military operations abroad receive a $6,000 death benefit, plus a small monthly benefit.

(10) The current system of compensating spouses and children of American patriots is inequitable and needs improvement.

(b) DESIGNATION OF JOHNNY MICHEAL SPANN PATRIOT TRUSTS.—Any charitable corporation, fund, foundation, or trust (or separate fund or account thereof) which otherwise meets all applicable requirements under law with respect to charitable entities and meets the requirements described in subsection (c) shall be eligible to characterize itself as a ''Johnny Micheal Spann Patriot Trust''.

(c) REQUIREMENTS FOR THE DESIGNATION OF JOHNNY MICHEAL SPANN PATRIOT TRUSTS.—The requirements described in this subsection are as follows:

(1) Not taking into account funds or donations reasonably necessary to establish a trust, at least 85 percent of all funds or donations (including any earnings on the investment of such funds or donations) received or collected by any Johnny Micheal Spann Patriot Trust must be distributed to (or, if placed in a private foundation, held in trust for) surviving spouses, children, or dependent parents, grandparents, or siblings of 1 or more of the following:

(A) members of the Armed Forces of the United States;

(B) personnel, including contractors, of elements of the intelligence community, as defined in section 3(4) of the National Security Act of 1947;

(C) employees of the Federal Bureau of Investigation; and

(D) officers, employees, or contract employees of the United States Government,

whose deaths occur in the line of duty and arise out of terrorist attacks, military operations, intelligence operations, law enforcement operations, or accidents connected with activities occurring after September 11, 2001, and related to domestic or foreign efforts to curb international terrorism, including the Authorization for Use of Military Force (Public Law 107–40; 115 Stat. 224).

(2) Other than funds or donations reasonably necessary to establish a trust, not more than 15 percent of all funds or donations (or 15 percent of annual earnings on funds invested in a private foundation) may be used for administrative purposes.

(3) No part of the net earnings of any Johnny Micheal Spann Patriot Trust may inure to the benefit of any individual based solely on the position of such individual as a shareholder, an officer or employee of such Trust.

(4) None of the activities of any Johnny Micheal Spann Patriot Trust shall be conducted in a manner inconsistent with any law with respect to attempting to influence legislation.

(5) No Johnny Micheal Spann Patriot Trust may participate in or intervene in any political campaign on behalf of (or in opposition to) any candidate for public office, including by publication or distribution of statements.

(6) Each Johnny Micheal Spann Patriot Trust shall comply with the instructions and directions of the Director of Central Intelligence, the Attorney General, or the Secretary of Defense relating to the protection of intelligence sources and methods, sensitive law enforcement information, or other sensitive national security information, including methods for confidentially disbursing funds.

(7) Each Johnny Micheal Spann Patriot Trust that receives annual contributions totaling more than $1,000,000 must be audited annually by an independent certified public accounting firm. Such audits shall be filed with the Internal Revenue Service, and shall be open to public inspection, except that the conduct, filing, and availability of the audit shall be consistent with the protection of intelligence sources and methods, of sensitive law enforcement information, and of other sensitive national security information.

(8) Each Johnny Micheal Spann Patriot Trust shall make distributions to beneficiaries described in paragraph (1) at least once every calendar year, beginning not later than 12 months after the formation of such Trust, and all funds and donations received and earnings not placed in a private foundation dedicated to such beneficiaries must be distributed within 36 months after the end of the fiscal year in which such funds, donations, and earnings are received.

(9)(A) When determining the amount of a distribution to any beneficiary described in paragraph (1), a Johnny Micheal Spann Patriot Trust should take into account the amount of any collateral source compensation that the beneficiary has received or is entitled to receive as a result of the death of an individual described in subsection (c)(1).

(B) Collateral source compensation includes all compensation from collateral sources, including life insurance, pension funds, death benefit programs, and payments by Federal, State, or local governments related to the death of an individual described in subsection (c)(1).

(d) TREATMENT OF JOHNNY MICHEAL SPANN PATRIOT TRUSTS.—Each Johnny Micheal Spann Patriot Trust shall refrain from conducting the activities described in clauses (i) and (ii) of section 301(20)(A) of the Federal Election Campaign Act of 1971 so that a general solicitation of funds by an individual described in paragraph (1) of section 323(e) of such Act will be permissible if such solicitation meets the requirements of paragraph (4)(A) of such section.

(e) NOTIFICATION OF TRUST BENEFICIARIES.—Notwithstanding any other provision of law, and in a manner consistent with the protection of intelligence sources and methods, sensitive law enforcement information, and other sensitive national security information, the Secretary of Defense, the Director of the Federal Bureau of Investigation, or the Director of Central Intelligence, or their designees, as applicable, may forward information received from an executor, administrator, or other legal representative of the estate of a decedent described in subparagraph (A), (B), (C), or (D) of subsection (c)(1), to a Johnny Micheal Spann Patriot Trust on how to contact individuals eligible for a distribution under subsection (c)(1) for the purpose of providing assistance from such Trust; provided that, neither forwarding nor failing to forward any information under this subsection shall create any cause of action against any Federal department, agency, officer, agent, or employee.

(f) REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary of Defense, in coordination with the Attorney General, the Director of the Federal Bureau of Investigation, and the Director of Central Intelligence, shall prescribe regulations to carry out this section.

JOHNNY MICHAEL SPANN PATRIOT TRUSTS ACT

Mr. LEAHY. Mr. President, I am pleased to join Senators SESSIONS and NICKLES in introducing the Johnny Michael Spann Patriot Trusts Act. This legislation will facilitate private charitable giving for the benefit of spouses of servicemen and other Federal employees who are killed in the line of duty while engaged in the fight against international terrorism.

Many of us have fought for some time to achieve fair and expeditious compensation for victims of terrorism. In 1996, we passed the Justice for Victims of Terrorism Act, which authorized grants to states to provide assistance and compensation to victims of terrorism. Two years ago, we passed legislation directing the Justice Department to establish a Federal compensation program for victims of international terrorism. And last year, in the wake of the September 11 attacks, we established a special fund to provide compensation to the many families who lost loved ones on that terrible day.

I am proud of these legislative accomplishments. We should make every effort to help the innocent civilians whose lives are shattered by terrorist acts. At the same time, we must not forget those who are killed while serving on the front line in the war on terrorism. Under current law, beneficiaries of members of the U.S. Armed Forces get paid $6,000 only in death benefits from the Government, over any insurance that they may have purchased. Moreover, these individuals may not be eligible for payments from any existing victims' compensation program or charitable organization.

The Johnny Michael Spann Patriot Trusts Act will provide much needed support for the families of those who have made the ultimate sacrifice for their country. The bill encourages the creation of charitable trusts for the benefit of surviving spouses and dependents of military, CIA, FBI, and other Federal Government employees who are killed in operations or activities to curb international terrorism. In addition, the bill authorizes Federal officials to contact qualifying trusts on behalf of surviving spouses and dependents, pursuant to regulations to be prescribed by the Secretary of Defense. This will help to inform survivors about benefits and to ensure that those who are eligible have the opportunity to access the money. It will also spare grieving widows the embarrassment of having to go to a charity and ask for money. Finally, for the avoidance of doubt, the bill makes clear that federal officeholders and candidates may help raise funds for qualifying trusts without running afoul of Federal campaign finance laws.

While we have greatly improved our victims assistance and compensation programs, we still have more to do. I urge my colleagues on both sides of the aisle to join in advancing this legislation through Congress before the end of the year.

Mr. WARNER. Mr. President, I rise today to introduce a bill on behalf of myself and Senator ALLEN to authorize the President to apply the indemnification authorities now available to the Department of Defense and other agencies for national defense purposes to those agencies engaged in defending our Nation against terrorism. This authority is needed to enable America to access the best private sector solutions to defend our homeland, particularly

from those innovative small businesses who do not have the capital to shoulder significant liability risk.

There is an urgent need for this authority. For example, contractors will not sell chemical and biological detectors already available to DOD to other Federal agencies and state and local authorities because of the liability risk. Some of our Nation's top defense contractors will not sell these products because they are afraid to risk the future of their company on a lawsuit. In the meantime the American people are vulnerable. We should give the President the option that he currently does not have, of deciding whether the Federal Government should facilitate these purchases. This legislation would do precisely that.

