Act.

''(C) ADJUSTMENTS TO CAPS.—After enactment of a rescission bill as provided under this part, the President shall revise applicable limits under the Second Look at Wasteful Spending Act of 2007, as appropriate.

''(c) PROCEDURES FOR EXPEDITED CONSIDERATION.—

''(1) IN GENERAL.—

''(A) INTRODUCTION.—Before the close of the second day of session of the Senate and the House of Representatives, respectively, after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader of each House, for himself, or minority leader of each House, for himself, or a Member of that House designated by that majority leader or minority leader shall introduce (by request) the President's draft bill to rescind the amounts of budget authority or items of direct spending or targeted tax benefits, as specified in the special message and the President's draft bill. If the bill is not introduced as provided in the preceding sentence in either House, then, on the third day of session of that House after the date of receipt of that special message, any Member of that House may introduce the bill.

''(B) REFERRAL AND REPORTING.—

''(i) ONE COMMITTEE.—The bill shall be referred by the presiding officer to the appropriate committee. The committee shall report the bill without any revision and with a favorable, an unfavorable, or without recommendation, not later than the fifth day of session of that House after the date of introduction of the bill in that House. If the committee fails to report the bill within that period, the committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

''(ii) MULTIPLE COMMITTEES.—

''(I) REFERRALS.—If a bill contains provisions in the jurisdiction of more than 1 committee, the bill shall be jointly referred to the committees of jurisdiction and the Committee on the Budget.

''(II) VIEWS OF COMMITTEE.—Any committee, other than the Committee on the Budget, to which a bill is referred under this clause may submit a favorable, an unfavorable recommendation, without recommendation with respect to the bill to the Committee on the Budget prior to the reporting or discharge of the bill.

''(III) REPORTING.—The Committee on the Budget shall report the bill not later than the fifth day of session of that House after the date of introduction of the bill in that House, without any revision and with a favorable or unfavorable recommendation, or with no recommendation, together with the recommendations of any committee to which the bill has been referred.

''(IV) DISCHARGE.—If the Committee on the Budget fails to report the bill within that period, the committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

''(C) FINAL PASSAGE.—A vote on final passage of the bill shall be taken in the Senate and the House of Representatives on or before the close of the 10th day of session of that House after the date of the introduction of the bill in that House. If the bill is passed, the Clerk of the House of Representatives shall cause the bill to be transmitted to the Senate before the close of the next day of session of the House.

''(2) CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—

''(A) MOTION TO PROCEED TO CONSIDERATION.—A motion in the House of Representatives to proceed to the consideration of a bill under this subsection shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

''(B) LIMITS ON DEBATE.—Debate in the House of Representatives on a bill under this subsection shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill under this subsection or to move to reconsider the vote by which the bill is agreed to or disagreed to.

''(C) APPEALS.—Appeals from decisions of the chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill under this part shall be decided without debate.

''(D) APPLICATION OF HOUSE RULES.—Except to the extent specifically provided in this part, consideration of a bill under this part shall be governed by the Rules of the House of Representatives. It shall not be in order in the House of Representatives to consider any bill introduced pursuant to the provisions of this part under a suspension of the rules or under a special rule.

''(3) CONSIDERATION IN THE SENATE.—

''(A) MOTION TO PROCEED TO CONSIDERATION.—A motion to proceed to the consideration of a bill under this subsection in the Senate shall not be debatable. A motion to proceed to consideration of the bill may be made even though a previous motion to the same effect has been disagreed to. It shall not be in order to move to reconsider the vote by which the motion to proceed is agreed to or disagreed to.

''(B) LIMITS ON DEBATE.—Debate in the Senate on a bill under this subsection, and all debatable motions and appeals in connection therewith, shall not exceed a total of 10 hours, equally divided and controlled in the usual form.

''(C) DEBATABLE MOTIONS AND APPEALS.—Debate in the Senate on any debatable motion or appeal in connection with a bill under this subsection shall be limited to not more than 1 hour from the time allotted for debate, to be equally divided and controlled in the usual form.

''(D) MOTION TO LIMIT DEBATE.—A motion in the Senate to further limit debate on a bill under this subsection is not debatable.

''(E) MOTION TO RECOMMIT.—A motion to recommit a bill under this subsection is not in order.

''(F) CONSIDERATION OF THE HOUSE BILL.—

''(i) IN GENERAL.—If the Senate has received the House companion bill to the bill introduced in the Senate prior to the vote required under paragraph (1)(C), then the Senate shall consider, and the vote under paragraph (1)(C) shall occur on, the House companion bill.

''(ii) PROCEDURE AFTER VOTE ON SENATE BILL.—If the Senate votes, pursuant to paragraph (1)(C), on the bill introduced in the Senate, the Senate bill shall be held pending receipt of the House message on the bill. Upon receipt of the House companion bill, the House bill shall be deemed to be considered, read for the third time, and the vote on passage of the Senate bill shall be considered to be the vote on the bill received from the House.

''(4) CONFERENCE.—

''(A) PROCEEDING TO CONFERENCE.—If, after a bill is agreed to in the Senate or House of Representatives, the bill has been amended, the bill shall be deemed to be at a stage of disagreement and motions to proceed to conference are deemed to be agreed to. There shall be no motions to instruct. The Senate and the House of Representatives shall appoint conferees not later than 1 day of session after the vote of the second House under paragraph (1)(C). Debate on any debatable motion in relation to the conference report

shall be limited to 1 hour to be equally divided between and controlled by the mover and manager of a bill, or their designees.

''(B) PERIOD OF CONSIDERATION.—A conference report on a bill considered under this section shall be reported out not later than 3 days of session after the vote of the second House under paragraph (1)(C). If the 2 Houses are unable to agree in conference, the committee on conference shall report out the text of the President's original bill.

''(C) SCOPE OF CONFERENCE.—The matter committed to conference for purposes of scope of conference shall be limited to the matter stricken from the text of the bills passed by the Senate and the House of Representatives.

''(D) PROCEDURE.—Debate on a conference report on any bill considered under this section shall be limited to 2 hours equally divided between the manager of the conference report and the minority leader, or his designee.

''(E) FINAL PASSAGE.—A vote on final passage of the conference report shall be taken in the Senate and the House of Representatives on or before the close of the 2nd day of session of that House after the date the conference report is submitted in that House. If the conference report is passed, the Secretary of the Senate or the Clerk of the House of Representatives, as the case may be, shall cause the conference report to be transmitted to the other House before the close of the next day of session of that House.

''(F) ACTION OF SECOND HOUSE.—

''(i) IN GENERAL.—If the Senate has received from the House, the conference report in relation to the special message from the President, prior to the vote required under subparagraph (E), then the Senate shall consider, and the vote under subparagraph (E) shall occur on the House conference report.