This liability risk has been a longstanding deterrent to the private sector freely contracting with the Federal Government to meet national security needs. Congress has acted in the past to authorize the indemnification of contracts, particularly in times of war. On December 18, 1941, less than two weeks after the attack on Pearl Harbor, the Congress enacted Title II of the First War Powers Act of 1941. By providing authority to the President to indemnify contracts, this legislation and its successor have enabled the private sector to enter into contracts that involve a substantial liability risk. Administrations since Roosevelt's day have used these authorities to indemnify or share the risk with defense contractors. This was required to jump start the ''arsenal of democracy'' in 1941. It was true in 1958, when the nuclear and missile programs were facilitated by the indemnification of risks associated with the use of nuclear power and highly volatile missile fuels. it is true today for technology solutions required by agencies engaged in the war against terrorism.

This war is going to be different in many ways. For one, much of the Nation's homeland defense activities are going to be conducted by State and local governments. It is thus imperative to ensure that State and local governments can access vital anti-terrorism technologies.

To facilitate this, this bill would require the establishment of a Federal contracting vehicle to which state and local governments could turn to rapidly buy anti-terrorism solutions from the Federal Government. The President would also be authorized, if he deemed it necessary, to indemnify these purchases.

I want to emphasize two points. One, that this authority is discretionary. The President, on a case by case basis will decide whether to indemnify contracts. I expect the President will use this authority much like it has been used at the Defense Department, carefully and thoughtfully, and only for those products that the government cannot obtain without the use of the authority.

The second point I want to emphasize is that indemnification not in conflict with any efforts to limit or cap liability. I see these two efforts as complimentary. This legislation should not be seen as an alternative for tort reform, but merely as one tool that can be used by the President to ensure that vitally needed technologies necessary for homeland defense are placed into the hands of those who need them.

During World War II and all subsequent wars, conflicts and emergencies in which the U.S. has been involved, we have needed domestic contractors to be innovative, resourceful and ready to support efforts at home and abroad. In 1941, the Congress wanted contractors to know that if they were willing to engage in unusually hazardous activities for the national defense, then the U.S. Government would address the potential liability exposure associated with the conduct of such activities. Our position should be no different now.

By Mr. BIDEN (for himself and Mr. SPECTER):

S. 3079. A bill to authorize the issuance of immigrant visas to, and the admission to the United States for permanent residence of, certain scientists, engineers, and technicians who have worked in Iraqi weapons of mass destruction programs; to the Committee on the Judiciary.

Mr. BIDEN. Mr. President, last night the President of the United States said something very important about United Nations inspections in Iraq. He said:

> Clearly, to actually work, any new inspections. . .will have to be very different. . . . To ensure that we learn the truth, the regime must allow witnesses to its illegal activities to be interviewed outside the country, and these witnesses must be free to bring their families with them so they are all beyond the reach of Saddam Hussein's terror and murder. And inspectors must have access to any site, at any time, without preclearance, without delay, without exceptions.

The President is right on the money about the inspections. This is how to get the information the world needs on Saddam Hussein's weapons of mass destruction programs. But how is the U.N. to do that?

Where will those weapons scientists and their families go, once they've told the truth about Saddam's weapons programs? They can't go home again. And at least in the short run, there will be no safe haven in the region for the people who reveal Saddam's most terrible secrets.

So where will those scientists go? Maybe some can go to Europe, although both al Qaeda cells and Saddam's agents have operated there. Maybe some can go to Canada, or to South America.

But if the United States wants the world to show resolve in dealing with Saddam Hussein, then we should show the way by taking the lead in admitting those Iraqis who have the courage to betray Saddam's nuclear, chemical and biological weapons programs.

We have a large country in which to absorb those people, and, for all our problems, we have the best law enforcement and security apparatus to guard them.

What we do not have is an immigration system that readily admits large numbers of persons who have a recent involvement with weapons of mass destruction, have recently aided a country in the so-called ''axis of evil,'' and are bringing their families.

I am introducing today, therefore, legislation to admit to our country those Iraqi scientists, engineers and technicians, and their families, who give reliable information on Saddam's programs to us, to the United Nations, or to the International Atomic Energy Agency.

My esteemed colleague on the Judiciary Committee, Senator SPECTER of Pennsylvania, joins me in introducing this legislation, and I am very pleased to have his support. This bill is not political. Rather, it is a bipartisan effort to help the President succeed in forcing Iraq to destroy all its weapons of mass destruction capabilities.

I urge my colleagues to support this legislation. Why? Because those Iraqis will deserve our protection. And equally important, because they will not come forward unless we offer that protection.

Charles Duelfer, former Deputy Executive Director of UNSCOM, the original U.N. inspection force in Iraq, recently wrote an article entitled, ''The Inevitable Failure of Inspections in Iraq.'' He made the following recommendations: First, inspectors should be mandated to interview the few hundred key scientists, engineers, and technicians who were involved in the previous weapons of mass destruction efforts and have them account for their activities since December 1998. The U.N. knows who these individuals are. If, as is suspected, Iraq has been continuing to develop weapons of mass destruction, some or most of these people will have been involved.

Second, the conditions for such interviews must be changed. Iraqi government observers must not be present. the previous UNSCOM agreement to the presence of such ''minders'' was a mistake. The fact that junior workers would shake with fear at the prospect of answering a question in a way inconsistent with government direction made this obvious.

Third, and most important, the U.N. should offer sanctuary or safe haven to those who find it a condition for speaking the truth. The people are key to these programs. Access to the people under conditions where they could speak freely was not something UNSCOM ever achieved except in the rare instances of defection.

Mr. Duelfer concludes: I often summarized this problem to Washington by suggesting that, if UNSCOM had 100 green cards to distribute during inspections, it could have quickly accounted for the weapons programs.

Other experts, including Dr. Khidir Hamza, a former Iraqi nuclear weapons

scientist who testified before the Senate Foreign Relations Committee on July 27, have pointed out that by enticing scientists and engineers away from Iraq, we will also deprive Saddam Hussein of the very people he needs to produce those weapons of mass destruction and long-range missiles.

If we do, in the end, have to go to war against Saddam, then the fewer weapons scientists he has, the better.

Current law includes several means of either paroling non-immigrants into the United States or admitting people for permanent residence, notwithstanding their normal inadmissibility under the law.

These are very limited provisions, however, and they will not suffice to accommodate hundreds of Iraqi scientists and their families.

The legislation that I am introducing, the ''Iraqi Scientists Liberation Act of 2002,'' will permit the Secretary of State and the Attorney General, acting jointly and on a case-by-case basis, to admit a foreigner and his family for permanent residence if such person: is a scientist, engineer, or technician who has worked in an Iraqi program to produce weapons of mass destruction or the means to deliver them, during the years since the inspectors left and Saddam began rebuilding those programs; is willing to supply or has supplied reliable information on that program to UNMOVIC, to the IAEA, or to an agency of the United State Government; and will be or has been placed in danger as a result of providing such information.

The Attorney General will be empowered to set the rules and regulations governing implementation of this law, in consultation with the Secretary of State and other relevant officials.

Finally, this legislation will be limited to the admission of 500 scientists, plus their families, over 3 years. If it works and we need to enlarge the program, we can do so.

The important thing for now is to give our country the initial authority, and to give United Nations inspectors the ability to call on us when one of Saddam's nuclear, chemical or biological weapons experts is willing to help the world to bring those programs down.

It is hard to predict what we will achieve by opening our doors. Iraq will surely object to giving UNMOVIC the inspection and interview powers that the President proposes. But if UNMOVIC does get into Iraq under a stronger Security Council resolution in the coming weeks, then having this law on the books could help to undermine Saddam Hussein's weapons of mass destruction programs.

Even if inspectors never get in, a public offer of asylum for Iraq's scientists could lead some to defect, as Dr. Hamza did.

Last night the President called for inspections that protect the lives of those who are interviewed and their families.

We owe it to the President to do all we can to make that possible.

We owe it to the United Nations inspectors to give them every chance to succeed.

We owe to it Iraq's people and its neighbors to do everything we can to dismantle its weapons of mass destruction programs.

And we owe it to our own people to do all we can to achieve that end peacefully, and with international support.

This bill is a small step toward those ends, but it is a vital one. I urge my colleagues to give it their immediate attention and their considered support.

I ask unanimous consent that the full text of my bill appear following my remarks in the CONGRESSIONAL RECORD.

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

S. 3079

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 known as the ''Iraqi Scientists Liberation Act of 2002''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The President stated in substance the following to the United Nations General Assembly:

(A) In 1991, the Iraqi regime agreed to destroy and stop developing all weapons of mass destruction and long-range missiles, and to prove to the world it has done so by complying with rigorous inspections. Iraq has broken every aspect of this fundamental pledge.

(B) Today, Iraq continues to withhold important information about its nuclear program: weapons design, procurement logs, experiment data, an accounting of nuclear materials, and documentation of foreign assistance. Iraq's state-controlled media has reported numerous meetings between Saddam Hussein and his nuclear scientists, leaving little doubt about his continued appetite for these weapons.

(C) Iraq also possesses a force of Scud-type missiles with ranges greater than the 150 kilometers permitted by the United Nations.

(2) United Nations Special Commission (UNSCOM) experts concluded that Iraq's declarations on biological agents vastly understated the extent of its program, and that Iraq actually produced two to four times the amount of most agents, including anthrax and botulinum toxin, than it had declared.

(3) UNSCOM reported to the United Nations Security Council in April 1995 that Iraq had concealed its biological weapons program and had failed to account for 3 tons of growth material for biological agents.

(4) Gaps identified by UNSCOM in Iraqi accounting and current production capabilities strongly suggest that Iraq maintains stockpiles of chemical agents, probably VX, sarin, cyclosarin, and mustard.

(5) Iraq has not accounted for hundreds of tons of chemical precursors and tens of thousands of unfilled munitions, including Scud variant missile warheads.

(6) Iraq has not accounted for at least 15,000 artillery rockets that in the past were its preferred vehicle for delivering nerve agents, nor has it accounted for about 550 artillery shells filled with mustard agent.

(7) For nearly 4 years, Iraq has been able to pursue its weapons of mass destruction programs free of inspections.

(8) Inspections will fail if United Nations and International Atomic Energy Agency inspectors do not have speedy and complete access to any and all sites of interest to them.

(9) Inspections will be much less effective if those scientists, engineers, and technicians whom the inspectors interview are monitored and subjected to pressure by agents of Saddam Hussein's regime.

(10) As the President made clear in his speech to the Nation on October 7, 2002, the most effective international inspection of Iraq would include interviews with persons who are unmonitored by Saddam Hussein's regime and who are protected from it in return for providing reliable information.

(11) The emigration from Iraq of key scientists, engineers, and technicians could substantially disable Saddam Hussein's programs to produce weapons of mass destruction and the means to deliver them.

SEC. 3. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) Iraq must give United Nations and International Atomic Energy Agency inspectors speedy and complete access to any and all sites of interest to them;

(2) United Nations and International Atomic Energy Agency inspections in Iraq should include interviews with persons who are unmonitored by Saddam Hussein's regime and who are protected from it in return for providing reliable information; and

(3) key scientists, engineers, and technicians in Saddam Hussein's programs to produce weapons of mass destruction and the means to deliver them should be encouraged to leave those programs and provide information to governments and international institutions that are committed to dismantling those programs.

SEC. 4. ADMISSION OF CRITICAL ALIENS.

(a) AUTHORITY.—Notwithstanding the provisions of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), whenever the Secretary of State and the Attorney General, acting jointly, determine that the admission into the United States of an alien described in subsection (b) is in the public interest, the alien, and any member of the alien's immediate family accompanying or following to join, shall be eligible to receive an immigrant visa and to be admitted to the United States for permanent residence.

(b) ELIGIBILITY.—An alien described in this subsection is an alien who—

(1) is a scientist, engineer, or technician who has worked at any time since December 16, 1998, in an Iraqi program to produce weapons of mass destruction or the means to deliver them;

(2) is in possession of critical reliable information concerning any such Iraqi program;

(3) is willing to provide, or has provided, such information to inspectors of the United Nations, inspectors of the International Atomic Energy Agency, or any department, agency, or other entity of the United States Government; and

(4) will be or has been placed in danger as a result of providing such information.

(c) LIMITATION.—Not more than 500 principal aliens may be admitted to the United States under subsection (a). The limitation in this subsection does not apply to any immediate family member accompanying or following to join a principal alien.

(d) EXPIRATION OF AUTHORITY.—The authority granted in this section shall expire 36 months after the date of enactment of this Act.

SEC. 5. RULES AND REGULATIONS.

The Attorney General, in consultation with the Secretary of State, is authorized to prescribe such rules and regulations as may be necessary to carry out the provisions of this Act.

SEC. 6. WEAPON OF MASS DESTRUCTION DEFINED.

(a) IN GENERAL.—In this Act, the term ''weapon of mass destruction'' has the meaning given the term in section 1403(1) of the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of Public Law 104–201; 110 Stat. 2717; 50 U.S.C. 2302(1)), as amended by subsection (b).

(b) TECHNICAL CORRECTION.—Section 1403(1)(B) of the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of Public Law 104–201; 110 Stat. 2717; 50 U.S.C. 2302(1)(B)) is amended by striking ''a disease organism'' and inserting ''a biological agent, toxin, or vector (as those terms are defined in section 178 of title 18, United States Code)''.

By Mr. LUGAR (for himself and Mr. BINGAMAN):

S. 3080. A bill to establish a national teaching fellowship program to encourage individuals to enter and remain in the field of teaching at public elementary schools and secondary schools; to the Committee on Health, Education, Labor, and Pensions.

Mr. LUGAR. Mr. President, I rise today to introduce the Teaching Fellows Act of 2002.

This year Congress passed, and the President signed into law the No Child Left Behind Act. This new law represents the most sweeping changes to the Elementary and Secondary Education Act, ESEA, since it was enacted in 1965. The Act underscores the importance of a good education; it stresses the use of research-based teaching programs, increases funds available to public schools, broadens local flexibility, and enhances accountability.

In focusing on these principles, we aim to change the way our schools do business. This is important. While some schools are doing well, many are not. It is important that our low performing schools are given the assistance they need to improve, along with the knowledge that they will be held accountable for turning themselves around and narrowing the existing achievement gaps.

I have long championed the greater use of research-based programs in troubled schools, specifically Comprehensive School Reform. Good reform programs are a bargain for our schools and our children when we compare their costs to that of retention, special education and illiteracy.

However, I also realize that the best research-based programs cannot be successfully implemented without a sufficient number of teachers in the classroom. Statistics vary, but it is estimated that 1 million of the Nation's 3 million teachers will retire in the next 5 years. Schools will need to hire over 2 million new teachers in the next decade.

To help address this problem, my colleague Senator BINGAMAN and I are introducing today the Teaching Fellows Act, legislation that aims to encourage the best and brightest to enter teaching.

The problem of teacher shortages is complex, and the problems States are experiencing in recruitment and retention vary. The bill we introduce today encourages states to structure their scholarship program so that it addresses the individual needs of the State, and utilizes the best resources they have to offer.

Similar to the National Health Service Corps, selected students would receive at least $6,500 per year toward college expenses, and in return, would incur an obligation to serve in an under-served area. In this case, we require new teachers to teach five years in a low performing public school.

The Teaching Fellows Act would set up a competitive process whereby states could apply for matching, 75–25 percent, Federal grants to establish or expand scholarship programs for prospective teachers. The proposal is based on one of the most successful teaching scholarship programs in the Nation—that of State of North Carolina. There are two main prongs to this act. The first is the teaching fellowship program, this program would distribute grants to states for teaching scholarships that students could apply for after their senior year of high school or their second year of college. The bill also authorizes a ''partnership program,'' aimed at community college students, particularly those who are currently trained or training as teaching assistants. With encouragement, the hope is that these individuals might go on to obtain four-year degrees to become licensed teachers. Grants would be available to states for partnership programs between community colleges and four-year colleges to provide for the training.

Other approaches such as loan forgiveness programs and offering federal stipends are important tools in our quest to recruit teachers. However, the strength of the Teacher Fellowship Act is the focus that we place on the enrichment of these students. Qualifying States will have developed programs that have designed a strong extra-curricular program that serves as a support system for new teachers.

It is estimated that up to 22 percent of new teaches leave within 3 years—this figure is as high as 55 percent in urban or rural areas. Not only must we recruit more teachers, but we must encourage a more comprehensive and supportive system of training.

Our bill is not a panacea to the problems of teacher recruitment and retention. However, I believe it is a step in the right direction. I hope that we will give more states and communities the incentive to work with their institutions of higher education to more comprehensively address the education of one our Nation's most important resources—that of teachers.

The successful education of our nation's children requires that we work together at the Federal, State, and local levels to ensure that no child is left behind.

Mr. BINGAMAN. Mr. President, I rise today to join my esteemed colleague, Senator LUGAR, in the introduction of the Teaching Fellows Act of 2002.