''(ii) PROCEDURE AFTER VOTE ON SENATE CONFERENCE REPORT.—If the Senate votes, pursuant to subparagraph (E), on the conference report in relation to the special message from the President, then immediately following that vote, or upon receipt of the House conference report, the House conference report shall be deemed to be considered, read the third time, and the vote on passage of the Senate conference report shall be considered to be the vote on the conference report received from the House.

''(d) AMENDMENTS AND DIVISIONS PROHIBITED.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no amendment to a bill considered under this section shall be in order in either the Senate or the House of Representatives.

''(2) MOTION TO STRIKE.—

''(A) SENATE.—During consideration of a bill in the Senate, any Member of the Senate may move to strike any proposed rescission of a dollar amount of discretionary budget authority, an item of direct spending, or a targeted tax benefit if supported by 11 other Members.

''(B) HOUSE.—During consideration of a bill in the House of Representatives, any Member of the House of Representatives may move to strike any proposed rescission of a dollar amount of discretionary budget authority, an item of direct spending, or a targeted tax benefit if supported by 49 other Members.

''(3) NO DIVISION.—It shall not be in order to demand a division of any motions to strike in the Senate, or the division of the question in the House of Representatives (or in a Committee of the Whole).

''(4) NO SUSPENSION.—No motion to suspend the application of this subsection shall be in order in the Senate or in the House of Representatives, nor shall it be in order in the House of Representatives to suspend the application of this subsection by unanimous consent.

''(e) TEMPORARY PRESIDENTIAL AUTHORITY TO WITHHOLD.—

''(1) AVAILABILITY.—The President may not withhold any dollar amount of discretionary budget authority until the President transmits and Congress receives a special message pursuant to subsection (b). Upon receipt by Congress of a special message pursuant to subsection (b), the President may direct that any dollar amount of discretionary budget authority proposed to be rescinded in that special message shall be withheld from obligation for a period not to exceed 45 calendar days from the date of receipt by Congress.

''(2) EARLY AVAILABILITY.—The President may make any dollar amount of discretionary budget authority withheld from obligation pursuant to paragraph (1) available at an earlier time if the President determines that continued withholding would not further the purposes of this Act.

''(f) TEMPORARY PRESIDENTIAL AUTHORITY TO SUSPEND.—

''(1) SUSPEND.—

''(A) IN GENERAL.—The President may not suspend the execution of any item of direct spending or targeted tax benefit until the President transmits and Congress receives a special message pursuant to subsection (b). Upon receipt by Congress of a special message, the President may suspend the execution of any item of direct spending or targeted tax benefit proposed to be rescinded in that message for a period not to exceed 45 calendar days from the date of receipt by Congress.

''(B) LIMITATION ON 45-DAY PERIOD.—The 45-day period described in subparagraph (A) shall be reduced by the number of days contained in the period beginning on the effective date of the item of direct spending or targeted tax benefit; and ending on the date that is the later of—

''(i) the effective date of the item of direct spending or targeted benefit; or

''(ii) the date that Congress receives the special message.

''(C) CLARIFICATION.—Notwithstanding subparagraph (B), in the case of an item of direct spending or targeted tax benefit with an effective date within 45 days after the date of enactment, the beginning date of the period calculated under subparagraph (B) shall be the date that is 45 days after the date of enactment and the ending date shall be the date that is the later of—

''(i) the date that is 45 days after enactment; or

''(ii) the date that Congress receives the special message.

''(2) EARLY AVAILABILITY.—The President may terminate the suspension of any item of direct spending or targeted tax benefit suspended pursuant to paragraph (1) at an earlier time if the President determines that continuation of the suspension would not further the purposes of this Act.

''(g) DEFINITIONS.—In this part:

''(1) APPROPRIATION LAW.—The term 'appropriation law' means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations.

''(2) CALENDAR DAY.—The term 'calendar day' means a standard 24-hour period beginning at midnight.

''(3) DAYS OF SESSION.—The term 'days of session' means only those days on which both Houses of Congress are in session.

''(4) DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY.—The term 'dollar amount of discretionary budget authority' means the dollar amount of budget authority and obligation limitations—

''(A) specified in an appropriation law, or the dollar amount of budget authority required to be allocated by a specific proviso in an appropriation law for which a specific dollar figure was not included;

''(B) represented separately in any table, chart, or explanatory text included in the statement of managers or the governing committee report accompanying such law;

''(C) required to be allocated for a specific program, project, or activity in a law (other than an appropriation law) that mandates obligations from or within accounts, programs, projects, or activities for which budget authority or an obligation limitation is provided in an appropriation law;

''(D) represented by the product of the estimated procurement cost and the total quantity of items specified in an appropriation law or included in the statement of managers or the governing committee report accompanying such law; or

''(E) represented by the product of the estimated procurement cost and the total quantity of items required to be provided in a law (other than an appropriation law) that mandates obligations from accounts, programs, projects, or activities for which dollar amount of discretionary budget authority or an obligation limitation is provided in an appropriation law.

''(5) RESCIND OR RESCISSION.—The term 'rescind' or 'rescission' means—

''(A) in the case of a dollar amount of discretionary budget authority, to reduce or repeal a provision of law to prevent that budget authority or obligation limitation from having legal force or effect; and

''(B) in the case of direct spending or targeted tax benefit, to repeal a provision of law in order to prevent the specific legal obligation of the United States from having legal force or effect.

''(6) DIRECT SPENDING.—The term 'direct spending' means budget authority provided by law (other than an appropriation law), mandatory spending provided in appropriation Acts, and entitlement authority.

''(7) ITEM OF DIRECT SPENDING.—The term 'item of direct spending' means any specific provision of law enacted after the effective date of the Second Look at Wasteful Spending Act of 2007 that is estimated to result in an increase in budget authority or outlays for direct spending relative to the most recent levels calculated consistent with the methodology described in section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 and included with a budget submission under section 1105(a) of title 31, United States Code, and, with respect to estimates made after that budget submission that are not included with it, estimates consistent with the economic and technical assumptions underlying the most recently submitted President's budget.

''(8) SUSPEND THE EXECUTION.—The term 'suspend the execution' means, with respect to an item of direct spending or a targeted tax benefit, to stop the carrying into effect of the specific provision of law that provides such benefit.

''(9) TARGETED TAX BENEFIT.—The term 'targeted tax benefit' means—

''(A) any revenue provision that has the practical effect of providing more favorable tax treatment to a particular taxpayer or limited group of taxpayers when compared with other similarly situated taxpayers; or

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

(b) EXERCISE OF RULEMAKING POWERS.—Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended—

(1) in subsection (a), by striking ''and 1017'' and inserting ''1017, and 1021''; and

(2) in subsection (d), by striking ''section 1017'' and inserting ''sections 1017 and 1021''.