Earlier this year, the No Child Left Behind Act was signed into law. I was proud to be a member of the Conference Committee that ultimately wrote this important piece of legislation. This legislation includes important reform efforts and increased resources for schools that will go a long way toward addressing many of the needs in our education system. I will continue to fight for increased appropriations for the programs contained in this bipartisan legislation.

As we begin to consider reauthorization of the Higher Education Act, we must continue to seek avenues for supporting our Nation's schools. Providing additional support for the training of new, high quality teachers is an important way to do that. Ultimately, improving the quality of education in our nation will require a comprehensive approach that includes raising standards and increasing school accountability. However, central to any effort to improve education are teachers. Being the son of two former teachers, I am well acquainted with the challenges and the rewards that being a good teacher brings. Being a parent and a community member, I also know how influential teachers can be in the lives of our children. Teachers not only pass along knowledge and act as role models, but research shows that teacher quality is critical to student achievement.

Over the years, I have had the opportunity to meet with many of our dedicated and hard-working teachers in New Mexico. These personal experiences have strengthened my belief that we need to do all that we can to encourage the best and the brightest to enter and to remain in this most important profession.

It is estimated that nearly a third of our Nation's teachers will retire over the next five years. In addition, large numbers of new teachers leave their jobs within a few years, particularly in rural and urban areas. These patterns could seriously jeopardize the quality of our children's education unless we take some steps to insure that there are enough trained people available to fill these positions. We must also do what we can to support the preparation and training of these individuals.

The Teaching Fellows Act would create two programs designed to encourage people to enter and to remain in the profession of teaching. First, the program would distribute grants to states for teaching scholarships. In return for at least $6,500 per year toward college expenses, students would agree to teach in a low-performing school for five years. This program would thus not only help teachers to prepare for their profession but it would also insure that students in our poorest and most challenged schools have access to well-trained teachers.

Second, the bill would provide grants for individuals currently working in

our schools as instructional assistants or in other capacities to obtain four-year degrees to become licensed teachers. Grants would be available to States for partnership programs between community colleges and four-year colleges to provide for this training. These programs require that states come up with 25 percent of the funding and students will be required to stay in the state to teach for five years.

In conclusion, I would like to say that I am very excited about co-sponsoring a bill that seeks to recruit new teachers and to enrich their training experiences. Although this bill is only part of a larger effort to provide all American students with a quality education, it is an important component. Having well-qualified teachers available to teach, especially in the most impoverished districts, is something that we owe to our children and ourselves. We, as parents and as legislators, must do what we can to see that America's teachers are recognized and supported as a crucial component in our children's education.

By Mr. MCCAIN (for himself, Mr. FEINGOLD, Ms. SNOWE, Mr. JEFFORDS, Mr. SCHUMER, Ms. CANTWELL, Ms. COLLINS, Mr. LIEBERMAN, Mr. LEVIN, Mr. EDWARDS, and Mr. THOMPSON):

S.J. Res. 48. A joint resolution disapproving the rule submitted by the Federal Election Commission under chapter 8 of title 5, United States Code, relating to prohibited and excessive contributions; to the Committee on Rules and Administration.

Mr. MCCAIN. Mr. President, today I am introducing a resolution to disapprove the Federal Election Commission's final regulations to implement the title I soft money provisions of the Bipartisan Campaign Reform Act, under the procedures established by the Congressional Review Act. The Commission's regulations, titled ''Prohibited and Excessive Contributions: Non-Federal Funds or Soft Money; Final Rule,'' were published in the Federal Register on July 29, 2002, 67 FR 49064.

I wish I did not have to introduce this resolution. When President Bush signed the Bipartisan Campaign Reform Act of 2002 into law on March 27, 2002, the soft money campaign finance system should have met its demise. This system of unlimited soft money contributions to national political parties, unlimited soft money fundraising by national parties and Federal candidates and officeholders, and unlimited laundering of soft money into Federal elections by State parties had bred public cynicism about the workings of our institutions of government. At a minimum, the actions of Congress and the executive branch were severely tainted by the specter of six-figure soft money donations by special interests with a stake in legislation and policies pending before the Federal Government.

Banning soft money wasn't an easy legislative or political endeavor. Powerful forces lined up to preserve a status quo that served them well. But after a 7-year fight on Capitol Hill over campaign finance reform, Congress concluded that it could no longer abide the corruption and appearances of corruption caused by soft money. It sought fundamental change and a restoration of public confidence in our democracy by at last enacting the Bipartisan Campaign Reform Act.

Unfortunately, four unelected members of the Federal Election Commission thought they knew better. In writing rules to implement the party and candidate soft money provisions of the new campaign finance law, these Commissioners proceeded to resurrect aspects of the soft money system that Congress had just banished. This exercise entailed gyrations of logic and rationalizations that flew squarely in the face of statutory language, legislative intent, and even interpretations of the law urged by the Commission's own general counsel and professional staff. At times during the soft money rulemaking process, this bloc of four Commissioners appeared willfully blind to the language and purpose of the statute, as well as the Commission's own interpretive practices and precedents. Their actions were so brazen that one of the two Commissioners who voted to implement the law faithfully to Congress's intent told them, ''You have so tortured this law, it's beyond silly.''

The result was the adoption of agency regulations that undermine the three fundamental components of the Bipartisan Campaign Reform Act: the prohibition on national parties' soliciting, directing, receiving, or spending soft money; the prohibition on Federal candidates' and officeholders' soliciting, directing, receiving or spending soft money; and the prohibition on State parties' spending unregulated soft money donations on activities affecting Federal elections. The loopholes created out of whole cloth by the Federal Election Commission operate separately and in combination to permit the continuation of elements of the soft money system.

While I will not today discuss each and every soft money regulation that contradicts the statute and legislative intent, I will list some examples of how four Commissioners substituted their own personal views for the will of Congress—and left in their wake a campaign finance system too similar to the one we in this body set out to eliminate.

The Bipartisan Campaign Reform Act states that national parties and Federal candidates or officeholders may not ''solicit'' or ''direct'' soft money. These prohibitions on soliciting and directing soft money are critical to the integrity of our political system. The specter of national parties soliciting six-figure donations from special interests with a stake in legislation or policies pending before the executive or legislative branches has tainted the decisions ultimately made on these matters in Washington. Likewise, the soft money fundraising activities of Federal officeholders have led the public to suspect that those who serve in Congress or the White House are paying special heed to the will of the wealthy few.

The new campaign finance law's prohibitions on soliciting and directing soft money are aimed precisely at this problem. As Senator Carl Levin, D-MI, said on the Senate floor on March 20, 2002, during debate on the Bipartisan Campaign Reform Act:

> . . . [W]e have had enough of the solicitations by our elected officials and the officers of our national parties, soliciting huge sums of money by offering insider access to government decisionmakers . . . Under this soft money ban, public officials and candidates *will be out of the soft money fundraising business,* and that's a very important step we will be taking with this legislation. The official with power, and the candidate seeking to be in a position of power, won't be able to solicit huge sums of money and sell access to themselves for their campaign or for outside groups . . .'' (emphasis added).

The Federal Election Commission decided nonetheless to allow national parties and Federal officeholders to remain in the ''soft money fundraising business''—by adopting definitions of the terms ''to solicit'' and ''to direct'' that invite widespread circumvention of the law.

To achieve this result, the Commissioners had to overrule the agency's own general counsel and professional staff. The draft final rules recommended to the Commissioners by the general counsel and professional staff appropriately defined ''to solicit'' as ''to request or suggest or recommend that another person make a contribution, donation, or transfer of funds''—thus, a national party could not request, suggest or recommend that an individual or entity donate soft money. This definition was consistent with the Commission's longstanding practice and understanding concerning what constitutes a solicitation. As the Commission's associate general counsel explained to the Commissioners during the soft money rulemaking proceedings:

> . . . the concept of solicitation is not something that is new, in terms of the [Bipartisan Campaign Reform Act of 2002]. It is something that has been in the Federal Election Campaign Act for a very long time. It's been particularly significant in terms of corporations and labor organizations, in terms of the solicitations that they may do, and some of the limitations on the frequency of their solicitations. With that in mind, we do have a long history of advisory opinions, and some very specific guidance in our campaign guides as to what does and what does not constitute 'to solicit.'
>
> We based the definition that we came up with, with those materials in mind, with the thought that *just the common-sense usage of the word, 'solicit' would not mean something different in the context of BCRA than what it has always meant for purposes of the FECA. And we have looked at it very broadly in the past,* in terms of encouraging support for, and providing information as to how to contribute, and publicizing, the right to accept unsolicited contributions from any lawful contributor. Those sorts of factors. *I think*

it's an area of the law that's pretty clear and pretty well-settled (emphasis added).