(c) CLERICAL AMENDMENTS.—

(1) SHORT TITLE.—Section 1(a) of the Congressional Budget and Impoundment Control Act of 1974 is amended by—

(A) striking ''Parts A and B'' before ''title X'' and inserting ''Parts A, B, and C''; and

(B) striking the last sentence and inserting at the end the following new sentence: ''Part C of title X also may be cited as the 'Second Look at Wasteful Spending Act of 2007'.''.

(2) TABLE OF CONTENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by deleting the contents for part C of title X and inserting the following:

''PART C—ENHANCED RESCISSION AUTHORITY

''Sec. 1021. Expedited consideration of certain proposed rescissions''.

(d) SEVERABILITY.—If any provision of this title or the amendments made by it is held to be unconstitutional, the remainder of this title and the amendments made by it shall not be affected by the holding.

(e) EFFECTIVE DATE AND EXPIRATION.—

(1) EFFECTIVE DATE.—The amendments made by this title shall—

(A) take effect on the date of enactment of this title; and

(B) apply to any dollar amount of discretionary budget authority, item of direct spending, or targeted tax benefit provided in an Act enacted on or after the date of enactment of this title.

(2) EXPIRATION.—The amendments made by this title shall expire on December 31, 2010.

SA 102. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; as follows:

At the appropriate place, insert the following:

SEC. ___. SMALL BUSINESS CHILD CARE GRANT PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services (referred to in this section as the ''Secretary'') shall establish a program to award grants to States, on a competitive basis, to assist States in providing funds to encourage the establishment and operation of employer-operated child care programs.

(b) APPLICATION.—To be eligible to receive a grant under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including an assurance that the funds required under subsection (e) will be provided.

(c) AMOUNT AND PERIOD OF GRANT.—The Secretary shall determine the amount of a grant to a State under this section based on the population of the State as compared to the population of all States receiving grants under this section. The Secretary shall make the grant for a period of 3 years.

(d) USE OF FUNDS.—

(1) IN GENERAL.—A State shall use amounts provided under a grant awarded under this section to provide assistance to small businesses (or consortia formed in accordance with paragraph (3)) located in the State to enable the small businesses (or consortia) to establish and operate child care programs. Such assistance may include—

(A) technical assistance in the establishment of a child care program;

(B) assistance for the startup costs related to a child care program;

(C) assistance for the training of child care providers;

(D) scholarships for low-income wage earners;

(E) the provision of services to care for sick children or to provide care to school-aged children;

(F) the entering into of contracts with local resource and referral organizations or local health departments;

(G) assistance for care for children with disabilities;

(H) payment of expenses for renovation or operation of a child care facility; or

(I) assistance for any other activity determined appropriate by the State.

(2) APPLICATION.—In order for a small business or consortium to be eligible to receive assistance from a State under this section, the small business involved shall prepare and submit to the State an application at such time, in such manner, and containing such information as the State may require.

(3) PREFERENCE.—

(A) IN GENERAL.—In providing assistance under this section, a State shall give priority to an applicant that desires to form a consortium to provide child care in a geographic area within the State where such care is not generally available or accessible.

(B) CONSORTIUM.—For purposes of subparagraph (A), a consortium shall be made up of 2 or more entities that shall include small businesses and that may include large businesses, nonprofit agencies or organizations, local governments, or other appropriate entities.

(4) LIMITATIONS.—With respect to grant funds received under this section, a State may not provide in excess of $500,000 in assistance from such funds to any single applicant.

(e) MATCHING REQUIREMENT.—To be eligible to receive a grant under this section, a State shall provide assurances to the Secretary that, with respect to the costs to be incurred by a covered entity receiving assistance in carrying out activities under this section, the covered entity will make available (directly or through donations from public or private entities) non-Federal contributions to such costs in an amount equal to—

(1) for the first fiscal year in which the covered entity receives such assistance, not less than 50 percent of such costs ($1 for each $1 of assistance provided to the covered entity under the grant);

(2) for the second fiscal year in which the covered entity receives such assistance, not less than 66⅔ percent of such costs ($2 for each $1 of assistance provided to the covered entity under the grant); and

(3) for the third fiscal year in which the covered entity receives such assistance, not less than 75 percent of such costs ($3 for each $1 of assistance provided to the covered entity under the grant).

(f) REQUIREMENTS OF PROVIDERS.—To be eligible to receive assistance under a grant awarded under this section, a child care provider—

(1) who receives assistance from a State shall comply with all applicable State and local licensing and regulatory requirements and all applicable health and safety standards in effect in the State; and

(2) who receives assistance from an Indian tribe or tribal organization shall comply with all applicable regulatory standards.

(g) STATE-LEVEL ACTIVITIES.—A State may not retain more than 3 percent of the amount described in subsection (c) for State administration and other State-level activities.

(h) ADMINISTRATION.—

(1) STATE RESPONSIBILITY.—A State shall have responsibility for administering a grant awarded for the State under this section and for monitoring covered entities that receive assistance under such grant.

(2) AUDITS.—A State shall require each covered entity receiving assistance under the grant awarded under this section to conduct an annual audit with respect to the activities of the covered entity. Such audits shall be submitted to the State.

(3) MISUSE OF FUNDS.—

(A) REPAYMENT.—If the State determines, through an audit or otherwise, that a covered entity receiving assistance under a grant awarded under this section has misused the assistance, the State shall notify the Secretary of the misuse. The Secretary, upon such a notification, may seek from such a covered entity the repayment of an amount equal to the amount of any such misused assistance plus interest.

(B) APPEALS PROCESS.—The Secretary shall by regulation provide for an appeals process with respect to repayments under this paragraph.

(i) REPORTING REQUIREMENTS.—

(1) 2-YEAR STUDY.—

(A) IN GENERAL.—Not later than 2 years after the date on which the Secretary first awards grants under this section, the Secretary shall conduct a study to determine—

(i) the capacity of covered entities to meet the child care needs of communities within States;

(ii) the kinds of consortia that are being formed with respect to child care at the local level to carry out programs funded under this section; and

(iii) who is using the programs funded under this section and the income levels of such individuals.

(B) REPORT.—Not later than 28 months after the date on which the Secretary first awards grants under this section, the Secretary shall prepare and submit to the appropriate committees of Congress a report on the results of the study conducted in accordance with subparagraph (A).

(2) 4-YEAR STUDY.—

(A) IN GENERAL.—Not later than 4 years after the date on which the Secretary first awards grants under this section, the Secretary shall conduct a study to determine the number of child care facilities that are funded through covered entities that received assistance through a grant awarded under this section and that remain in operation, and the extent to which such facilities are meeting the child care needs of the individuals served by such facilities.

(B) REPORT.—Not later than 52 months after the date on which the Secretary first awards grants under this section, the Secretary shall prepare and submit to the appropriate committees of Congress a report on the results of the study conducted in accordance with subparagraph (A).

(j) DEFINITIONS.—In this section:

(1) COVERED ENTITY.—The term ''covered entity'' means a small business or a consortium formed in accordance with subsection (d)(3).

(2) INDIAN COMMUNITY.—The term ''Indian community'' means a community served by an Indian tribe or tribal organization.

(3) INDIAN TRIBE; TRIBAL ORGANIZATION.—The terms ''Indian tribe'' and ''tribal organization'' have the meanings given the terms in section 658P of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n).

(4) SMALL BUSINESS.—The term ''small business'' means an employer who employed an average of at least 2 but not more than 50 employees on the business days during the preceding calendar year.

(5) STATE.—The term ''State'' has the meaning given the term in section 658P of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n).

(k) APPLICATION TO INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—In this section:

(1) IN GENERAL.—Except as provided in subsection (f)(1), and in paragraphs (2) and (3),

the term ''State'' includes an Indian tribe or tribal organization.

(2) GEOGRAPHIC REFERENCES.—The term ''State'' includes an Indian community in subsections (c) (the second and third place the term appears), (d)(1) (the second place the term appears), (d)(3)(A) (the second place the term appears), and (i)(1)(A)(i).

(3) STATE-LEVEL ACTIVITIES.—The term ''State-level activities'' includes activities at the tribal level.

(l) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section, $50,000,000 for the period of fiscal years 2008 through 2012.

(2) STUDIES AND ADMINISTRATION.—With respect to the total amount appropriated for such period in accordance with this subsection, not more than $2,500,000 of that amount may be used for expenditures related to conducting studies required under, and the administration of, this section.

(m) TERMINATION OF PROGRAM.—The program established under subsection (a) shall terminate on September 30, 2012.

SA 103. Mr. ENZI (for Ms. SNOWE (for herself, Mr. ENZI, and Ms. LANDRIEU)) proposed an amendment to amendment SA 100 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; as follows:

At the appropriate place, insert the following:

SEC. ___. ENHANCED COMPLIANCE ASSISTANCE FOR SMALL BUSINESSES.

(a) IN GENERAL.—Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) is amended by striking subsection (a) and inserting the following:

''(a) COMPLIANCE GUIDE.—

''(1) IN GENERAL.—For each rule or group of related rules for which an agency is required to prepare a final regulatory flexibility analysis under section 605(b) of title 5, United States Code, the agency shall publish 1 or more guides to assist small entities in complying with the rule and shall entitle such publications 'small entity compliance guides'.

''(2) PUBLICATION OF GUIDES.—The publication of each guide under this subsection shall include—

''(A) the posting of the guide in an easily identified location on the website of the agency; and

''(B) distribution of the guide to known industry contacts, such as small entities, associations, or industry leaders affected by the rule.

''(3) PUBLICATION DATE.—An agency shall publish each guide (including the posting and distribution of the guide as described under paragraph (2))—

''(A) on the same date as the date of publication of the final rule (or as soon as possible after that date); and

''(B) not later than the date on which the requirements of that rule become effective.

''(4) COMPLIANCE ACTIONS.—

''(A) IN GENERAL.—Each guide shall explain the actions a small entity is required to take to comply with a rule.

''(B) EXPLANATION.—The explanation under subparagraph (A)—

''(i) shall include a description of actions needed to meet the requirements of a rule, to enable a small entity to know when such requirements are met; and

''(ii) if determined appropriate by the agency, may include a description of possible procedures, such as conducting tests, that may assist a small entity in meeting such requirements.

''(C) PROCEDURES.—Procedures described under subparagraph (B)(ii)—

''(i) shall be suggestions to assist small entities; and

''(ii) shall not be additional requirements relating to the rule.

''(5) AGENCY PREPARATION OF GUIDES.—The agency shall, in its sole discretion, taking into account the subject matter of the rule and the language of relevant statutes, ensure that the guide is written using sufficiently plain language likely to be understood by affected small entities. Agencies may prepare separate guides covering groups or classes of similarly affected small entities and may cooperate with associations of small entities to develop and distribute such guides. An agency may prepare guides and apply this section with respect to a rule or a group of related rules.

''(6) REPORTING.—Not later than 1 year after the date of enactment of the Small Business Compliance Assistance Enhancement Act of 2007, and annually thereafter, the head of each agency shall submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives describing the status of the agency's compliance with paragraphs (1) through (5).''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 211(3) of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) is amended by inserting ''and entitled'' after ''designated''.

SA 104. Mr. WYDEN (for himself, Mr. SMITH, Mrs. FEINSTEIN, AND MRS. BOXER)) submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. EXTENSION OF SECURE RURAL SCHOOLS AND COMMUNITY SELF-DETERMINATION ACT.

(a) IN GENERAL.—The Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 500 note; Public Law 106–393) is amended in sections 101(a), 102(b)(2), 103(b)(1), 203(a)(1), 207(a), 208, 303, and 401 by striking ''2006'' each place it appears and inserting ''2007''.

(b) TERMINATION OF AUTHORITY.—

(1) SPECIAL PROJECTS ON FEDERAL LANDS.—Section 208 of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 500 note; Public Law 106–393) is amended in the second sentence by striking ''2007'' and inserting ''2008''.

(2) COUNTY PROJECTS.—Section 303 of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 500 note; Public Law 106–393) is amended in the second sentence by striking ''2007'' and inserting ''2008''.

SA 105. Mr. MARTINEZ submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. HOUSE PARENT EXCEPTION.

Section 13(b)(24) of the Fair Labor Standards Act of 1938 (29 U.S.C. 212(b)(24)) is amended—

(1) in the matter preceding subparagraph (A), by striking ''and his spouse''; and

(2) in the matter following subparagraph (B)—

(A) by striking ''and his spouse reside'' and inserting ''resides'';

(B) by striking ''receive'' and inserting ''receives''; and

(C) by striking ''are together'' and inserting ''is''.

SA 106. Mr. SESSIONS (for himself, Mr. KOHL, and Mrs. HUTCHISON) proposed an amendment to amendment SA 100 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE CONCERNING PERSONAL SAVINGS.

(a) FINDINGS.—The Senate finds that—

(1) the personal saving rate in the United States is at its lowest point since the Great Depression, with the rate having fallen into negative territory;

(2) the United States ranks at the bottom of the Group of Twenty (G-20) nations in terms of net national saving rate;

(3) approximately half of all the working people of the United States work for an employer that does not offer any kind of retirement plan;

(4) existing savings policies enacted by Congress provide limited incentives to save for low- and moderate-income families; and

(5) the critically-important Social Security program was never intended by Congress to be the sole source of retirement income.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) there is a need for simple, easily-accessible and productive savings vehicles for all the people of the United States;

(2) it is important to begin retirement saving as early as possible to take full advantage of the power of compound interest;

(3) regularly contributing money to a financially-sound investment account is effective in achieving one's retirement goals; and

(4) Congress should actively develop policies to enhance personal savings for retirement.