Putting aside the associate general counsel's explanation that the meaning of ''to solicit'' is ''pretty clear and pretty well-settled'' in the law, four Commissioners apparently decided that a dramatic change in course was somehow warranted with respect to implementing soft money solicitation restrictions. A lame-duck, holdover Commissioner proposed an amendment during the rulemaking proceedings that narrowed the definition of ''to solicit'' from ''to request or suggest or recommend'' to ''to ask.'' In explaining this amendment, that Commissioner repeatedly made it clear that he intended to narrow considerably the scope of the definition of ''to solicit'' contained in the general counsel's draft, to eliminate the concepts of to ''suggest or recommend.''

The Commission's general counsel expressed strong reservations about this amendment to narrow the definition of ''to solicit,'' stating the following:

. . . [T]his is a pretty huge concept in the Act. You can't solicit soft money. Certain actors can't solicit soft money now under the law. And it doesn't seem to me to take a great deal of cleverness to make a solicitation that is clearly intended to encourage—to persuade a person to make a contribution, without coming out and asking. And I think this definition has the potential for great mischief . . . And I'm concerned that this language creates a definition so narrow that it would, frankly, be very easy to avoid.''

The Commissioner that offered the amendment narrowing the definition of ''to solicit'' replied, ''It indeed runs that risk.''

Despite the warnings of the Commission's general counsel, the amendment was ultimately adopted. The result is to exclude all but the most explicit ''asks'' for soft money from the new law's solicitation prohibitions. Because of this amendment, national parties and Federal candidates and officeholders may ''recommend'' or ''suggest'' that a donor contribute soft money. Far from being out of the soft money fundraising business, parties and candidates now stand to be in a more subtle soft money fundraising business. That is hardly the fundamental change in the campaign finance system that Senator LEVIN was discussing on the Senate floor or that Congress as a whole sought in enacting the Bipartisan Campaign Reform Act.

The Commission compounded the problem by essentially reading the prohibition on ''directing'' soft money out of the statute. The new campaign finance law makes it illegal for national parties and Federal officeholders or candidates not only to ''solicit'' soft money but also to ''direct'' soft money. The clear implication is that those terms are not redundant. Specifically, ''to direct'' covers instances in which a national party or Federal candidate suggests to whom an already willing contributor should make a soft money donation, as opposed to initiating the idea of the contribution, which amounts to a ''solicitation''.

The general counsel's draft properly assigned distinct meaning to the term, ''to direct.'' It defined ''to direct'' as, ''to provide the name of a candidate, political committee or organization to a person who has expressed an interest in making a contribution, donation, or transfers of funds to those who support the beliefs of goals of the contributor or donor . . .'' However, the same amendment that substantially narrowed the definition of ''to solicit'' redefined ''to direct'' to mean, ''to ask a person who has expressed an intent to make a contribution, donation, or transfer of funds, or to provide anything of value, to make that contribution, donation, or transfer of funds, or to provide that thing of value.'' In other words, the Commission ultimately defined ''to direct'' to mean nothing different from ''to solicit.'' This will allow national parties and Federal officeholders to tell a willing donor where they should send their soft money—in violation of the plain language of the statute.

The Bipartisan Campaign Reform Act bans the receipt, solicitation, direction, or spending of soft money not only by national party committees but also by any entities ''directly or indirectly established, financed, maintained or controlled'' by those party committees. This prohibits national party committees from spawning and in other respects significantly supporting ''shadow entities'' designed to carry on the raising and spending of soft money once those party committees can no longer accept soft money contributions themselves.

The soft money ban enacted by Congress will achieve its full effect only if the Federal Election Commission applies it to all entities in fact ''directly or indirectly established, financed, maintained or controlled'' by national party committees. If the Commission instead willfully blinds itself to relevant information concerning a national party's involvement with a given organization, the soft money ban could fall short of the coverage spelled out in the statute. Under that scenario, shadow entities set up by national parties could carry on the raising and spending of soft money under the false guise of ''independence'' from the parties—including spending soft money on television and radio sham ''issue ads.''

Unfortunately, four Commissioners opted for willful blindness rather than a complete and accurate analysis of whether an entity was in fact ''directly or indirectly established, financed, maintained or controlled'' by a national party. The explanation and justification accompanying the draft rules prepared by the Commission's general counsel noted that ''certain actions that occur before the effective date of BCRA have as much of an impact on whether an entity is 'established, financed, maintained or controlled' by a sponsor as actions that occur immediately after BCRA's effective date.'' Accordingly, the draft rules proposed by the General counsel indicated that the Commission should review conduct occurring before the law's effective date of November 6, in addition to conduct occurring after that date, in determining whether a national party had established, financed, maintained or controlled an organization. Indeed, there is absolutely no basis in the statute for concluding that the Commission should review anything less than all of a party's conduct involving an organization in undertaking this analysis.

A Commissioner nonetheless offered an amendment containing an invented ''grandfather clause.'' Under this amendment, a national party could set up a shadow entity before November 6 to raise and spend soft money after that date—and yet the Commission would have to ignore that fact and any other pre-November 6 conduct in analyzing whether the shadow entity was ''established'' by a national party. The parties could provide considerable support to these shadow entities prior to November 6 and indeed hold them out to donors as future soft money surrogates for the parties. The Commission's general counsel strongly objected to this bizarre idea, saying, ''. . . [I]t is hard to see how Congress imagined that an entity that . . . . was established a couple of days before the effective date of BCRA, is any less established . . . on November 10th, November 15th or December 1st.'' Still, the Commission adopted the amendment by a vote of four to two.

By adopting a ''grandfather clause'' invented out of whole cloth, the Commission invited schemes by the national parties to evade the new law by setting up surrogates prior to November 6th. Not surprisingly, the parties appear to be taking up the Commission's invitation. According to a Washington Post story of August 25, 2002, ''Both the Democratic and Republican senatorial campaign committees are exploring the creation of separate soft-money funds.'' A National Journal article of September 7, 2002 likewise stated, ''[E]ven some national party committees are looking at setting up, before November 5, new groups that they say could legally raise soft money next year so long as they do not coordinate their activities with the national committees.''

The Bipartisan Campaign Reform Act puts an end to soft money leadership PACs. Soft money leadership PACs are entities controlled by Federal officeholders or candidates that take in unlimited contributions from corporations, unions, and wealthy individuals to finance activities beneficial to their sponsors. These activities can include events and entertainment, contributions to State and local parties and candidates, fundraising and administrative costs, sham ''issue ads,'' payments to consultants, and expenses for partisan get-out-the-vote efforts. According to a February 2002 report by

Public Citizen, 63 Members of Congress had their own soft money leadership PACs at that time. From July 1, 2000, until June 30, 2001, the top 25 politician soft money leadership PACs collected more than $15.1 million in contributions.

The new law prohibits entities ''directly or indirectly established, financed, maintained or controlled'' by Federal officeholders or candidates from soliciting or receiving soft money. As a matter of plain meaning and simple common sense, this language clearly covers officeholder and candidate leadership PACs. Furthermore, this statutory standard linking leadership PACs to their officeholder or candidate sponsors is deliberately broader than preexisting language under which the Commission has treated leadership PACs as independent of Federal officials. In sum, the new law was intended to bring about the demise of soft money leadership PACs—and was well-crafted to achieve that result.

Despite the statutory language and clear legislative intent, the Federal Election Commission has left open the possibility of continued operation of officeholder and candidate soft money leadership PACs. If the Commission considers a leadership PAC to be ''directly or indirectly established, financed, maintained or controlled'' by a Federal officeholder or candidate, it will not be permitted to receive soft money. However, the Commission also decided that it would analyze whether individual leadership PACs are so established, financed, maintained or controlled by applying the same standards under which it has always considered leadership PACs to be independent of Federal officeholders and candidates. This decision threatens to delete an important element of the new law's soft money prohibitions.

The Bipartisan Campaign Reform Act permits Federal officeholders and candidates to ''attend, speak, and be a featured guest at'' State party fundraising events. However, these individuals may not expressly solicit soft money at State party fundraising events.

The Commission's professional staff clearly perceived the line drawn by the law in terms of permissible Federal officeholder or candidate participation in State party fundraising events. Consistent with the statutory language and legislative intent, the draft final soft money rules prepared by the general counsel and professional staff held that Federal candidates and officeholders could attend, speak at, or be featured guests at a State party fundraising event, but they could not ''actively solicit funds at the event.''

Once again, the Commission overrode the draft regulations developed by its professional staff and departed from the statute. A Commissioner offered an amendment to permit Federal officeholders not merely to attend and speak at State party fundraising events but also to make express solicitations for soft money at those events. He characterized this amendment as a ''total carve-out'' from the law's restrictions on soft money solicitations by Federal candidates and officeholders. Commissioner Scott Thomas, who consistently voted against efforts to undermine and compromise the law, strenuously disagreed, saying, ''[Congress] drafted the statute in a way that says in essence Federal candidates are not to solicit soft money and the one part of Commissioner Toner's amendment that I just can't square with the statutory ban is the last clause: the candidates and individuals holding Federal office may speak at such events without restriction or regulation.'' The amendment passed despite Commissioner Thomas's objections.

This departure from the statutory text and legislative intent creates a significant loophole that undermines Congress' effort to eradicate the soft money system. Under this amendment, whatever is deemed to be a State party fundraiser essentially becomes a ''rules-free zone'' for soft money solicitations. It is readily conceivable that Federal officeholders and candidates will engage in unrestrained soft money solicitations at any kind of event or gathering that is simply called a ''State party fundraiser.'' Indeed, one could envision a State party holding its ''fundraiser'' in Washington DC's, Union Station, with the President and numerous Members of Congress in attendance to expressly solicit unlimited soft money contributions for that state party. This result is simply impossible to square with the text of the law and Congress's intent. The problem is compounded by the fact that the Commission elsewhere opened loopholes permitting State parties to spend unregulated, unlimited soft money donations on activities affecting Federal elections, again contrary to statutory text and legislative intent.

In general, the Bipartisan Campaign Reform Act does not merely ban national parties and Federal officeholders from receiving, spending, directing, or soliciting soft money. The bill also prohibits State parties from spending unregulated soft money on activities that have a particularly pronounced effect on Federal elections—defined in the statute as ''Federal election activity.''

This portion of the law responds to an ongoing, significant problem. Currently, State parties often use unlimited soft money donations, which are transferred to them by national parties or contributed directly to them, to help finance sham ''issue ads'' promoting or attacking clearly identified Federal candidates, voter mobilization activities clearly benefitting Federal candidates, and other campaign activities affecting Federal elections. This compromises the integrity of our democracy. If unregulated and potentially unlimited soft money donations can be funneled through State parties into activities supporting the election of Federal candidates, at a minimum, officeholders appear beholden to the sources of those unlimited donations.

To remedy this problem, the new campaign finance law requires State parties to use exclusively hard money contributions to finance public communications promoting or attacking clearly identified Federal candidates, voter registration activity occurring within 120 days of a regularly scheduled Federal election that mentions a Federal candidate, and get-out-the-vote activity, voter identification, and generic campaign activity mentioning a Federal candidate and conducted in connection with an election in which a Federal candidate appears on the ballot. It also requires State parties to use either exclusively hard money, or a combination of hard money and tightly limited and regulated non-Federal funds, to finance voter registration, get-out-the-vote activity, voter identification, and generic campaign activity that do not mention Federal candidates.

The law does not permit the use of unregulated, unlimited soft money donations by State parties for any of the specified ''Federal election activities.'' Indeed, during floor debate over a number of years, the House and Senate repeatedly rejected substitute proposals that would have allowed State parties to use unlimited soft money donations for these activities. However, what was settled by Congress was reopened by the Federal Election Commission. Through a series of amendments that defied the statutory language, legislative intent, its own precedents, and simple common sense, the Commission opened the door for the use of unlimited soft money donations by State parties for certain activities that clearly and significantly affect Federal elections. As such, the Commission preserved the status quo of the soft money system in a number of respects—clearly contrary to Congress's overriding purpose in enacting this law.

The statute does not permit State parties to use unregulated, unlimited soft money donations to finance ''voter registration activity'' within 120 days of a regularly scheduled Federal election and ''get-out-the-vote activity'' conducted in connection with an election in which a Federal candidate appears on the ballot. State parties must use exclusively hard money, or a tightly controlled mix of hard money and limited, regulated non-Federal donations, if no Federal candidate is mentioned, to pay for these activities. The Federal Election Commission, however, permitted State parties to use unregulated soft money for these activities, by adopting unjustifiably narrow definitions of the terms ''voter registration activity'' and ''get-out-the-vote activity.''

The draft final rules prepared by the Commission's general counsel had appropriately defined ''voter registration activity'' and ''get-out-the-vote activity'' to include not merely ''to assist'' individuals to vote or register to vote but also ''to encourage'' them to do so, consistent with Commission precedent.

For instance, elsewhere in title 11 of the Code of Federal Regulations, specifically, in 11 CFR 100.133, the Commission uses the heading ''voter registration and get-out-the-vote activities,'' to describe ''activity designed to encourage individuals to vote or to register to vote''. However, on a four-to-two vote, the Commission overrode its general counsel and deleted the concept of ''encouraging'' people to register to vote or to vote from the definitions of ''voter registration activity'' and ''get-out-the-vote activity.''

This amendment departs from not only Commission precedent but also common sense. Under the amendment, a State party phone bank targeted at the party's core voters, urging them to ''get out and vote this November'' because of key issues at stake, but not mentioning the location of a polling place or offering transportation assistance, would not constitute ''get-out-the-vote activity'', and thus could be financed in part with unregulated, unlimited soft money. This is an absurd result, contradicting common understandings of what constitutes ''get-out-the-vote activity'' and perpetuating certain aspects of the current soft money system. By failing to include all ''get-out-the-vote activity'' and ''voter registration activity'' in its definitions of those terms, the Commission violated the statute.

The Commission also failed to include all ''voter identification'' activity in its regulatory definition of that term, violating the statute and undermining its prohibition on the use of unregulated soft money by State parties for such activity. The draft final rules prepared by the Commission's general counsel had included ''obtaining voter lists'' in the definition of ''voter identification.'' However, a Commissioner offered an amendment to delete voter list acquisition from this definition, even though this is a commonly understood component of voter identification activity. A lawyer from the Commission's general counsel's office pointed out the problem with this amendment, noting during the rulemaking:

> In particular, I would note that the [definition of voter identification proposed in the amendment] excludes—and I know, by design—list acquisition, which is a key means of identifying voters and, therefore, seemed to us to be voter ID. And also a very significant part—component of campaign spending.

Nonetheless, the Commission adopted the amendment by a four-to-two vote, allowing State parties to continue their current practice of using unregulated, unlimited soft money donations to help acquire voter lists employed to identify likely voters in upcoming elections in which a Federal candidate appears on the ballot.

As part of its mission to permit the continuation of aspects of the soft money system at the State level, the Commission also constricted the meaning of ''generic campaign activity'' from that provided in the statute. The Bipartisan Campaign Reform Act prohibits State parties from financing ''generic campaign activity'' with unregulated, unlimited soft money donations. It proceeds to specifically define ''generic campaign activity'' as ''campaign activity that promotes a political party and does not promote a candidate or non-Federal candidate''.

While the statutory definition covers ''campaign activity,'' the Commission adopted, again on a four-to-two vote, an amendment limiting the corresponding regulatory definition to a ''public communication that promotes a political party and does not promote a candidate or non-Federal candidate.'' Notably, ''public communication'' is defined elsewhere in the statute and regulations to include only ''a communication by means of any broadcast, cable, or satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing, or telephone bank to the general public, or any other form of general public political advertising.'' Thus, the Commission overrode the statute to permit State parties to use unregulated, unlimited soft money donations to send party promotion mailings that do not constitute ''mass mailings'' and to engage in other party promotion activities that do not rise to the level of a ''public communication'' as specifically defined in the statute and regulations.

The Bipartisan Campaign Reform Act specifies that its restrictions on State party use of unregulated soft money for get-out-the-vote activity, voter identification, and generic campaign activity apply when these activities are ''conducted in connection with an election in which a Federal candidate appears on the ballot.''

For purposes of this rulemaking, the Federal Election Commission adopted an artificially and unrealistically short time window for designating State party get-out-the-vote activity, voter identification, and generic campaign activity as having been ''conducted in connection with an election in which a Federal candidate appears on the ballot'' and thus subject to the new law's soft money limits. The Commission ultimately decided that these activities fell under the statutory standard only if they occurred after ''the date of the earliest filing deadline for access to the primary election ballot for Federal candidates as determined by State law'' up until election day of an even-numbered year. As the Commission's professional staff pointed out during the rulemaking proceedings, this filing deadline can occur as late as in August in certain States.