SA 107. Mr. SESSIONS proposed an amendment to amendment SA 100 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; as follows:

At the appropriate place insert the following:

SEC. ___. ADDITIONAL REQUIREMENTS TO ENSURE GREATER USE OF ADVANCE PAYMENT OF EARNED INCOME CREDIT.

Not later than January 1, 2010, the Secretary of the Treasury by regulation shall require—

(1) each employer of an employee who the employer determines receives wages in an amount which indicates that such employee would be eligible for the earned income credit under section 32 of the Internal Revenue Code of 1986 to provide such employee with a simplified application for an earned income eligibility certificate, and

(2) require each employee wishing to receive the earned income tax credit to complete and return the application to the employer within 30 days of receipt.

Such regulations shall require an employer to provide such an application within 30 days

of the hiring date of an employee and at least annually thereafter. Such regulations shall further provide that, upon receipt of a completed form, an employer shall provide for the advance payment of the earned income credit as provided under section 3507 of the Internal Revenue Code of 1986.

SEC. ___. EXTENSION OF ADVANCE PAYMENT OF EARNED INCOME CREDIT TO ALL ELIGIBLE TAXPAYERS.

(a) IN GENERAL.—Section 3507(b) of the Internal Revenue Code of 1986 (relating to earned income eligibility certificate) is amended by striking paragraph (2) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) CONFORMING AMENDMENTS.—

(1) Section 3507(c)(2)(B) of the Internal Revenue Code of 1986 is amended by inserting ''has 1 or more qualifying children and'' before ''is not married,''.

(2) Section 3507(c)(2)(C) of such Code is amended by striking ''the employee'' and inserting ''an employee with 1 or more qualifying children''.

(3) Section 3507(f) of such Code is amended by striking ''who have 1 or more qualifying children and''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

SA 108. Mr. SESSIONS proposed an amendment to amendment SA 100 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; as follows:

At the appropriate place insert the following:

SEC. ___. STUDY OF UNIVERSAL USE OF ADVANCE PAYMENT OF EARNED INCOME CREDIT.

Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury shall report to Congress on a study of the costs and barriers to businesses (with a special emphasis on small businesses) if the advance earned income tax credit program (under section 3507 of the Internal Revenue Code of 1986) included all recipients of the earned income tax credit (under section 32 of such Code) and what steps would be necessary to implement such inclusion.

SA 109. Mr. REID proposed an amendment to the concurrent resolution H. Con. Res. 38, providing for a joint session of Congress to receive a message from the President, as follows:

On page 1, line 3 strike ''Wednesday'' and insert Tuesday.

SA 110. Mr. VITTER (for himself and Mr. VOINOVICH) submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; as follows:

At the appropriate place, insert the following:

SEC. ___. SUSPENSION OF FINES FOR FIRST-TIME PAPERWORK VIOLATIONS BY SMALL BUSINESS CONCERNS.

Section 3506 of title 44, United States Code (commonly referred to as the ''Paperwork Reduction Act''), is amended by adding at the end the following:

''(j) SMALL BUSINESSES.—

''(1) SMALL BUSINESS CONCERN.—In this subsection, the term 'small business concern' means a business concern that meets the requirements of section 3(a) of the Small Business Act (15 U.S.C. 632(a)) and the regulations promulgated under that section.

''(2) IN GENERAL.—In the case of a first-time violation by a small business concern of a requirement regarding the collection of information by an agency, the head of that agency shall not impose a civil fine on the small business concern unless the head of the agency determines that—

''(A) the violation has the potential to cause serious harm to the public interest;

''(B) failure to impose a civil fine would impede or interfere with the detection of criminal activity;

''(C) the violation is a violation of an internal revenue law or a law concerning the assessment or collection of any tax, debt, revenue, or receipt;

''(D) the violation was not corrected on or before the date that is 6 months after the date of receipt by the small business concern of notification of the violation in writing from the agency; or

''(E) except as provided in paragraph (3), the violation presents a danger to the public health or safety.

''(3) DANGER TO PUBLIC HEALTH OR SAFETY.—

''(A) IN GENERAL.—In any case in which the head of an agency determines under paragraph (2)(E) that a violation presents a danger to the public health or safety, the head of the agency may, notwithstanding paragraph (2)(E), determine not to impose a civil fine on the small business concern if the violation is corrected not later than 24 hours after receipt by the small business owner of notification of the violation in writing.

''(B) CONSIDERATIONS.—In determining whether to provide a small business concern with 24 hours to correct a violation under subparagraph (A), the head of an agency shall take into account all of the facts and circumstances regarding the violation, including—

''(i) the nature and seriousness of the violation, including whether the violation is technical or inadvertent or involves willful or criminal conduct;

''(ii) whether the small business concern has made a good faith effort to comply with applicable laws and to remedy the violation within the shortest practicable period of time; and

''(iii) whether the small business concern has obtained a significant economic benefit from the violation.

''(C) NOTICE TO CONGRESS.—In any case in which the head of an agency imposes a civil fine on a small business concern for a violation that presents a danger to the public health or safety and does not provide the small business concern with 24 hours to correct the violation under subparagraph (A), the head of that agency shall notify Congress regarding that determination not later than the date that is 60 days after the date that the civil fine is imposed by that agency.

''(4) LIMITED TO FIRST-TIME VIOLATIONS.—

''(A) IN GENERAL.—This subsection shall not apply to any violation by a small business concern of a requirement regarding collection of information by an agency if that small business concern previously violated any requirement regarding collection of information by that agency.

''(B) OTHER AGENCIES.—For purposes of making a determination under subparagraph (A), the head of an agency shall not take into account any violation of a requirement regarding collection of information by another agency.''.

Privileges of the Floor

Mr. BAUCUS. Mr. President, I ask unanimous consent the following fellows, interns, and detailees of the staff of the Committee on Finance be allowed on the Senate floor for duration of debate on the minimum wage bill: Mary Baker, Tom Louthan, Sarah Shepherd, David Ashner, Gretchen Hector, Molly Keenan, Sarah Butler, and Ryan Majerus.

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

Mr. GREGG. Mr. President, I ask unanimous consent that Selma Mittal be granted the privileges of the floor during consideration of H.R. 2 and votes that may occur in relationship thereto.

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

ORDER FOR PRINTING OF S. 1

Mr. REID. I ask unanimous consent that S. 1, as passed by the Senate, be printed.