At the very least, it is difficult to reach the conclusion that State party voter identification and generic campaign activities conducted at any point in even-numbered years are somehow not ''conducted in connection with an election in which a Federal candidate appears on the ballot.'' Federal candidates will be on the ballot in regularly scheduled primary and general elections that occur in those years. Indeed, that conclusion is a departure from relevant Commission precedent.

In determining when a hard money match has been required for State party generic voter drives, the Commission has long indicated that State party generic voter drive expenses incurred as early as the beginning of a 2-year election cycle, e.g., January of 1995, for the 1995–96 cycle, required partial hard money financing. The result of the Commission's arbitrary and incorrect interpretation of the statute and departure from its precedent in this instance is that State parties will be able to use unlimited soft money to help finance certain generic party promotion activity and activities to identify likely voters occurring in at least the same year, and sometimes considerably proximate to, Federal elections.

In conclusion, the cumulative effect of these provisions is to resurrect significant aspects of the current soft money system at the State level, directly contrary to statutory text and legislative intent. State parties will be able to use unregulated, unlimited soft money donations to help finance targeted, effective get-out-the-vote activity closely proximate to Federal elections, the purchase of voter lists for voter identification purposes, generic party promotion activity occurring in Federal election years, and other activities directly and substantially affecting Federal elections. Furthermore, under other Federal Election Commission regulations shrinking the statute, these unregulated soft money donations could be secured for State parties by national parties and Federal candidates and officeholders.

Because of the Commission's truncated definition of ''to solicit,'' national parties and Federal candidates and officeholders could ''recommend'' or ''suggest'' that donors write large soft money checks to State parties for use on get-out-the-vote drives and other activities on Federal elections. Indeed, Federal candidates could also take advantage of the ''total carve-out'' invented by the Commission for soft money solicitations at State party fundraisers, in order to expressly ask donors to contribute unregulated soft money to State parties. Acting together, the Commission's various departures from the statute would perpetuate many of the State party practices that have undermined public confidence in our political system and that Congress sought to eliminate.

The previously cited examples are not the only instances in which the Commission departed from the statute and legislative intent. For instance:

> The Commission allowed State parties to spend certain non-Federal funds to raise funds ultimately used, in whole or in part, to finance ''Federal election activity.'' This directly violates the statutory language indicating that State parties must use funds ''subject to the limitations, prohibitions, and reporting requirements of this Act'' (i.e., hard money) to pay the costs of raising funds

used for ''Federal election activity.'' A section-by-section summary of the bill included in the Senate Congressional Record on March 18, 2002 underscores the statutory hard money financing requirement in this area: ''Sec. 323(c). Fundraising Costs. Requires national, state, and local parties to use hard money to raise money that will be used on federal election activities, as defined by the bill'' (emphasis added).

The Commission even rolled back certain state party hard money financing requirements applicable prior to the enactment of the Bipartisan Campaign Reform Act. Previously, state parties had to use at least some hard money to finance the salaries of state party employees spending less than 25 percent of their time on federal election activity. An amendment by one Commissioner eliminated that hard money allocation requirement, allowing state parties to finance those salaries exclusively with soft money.

The Commission allowed state parties to use unregulated soft money donations to help finance Internet websites and widely distributed e-mails promoting or attacking clearly identified federal candidates. In doing so, they disregarded the statute's prohibition on state parties' using any soft money for ''general public political advertising'' promoting or attacking federal candidates. In fact, this decision departed from Commission precedent—as the agency had previously construed the term ''general public political advertising'' to include Internet communications.

The Commission failed to include the concept of ''apparent authority'' in its definition of who constitutes a party or candidate ''agent'' for purposes of the Bipartisan Campaign Reform Act, even though it acknowledged that apparent authority is included in the settled common law meaning of the term ''agent.''

Even this is not a complete list of the problems created by the Commission. However, the list is sufficient to demonstrate a pattern of statutory distortion with a common theme: allowing soft money banned by Congress to creep back into our campaign finance system.

The agency that created soft money is clearly intent on saving it. A number of Commissioners have made no secret of their dislike for the policy choices made by Congress in enacting the Bipartisan Campaign Reform Act. They are entitled to their opinions about the merits of the law. But they are not entitled to substitute their opinions for the judgment of Congress. This pattern of statutory distortion and contradiction of legislative intent—always with the result of reintroducing soft money to the system—suggests that four Commissioners did not grasp the limits on their authority, or care much about them.

With the enactment of the Bipartisan Campaign Reform Act, Congress honored the American people's desire for cleaner elections. Though I wish it were not necessary, it appears that we must act again to ensure the public obtains the full benefits of this law. A Federal Election Commission that has failed the public time and time again should not enjoy the last word on the health of our democracy. So I urge support for this resolution—to reclaim for Congress its role as the author of our Nation's laws; and to deliver the full campaign finance reform that the American people deserve.

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

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

S.J. RES. 48

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress disapproves the rule submitted by the Federal Election Commission relating to Prohibited and Excessive Contributions: Non-Federal Funds or Soft Money, published at 67 Fed. Reg. 49063 (2002), and such rule shall have no force or effect.

Mr. FEINGOLD. Mr. President, I join with the Senator from Arizona in introducing a disapproval joint resolution pursuant to the Congressional Review Act, ''CRA''. An identical joint resolution is being introduced in the House of Representatives by supporters of campaign finance reform in that body. If passed by the Senate and the House and signed by the President, this resolution would result in the disapproval of regulations issued by the Federal Election Commission to implement the core provision of the McCain-Feingold/Shays-Meehan campaign finance reform bill, the ban on soft money.

We are taking this step, reluctantly, because the rules transmitted to Congress are not faithful to the letter and the spirit of the bill that we passed, and the President signed, just a few months ago. That bill was necessary because rulings over a period of years by the FEC had created the soft money system. We cannot stand by while the same regulatory body thwarts the efforts of this Congress, and the strong desire of the American people, to end that corrupt system of financing campaigns in this country. We must send a clear message that we meant what we said when we passed campaign finance reform earlier this year.

No unelected body can be permitted to rewrite the law. No group of appointed officials can be permitted to punch loopholes in a law before the ink is even dry on the President's signature. The role of the FEC is to implement and enforce the laws that Congress passes, not to pass judgment on them and revise them according to the Commissioners' own views of the way that campaigns should be financed in this country.

As my colleagues are aware, section 402(c) of the new law required the FEC to promulgate rules relating to Title I of the new law, the ban on soft money, within 90 days of enactment of the law on March 27, 2002. The FEC worked diligently to meet that statutory deadline. It published proposed rules on May 20, 2002, received comments from interested parties on May 29, 2002, held public hearings on June 4 and June 5, 2002, and completed work on the rules themselves on June 25, 2002. Incidentally, Senator MCCAIN and I and Representatives SHAYS and MEEHAN filed extensive comments on the proposed rules. So the FEC had before it our views on the issues covered by the rules when it made its decisions.

Let me first take a moment to outline a few of the deficiencies in the FEC's rules, and then I will discuss our decision to invoke the Congressional Review Act. One of the central provisions of the McCain-Feingold bill was a prohibition of Federal candidates and officeholders soliciting soft money. The President and members of Congress are now intimately involved in their parties' fundraising efforts. They spend hours at a time making phone calls to corporate CEOs and labor leaders asking for contributions of hundreds of thousands of dollars. One member of this body commented to me after making one of those calls that he felt like taking a shower. The White House coffees from 1996 and other ''donor service'' events were part of this soft money system.

This kind of fundraising demeans this body, it demeans the Presidency, it demeans public service. We knew if we were going to end the soft money system, we had to call a halt to members of Congress raising these kinds of unlimited contributions.

The FEC took it upon itself to define the term ''solicit'' in our statute. The General Counsel's office sensibly suggested a definition that to ''solicit'' means to ''request, suggest, or recommend'' that a contribution be made. The Commissioners decided that definition was too broad so they amended the General Counsel's definition and said that solicit only means to ''ask'' for a contribution.

There can be no question that our intent in this law was to broadly prohibit the involvement of Federal candidates and officeholders in the raising of soft money. The FEC's definition narrows that provision. As the Commission's General Counsel said, ''it doesn't take great cleverness'' to figure out ways to request a donation without formally asking for one. The bank on Federal officeholders raising soft money is plainly compromised by this narrow definition. It is contrary to the clear intent of the Act.