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

DISCHARGE AND REFERRAL—S. 69

Mr. REID. I ask unanimous consent that S. 69 be discharged from the Committee on the Judiciary and be referred to the Committee on Commerce, Science, and Transportation.

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

JOINT SESSION OF CONGRESS TO RECEIVE A MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 38.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 38) providing for a joint session of Congress to receive a message from the President.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask unanimous consent that the amendment at the desk be considered and agreed to, the concurrent resolution, as amended, be agreed to, and the motion to reconsider be laid upon the table, without any intervening action or debate.

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

The amendment (No. 109) was agreed to, as follows:

AMENDMENT NO. 109

On page 1, line 3 strike ''Wednesday'' and insert ''Tuesday''.

The concurrent resolution (H. Con. Res. 38), as amended, was agreed to.

PROGRAM

Mr. REID. Mr. President, cloture has been filed today on the line-item veto offered by Senator GREGG. I filed a cloture motion on the underlying bill,

which is a straight minimum wage with no small business set-asides on it.

Today, we have had 4 amendments laid down, and there has been good debate. Tomorrow, we can have our party caucuses at 12:30. We may vote in the morning. There are four amendments pending. We have the Enzi amendment, and the HELP Committee majority is working with him to see if there can be a couple of changes made and, if so, we can vote on that.

Mr. MCCONNELL. Mr. President, let me just say, with regard to the cloture motion just filed by the distinguished majority leader, that if cloture were to be invoked on the underlying bill, the opportunity to pass what has developed into a bipartisan minimum wage proposal, including both an increase in the minimum wage and tax provisions, which are important for the small businesses that tend to hire people who work at the minimum wage, would be lost. So certainly it is my hope that cloture will not be invoked on Wednesday on the underlying bill so that we could continue in the bipartisan spirit in which we have begun this session of Congress and move forward on a bill that in all likelihood will receive, at the end of the process, a very large bipartisan vote of support, and that is a combination of the minimum wage increase and the small business tax provision.

So I encourage my colleagues on this side of the aisle to, in the spirit of bipartisanship, defeat that so we can continue to deal with the substitute that I think will enjoy broad bipartisan support.

Mr. REID. Mr. President, during the next couple of days, until we vote on the two cloture matters, if cloture is not invoked on the matter relating to Senator JUDD GREGG, then that matter, it is my understanding, would be withdrawn and we would go to cloture on the underlying bill. If that is, of course, passed, it would be just as Senator MCCONNELL said—it would eliminate the matters the Finance Committee placed on the bill. If it is not invoked, we are right back where we started from and would work off the substitute.

Mr. President, I hope Senators would look at and offer whatever amendments they want on this matter. There is going to come a time, because we have so much other business to do and, besides, there is ample opportunity to file amendments on this bill, that I will be required to file cloture. It would be great if I didn't have to. We could agree on a finite list of amendments, dispose of those amendments, and move to final passage of the bill.

Next week sometime it is likely, as I explained to the distinguished Republican leader, we are going to have to go to the Iraq resolution or resolutions reported out of the Foreign Relations Committee. What the Republican leader and I have talked about doing—and we don't know if that is doable in the Senate—is to limit the votes that would be on that issue, whether we have a couple competing resolutions or one resolution. Whatever we do, we will try to work something out to the satisfaction of the body.

Mr. MCCONNELL. Mr. President, briefly, five amendments have been pending, three have been filed. I will have a better sense, I say to my friend, the majority leader, after lunch tomorrow how many amendments my side will be interested in filing. I certainly share the majority leader's view, provided cloture is not invoked on Wednesday, that we would work with the majority leader in the hopes of winding up this bill at the earliest possible time.

ORDERS FOR TUESDAY, JANUARY 23, 2007

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 10 a.m., Tuesday, January 23; that on Tuesday, following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and that there then be a period for the transaction of morning business for 60 minutes, with Senators permitted to speak therein for up to 10 minutes each, with the first half under control of the Republicans and the second half under the control of the majority; that following morning business, the Senate then resume consideration of H.R. 2, the minimum wage bill; that on Tuesday, the Senate recess from 12:30 p.m. to 2:15 p.m. in order to accommodate the respective party conference luncheons.

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

PROGRAM

Mr. REID. Mr. President, we began, as we have just spoken about, a very good debate today on minimum wage. Senator GREGG offered his line-item veto amendment. We had very stimulating debate on that matter from both sides. I filed cloture on that amendment. The cloture vote will occur on Wednesday, unless we decide to move it up earlier.

Also, today I filed cloture on the underlying bill. The Republican leader and I discussed that at some length. If cloture is not invoked on the Gregg amendment, then we will go immediately to a cloture vote on the underlying bill.

ORDER OF PROCEDURE

I ask unanimous consent that the live quorum, with respect to these two cloture motions, be waived.

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

Mr. REID. Mr. President, I ask unanimous consent that Senators have until 2:30 p.m. tomorrow, Tuesday, to file first-degree amendments.

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

Mr. REID. Mr. President, does the Republican leader have anything further?

Mr. MCCONNELL. No. I say to my friend, as I indicated, we have several amendments pending. We will know a little more tomorrow how many amendments will be offered.

ORDER FOR ADJOURNMENT

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that following the remarks of Senator WARNER, the Senate stand adjourned under the previous order.

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

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

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

RESOLUTION ON THE NEW STRATEGY IN IRAQ

Mr. WARNER. Mr. President, I first thank the Presiding Officer for addressing the Senate earlier this evening with regard to the proposed resolution which you and our distinguished colleague from Maine, Senator COLLINS, have been working on now for several days and throughout the weekend, placing it into the RECORD for all Senators to have an opportunity to study it.

I ask unanimous consent that it be printed in the RECORD following my statement.

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

(See Exhibit 1.)

Mr. WARNER. Mr. President, as I said when I was joined by you and Senator COLLINS in our brief press conference this afternoon, the resolution we currently anticipate will not be filed formally at the desk until the State of the Union is completed tomorrow and the Senate Foreign Relations Committee works its will on a resolution which is pending before it, authored by the chairman, Senator BIDEN, and Senator HAGEL of Nebraska and other Senators who have joined in that resolution. As that resolution works its way through the Foreign Relations Committee, we, the three of us who have worked on this resolution, will take an examination of what is sent to the floor for purposes of floor consideration, and at that time I anticipate we could indicate to the Senate a desire that our resolution be considered as a substitute resolution and therefore an alternative to the resolution that will be reported out from the Foreign Relations Committee.

That is what we stated today, and it is my intention to continue to work along in that vein because my motivation solely is to do what is in the best interests of the United States of America, and most particularly the men and women of the Armed Forces at this very pivotal time in the history of our Nation's commitment to Iraq, considering the President's plan.

As I said earlier, America's contribution to try to bring about a settlement of so many of the controversies in the Middle East is done in the spirit only of trying to bring peace and freedom to that very troubled region. Iraq, at this moment, is very much before the Congress because the President has, on the 10th of this month, laid down a plan. I say it is very much before us at this time, but also there are the very serious questions relating to Iran and their desire to go ahead and develop certain aspects of nuclear energy which could at some point in time undertake a program that would lead to the development of nuclear weapons. That is a very serious question. The question of Lebanon is before this body, as is the question of the relationship between Israel and the Palestinian people. So what we do in the context of Iraq is not isolated from all of these serious problems.

But for the moment, we have before us the plan laid down by the President on the 10th of this month. We go back and we trace the evolution of this problem from, say, early last fall when clearly, in the minds of many of us, the situation was not measuring up to our expectations. Our strategy at that time was not bringing about clear benchmarks with positive results.

We had an extraordinary chapter of history when our military campaign, together with our coalition partners, enabled the Iraqi people to have free and open elections, to elect a government, and for that government to take office. They were enabled to begin the fundamental steps to create, No. 1, a sovereign nation with the full exercise of sovereignty in the hands of the government and the Iraqi people, and No. 2, an improved security situation in Iraq which would reflect throughout the region.

Those were all very positive accomplishments. It is owing to the commitment of the nations forming the coalition of forces—to some extent the United Nations and the Security Council, so many institutions and commitments, and the bravery of the men and women of the Armed Forces—that they brought about a nation now that is a sovereign nation, Iraq, whose government was elected by a free people.

But the security situation has deteriorated, and it deteriorated in the fall to the point that I and others began to express our concern publicly. Senator LEVIN and I returned from a trip to that region—specifically Iraq—and in the context of reporting back to this body, the Senate, I indicated that, in my judgment, the situation was drifting sideways. We were simply not seeing the improvements in security. The reins of sovereignty which we put into the hands of the Iraqi people and their elected government were not bringing about the results we wished.

The level of attacks was quite significant, and a measure of total distrust was beginning to evolve between the various factions—the Sunnis distrusting the Shias, the Shias distrusting the Sunnis—and this has led to where the sectarian violence is now the predominant problem, bringing back instability into Iraq.

Following comments by leaders of our administration, leaders here in the Congress and, indeed, very respected experts in the private sector, the President—and I commend him—instituted a total analysis of the situation. I had specifically said, when I mentioned it was drifting sideways, that we ought to consider all aspects of changing this strategy we were currently employing at that time. I am not suggesting my remarks were the motivation, but the President took the initiative and the leadership, and he is to be commended. Every entity within the Federal system, from the Departments of State and Defense to all other entities, made contributions to what should be done to change his strategy.

The Joint Chiefs did a very significant study on their own initiative, and I commend Chairman Pace. I think the Baker-Hamilton commission did a remarkably fine study and of value, certainly, in my judgment, to this institution and all those who are concentrating on how to resolve the problems in Iraq.

So the President's plan presumably was his analysis of all of this extraordinary input into a change of strategy, and he laid down his proposal. At the same time he addressed the country, he said—and I would like to quote him. He said very clearly that ''he would welcome and encourage others to make contributions.''

So what we did by way of putting this together was not to contravene in any way the constitutional authorities of our President which are expressed, his role as Commander in Chief, but to accept the offer to the Congress and others made by the President on January 10, 2007, and I quote:

> If Members have improvements that can be made, we will make them. If circumstances change, we will adjust.

Now, I commend the President for that, and it is in that vein that the three of us came together and began our concentrated effort shortly after January 10, and this is the work product.

It is clear to us that the U.S. strategy and operations in Iraq can only be sustained and achieved with the support of the American people and with a level of bipartisanship in the Congress. On that note, indulge me to reflect a little bit on the Vietnam era where I was privileged to serve as Under Secretary, Secretary of the Navy for 5 years and some months during that extraordinary chapter of American history. I can say unequivocally that my heart goes out to the men and women in the Armed Forces in that chapter of our history. There was a great deal of public misunderstanding about their role and what they were trying to do individually and collectively in the cause of freedom.

Eventually, that public opinion began to infuse itself here in the two bodies of the Congress, and the rest is history. The Congress began to pull back and, as I say, the rest is history.

I do not suggest there is a parallel between the combat situations, although there was enormous suffering and a tremendous level of casualties—over 50,000 men and women killed, wounded and missing in Vietnam—a great sacrifice for our country in the cause of freedom. But today I see an absolute magnificent response all across this Nation among the American citizens to that brave individual in uniform, both men and women. And the same for our many dedicated civilians who are also taking risks in connection with carrying out the instructions our President has laid down for the military, as well as all branches of this Government, to achieve our goals in Iraq.

Our group agreed with the President that a loss, a failed state in Iraq will affect peace in the region and indeed possibly peace elsewhere in the world. The stakes are very high, and we weighed that always, as the three of us prepared these documents. But that is why I say during the Vietnam chapter the support of the American people and a level of bipartisanship in this institution were essential, and that is the purpose of this resolution: to hopefully achieve that.

The purpose of this resolution is not to cut our forces at their present level, nor to institute and force a timetable for withdrawal. That is a matter—those are both matters that have to be left to the President—but, rather, to express the genuine concerns of a number of Senators from both parties about the President's plan and to set forth a strategy.

Unlike some of the other resolutions that have been before the body, we detail a change in strategy which offers to the President the possibility of modification of his plan. We do not mean to be confrontational with our President but instead to provide a sense of bipartisan resolve on recommendations, alternatives, modifications, we should say, to the plan that he laid down. Our thoughts were in many respects guided by the Baker-Hamilton report.

As I say, I personally, and I think the Presiding Officer and others, attach a great deal of significance to that report.

Now, the primary objective we see of our strategy in Iraq should be the following: First, to encourage Iraqi leaders to make political compromises that

will foster reconciliation and strengthen the unity of government, ultimately leading to improvements in the security situation. Further, our resolution states the military part of this strategy should focus on the following. Now, let me address the military part. I think the President very wisely—and this reflects on the strength of his proposal. It is really three parts. It is diplomacy. It is economic support in the nature of reconstruction, a greater emphasis on helping the civilian infrastructure, whether it be their electricity, their sanitation, their water, or many things that are very much lacking, regrettably. Irrespective of the enormity of the contributions we have made thus far to improve those situations, they just haven't improved.

So this plan of the President's is really three parts, but I address now the military part. But I caution that a chain is no stronger than its weakest link. All three of these vital parts of the President's program, in order to have any measure of success, have to work together. Our committee, the Armed Services Committee on which the Presiding Officer, Senator COLLINS and I serve, a year or so ago put in specific legislation to encourage the Secretaries of the Cabinet positions here, the Cabinet Secretaries and the administrators of our Government—we put into law giving them flexibility to encourage more of their people to get into the mainstream to support the economic and reconstruction parts of the President's program. That part has to be every bit as strong as whatever the final military components will be, and the same with the diplomacy.

But our military strategies should focus on the following: First, maintaining the territorial integrity of Iraq; second, denying international terrorists a safe haven, conducting counterterrorism operations, promoting regional stability, and training and equipping Iraqi forces to take full responsibility for their own security. Further, our resolution states that the U.S. military operations should, as much as possible, be confined to these goals and charges the Iraqi military with the primary mission of combating sectarian violence. That has been a matter of intense interest for this particular Senator, and I drew up this paragraph accordingly, with the Presiding Officer's help and concurrence.

That is, I said, charges—it says to the Iraqi military: We have invested in this military, over years and years, of training, 2 full years, plus—equipment. Now, this sectarian violence is something that you should be out on the point to handle. That is your primary responsibility. The coalition GI, be it American or British or the others, should not be cast into situations—whenever possible, trying not to let them be cast into situations—or firefights, to be more precise—where Sunni is shooting at Shia, or vice versa, and for them to try and make the decisions of how to solve that. That, to me, we should charge the Iraqis as their responsibility, with their armed forces which we have trained, and which number over 200,000 because they understand the language, they understand the culture, and they understand the complexity of this deep-rooted distrust, this hatred which propels the Sunni versus the Shia, or the Shia versus the Sunni.

This results in these wanton killings, the horrible tortures every day. The bodies are in the streets. I will not describe how those bodies have been desecrated as a symbol of this hatred and distrust. That is not for us to solve. That is for the Iraqis to solve.

As such, our resolution states that the Senate disagrees with the President's plan to augment our forces by 21,500 and urges the President instead to consider all options and alternatives for achieving the strategic goals outlined above. Take a look at 21,500. That sends a difficult signal, a tough signal. We have discussed Anbar Province, the province where the Marines are fighting. There we recognize that an augmentation of forces is necessary; namely, because we are engaged directly with al-Qaida.

I say respectfully to the President, we urge him to consider other options, to use a lesser number of troops. Particularly, we have had briefings recently about the growing sentiment among the Iraqi people, the rank and file, that they do not want more troops on their soil. They are anxious to have them leave now. Leaving precipitously could topple that situation into an all-out civil war, an imploding which has disastrous consequences, as we all know.

Again, the signal we are sending 21,500 is, in our judgment, not a wise strategy. We are looking at Baghdad, which is the central focus of sectarian violence, the central focus of the majority of the insecurity, the failure of security in that sovereign country. There are nine different districts, as I understand the President's plan. Sequentially, we will take a district, go into it, and see whether we can lower the level of violence, provide some stability and confidence for their people so they can look forward to some quality of life and personal safety. However, as we take the initial section of Baghdad and do that, we should lay down clear and precise benchmarks that the Iraqi forces must follow.

First, the commitment of their troop level, together with the troop level of the United States, should be all present and accounted for on the day before that operation starts. Unlike the failure of the previous surge efforts in Baghdad, where the United States showed up and a far less number of Iraqis—although committed—showed up. That is the first thing.

The second thing is, it is imperative the political leadership in that Government, which has tried to reach down and make decisions affecting the tactics of the Armed Forces—both Iraqi Armed Forces and the coalition forces, principally the American forces—that comes to an absolute end. The military commanders should be entrusted to make the tactical decisions, to take the missions they see fit for each of the nine districts—the missions can be different in the nine districts—and carry them out halfway through, after perhaps sacrificing life and limb to accomplish some measure of success, will not be reversed by a political decision made somewhere in the Iraqi Government. That is important.

We had the benchmarks. Before we go to a second location in Baghdad, we will have, hopefully, a clearly documented case of this operation going according to plan. It will document the Iraqis taking the point, as we say in military work, with regard to incidents of sectarian violence. Before we go to another sequenced operation in Baghdad, we better be sure. Words will not do it. Statements will not do it. Only deeds will be convincing that there is a full and unqualified commitment to the Iraqi Government.

Our resolution is worthy of consideration by our colleagues. There is a great deal of concern in the Senate and adversity of opinion. I respect that. I hope it will be considered. The three of us will be glad to work with colleagues individually, collectively, and most respectfully of our own leadership, as to what guidance they might wish to give us.

I thank the Presiding Officer. I thank Senator COLLINS. I wish to thank staff who worked throughout the weekend and over the past few days: Tim Becker, from the staff of the Presiding Officer; Christiana Gallagher, also of your staff; Jane Alonso, of Senator COLLINS' staff; John Ullyot, of my staff; Bill Caniano and Ann Loomis and Sandy Luff, of my staff. We have had quite a team working. They all made possible the completion of this resolution today.

EXHIBIT 1

Language Sponsored by Mr. Warner (for himself, Mr. Nelson of Nebraska, and Ms. Collins)

Resolution expressing the sense of Congress on the new strategy in Iraq.

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 currently 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, 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;

Whereas, Iraq is experiencing a deteriorating an 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 of the Iraq strategy, by all components of the Executive branch;

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,'') the central element of which is an augmentation of the present U.S. military force structure through additional deployments of approximately 21,500 U.S. military troops to Iraq;

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 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 open-ended'' 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 with reduced force levels than proposed;

(2) 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;

(3) 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, and training and equipping Iraqi forces to take full responsibility for their own security;

(4) United States military operations should, as much as possible, be confined to these goals, and charge the Iraqi military with the primary mission of combating sectarian violence;

(5) the military Rules of Engagement for this plan should reflect this delineation of responsibilities;

(6) the United States Government should transfer to the Iraqi military, in an expeditious manner, such equipment as is necessary;

(7) 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;

(8) the United States Government should engage selected nations in the Middle East to develop a regional, internationally sponsored peace-and-reconciliation process for Iraq;

(9) 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.

(10) 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 specified by the Administration.

I yield the floor.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

The PRESIDING OFFICER. Under a previous order, the Senate stands in adjournment until 10 a.m., Tuesday, January 23, 2007.

Thereupon, the Senate, at 6:59 p.m., adjourned until Tuesday, January 23, 2007, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate January 22, 2007:

DEPARTMENT OF STATE

RYAN C. CROCKER, OF WASHINGTON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE WITH THE RANK PERSONAL RANK OF CAREER AMBASSADOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF IRAQ.

JOHN D. NEGROPONTE, OF NEW YORK, TO BE DEPUTY SECRETARY OF STATE, VICE ROBERT B. ZOELLICK, RESIGNED.

EXECUTIVE OFFICE OF THE PRESIDENT

J. MICHAEL MCCONNELL, OF VIRGINIA, TO BE DIRECTOR OF NATIONAL INTELLIGENCE, VICE JOHN D. NEGROPONTE.

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. REX C. MCMILLIAN, 0000