In our prohibition of soft money fundraising, we included a narrow exception to permit federal officeholders to ''attend, speak, or be a featured guest at'' at a fundraiser for a State political party committee. The idea behind this exception was to allow Federal candidates to be part of such fundraisers, even if the State party was using the event to raise money that might not be legal under federal law. We did not intend that Federal candidates should be allowed to expressly solicit soft money contributions at such fundraisers.

So what did the FEC do with this exception? In the words of one Commissioner, it created a ''rules free zone'' at these events. Absolutely nothing is now out of bounds at any event deemed

to be a State party fundraiser, members of Congress can not only attend and speak at a fundraiser, they can individually solicit corporate CEOs in attendance, they might even be able to make phone calls to other donors from such fundraisers. Anyone who would have suggested on this floor that the intent of the narrow exception in the bill was to create a ''rules free zone'' would have been laughed out of town. But that is exactly what the FEC did.

The FEC also laid the groundwork for the national parties to transfer their soft money operations to other entities before the law takes effect. This was clearly not permitted by the law we passed. The soft money ban applies not only to the parties but to any entity ''directly or indirectly established, financed, maintained, or controlled'' by the party or any party official. The idea here, as you can tell by the broad language was to make sure that ban was difficult to evade.

The FEC went right to work on this language. It determined that any action taken before the bill becomes effective cannot be considered in deciding whether an entity is established, financed, maintained, or controlled by the parties. Under this regulation, the parties can create shell entities this year, provide seed money and staff and donor lists for them, and inform all their soft money donors that this new entity is their favored recipient for soft money after the election. But under the FEC's rules, none of those facts can even be considered in deciding whether this entity is ''established'' by the party, and therefore subject to the ban on raising and spending soft money.

This is a strained reading of the law, to say the least. One Commissioner said with respect to the actions of the FEC's majority on these rules: ''You have so tortured this law, it's beyond silly.'' This is clearly a prime example. How can an entity such as the one I described not be considered to have been ''established'' by the party? Yet that will be the result of the ''grandfathering'' that the FEC included in the regulations, a provision that is nowhere reflected in the law itself, and that was simply made up by the FEC out of whole cloth.

There are many other examples of torturing this law, and we will detail all of them when we consider the resolution. I think it is clear that these problems go to the heart of the soft money ban. They are not just quibbles. They undermine the central provisions of the new law. That is why we are seeking to invoke the Congressional Review Act. Some may call that a draconian step because the CRA requires us to overturn the entire regulation. But in our view, such action is appropriate. No rules are better than rules that create huge loopholes from the very start.

Furthermore, it is our view that the FEC would remain under an obligation to promulgate new rules and that new rules that address the shortcomings that we identify in this debate will be permitted under the CRA because they will not be ''substantially the same'' as the regulations that we disapprove with this resolution. The CRA would give the FEC a full year from the date of enactment of the disapproval resolution to repromulgate the rules. But we expect that the FEC will act expeditiously in response to a clear message from Congress that these rules are unsatisfactory. Indeed, the regulated community will demand quick action, because it will want the guidance that regulations provide. Otherwise, it will be required to abide by a statute without the more specific guidance provided by regulations.

We take no pleasure in having to follow this course. But we worked for seven years to pass this reform for the American people. Sixty Senators voted in favor of the bill when it finally passed the Senate on March 20, 2002. We cannot turn our backs on the extralegal action of the FEC. We must act to protect the reform that so many fought so hard for so long to enact.

When we passed the McCain-Feingold bill in March, I indicated that we would continue to work for reform and to make sure that the new law was properly implemented. I really did not expect to be back on the floor so soon. But I make no apologies for it. The FEC's rules cannot stand. I ask for my colleagues support for this disapproval resolution.

By Mr. AKAKA (for himself, Mr. INOUYE, Mr. KENNEDY, Mr. REED, Ms. MIKULSKI, Mr. WELLSTONE, Mr. JEFFORDS, Mr. EDWARDS, Mr. BINGAMAN, Mr. DODD, Mrs. CLINTON, Mr. LIEBERMAN, Mr. KERRY, Mr. TORRICELLI, and Mrs. BOXER):

S.J. Res. 49. A joint resolution recognizing the contributions of Pasty Takemoto Mink; to the Committee on Health, Education, Labor, and Pensions.

Mr. AKAKA. Mr. President, I rise to introduce a resolution passed last night in the other body, along with my colleagues Senators INOUYE, KENNEDY, and others, which continues our tribute to Congresswoman Pasty Takemoto Mink in the wake of her untimely passing on September 28, 2002. The resolution honors a remarkable woman and her accomplishments for equal opportunity and education by renaming after her a provision in law commonly known as Title IX that consists of few words but has had incomprehensible and tremendous positive impact on the lives of countless numbers of girls and women in our country. With our combined action, Title IX of the Education Amendments of 1972 will now be known as the Pasty Takemoto Mink Equal Opportunity in Education Act.

As we honor our colleague, we can also recount some of the milestones in the 30-year history of Title IX and the efforts to establish standards of equal opportunity of women. The progress we as a Nation have made in 30 years has been remarkable, and we have Patsy and a few of her visionary colleagues to thank for the equal opportunities our children enjoy today. In 1970, the U.S. House of Representatives Committee on Education and Labor held the first Congressional hearings on sex discrimination in education. At those hearings, Patsy made the following statement, ''Discrimination against women in education is one of the most insidious forms of prejudice extant in our nation. Few people realize the extent to which our society is denied full use of our human resources because of this type of discrimination. Most large colleges and universities in the United States routinely impose quotas by sex on the admission of students. Fewer women are admitted than men, and those few women allowed to pursue higher education must have attained exceptional intellectual standing to win admission.'' She went on to state, ''Our nation can no longer afford this system which demoralizes and demeans half of the population and deprives them of the means to participate fully in our society as equal citizens. Lacking the contribution which women are capable of making to human betterment, our nation is the loser so long as this discrimination is allowed to continue.''

In April, 1972, Congresswoman Mink introduced the Women's Education Act of 1972. On the day of introduction, on the floor of the other body, she said, ''We need the input of every individual to continue the progress we enjoy. All persons, regardless of their sex, must have enough opportunities open so that they can contribute as much to their lives and this society as they can.'' She further noted that, ''it is essential to the existence of our country that sincere and realistic attention to there realignment of our attitudes and educational priorities be made. I suggest that education is the first place to start in a reexamination of our national goals.''

On June 23, 1972, Congresswoman Mink, working with Congresswoman Edith Green of Oregon and others on the then Education and Labor Committee, saw their efforts on an important education package come top fruition as the Education Amendments of 1972 were signed into law. Title IX was included in that package. Final regulations for Title IX were issued on June 4, 1975. On June 17, 1997, President Clinton announced that he issued an executive memo directing all appropriate federal agencies to review their Title IX obligation and report their findings within 90 days to the Attorney General. In all, although the reach of Title IX has been felt the most in the athletics arena, the landmark statutes about gender roles in our society and helped to correct inequalities in areas such as educational attainment by women, educator pay, and the wide range of extracurricular activities enjoyed by female students of all ages. Much of this

would not have been possible, were it not for the immense vision and determination of Patsy Mink.

Last Friday, I attended a most fitting and moving memorial service for Patsy in Honolulu, Hawaii. I joined the senior Senator from Hawaii and many dignitaries from the other body, as well as many of Hawaii's other distinguished elected officials and thousands of Hawaii residents, in attendance to pay tribute to Patsy Mink. Among the eloquent speakers, University of Hawaii Assistant Athletics Director Marilyn Moniz-Kahoohanohano called herself, ''a living example of Mrs. Mink's vision of quality for women.'' Marilyn recounted how she had just graduated from high school after the passage of Title IX, and the University of Hawaii formed the Rainbow Wahine athletic teams. She recalled, with joy, how she and her team placed second for the national volleyball title and took pictures with Patsy on the steps of the Capitol. Marilyn's powerful words on Friday range true for many female athletes in Hawaii and around the country, as she said, ''Because of you, we can play the game.''

I urge the Senate to act quickly on this resolution to honor the groundbreaking efforts of Congresswoman Patsy Takemoto Mink on behalf of countless girls and women of America. Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

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

S.J. RES. 49

Whereas Patsy Takemoto Mink was one of the Nation's leading voices for women's rights, civil rights, and working families and was devoted to raising living standards and providing economic and educational opportunity to all Americans;

Whereas Patsy Takemoto Mink was a passionate and persistent fighter against economic and social injustices in Hawaii and across the Nation;

Whereas Patsy Takemoto Mink was one of the first women of color to win national office in 1964 and opened doors of opportunity to millions of women and people of color across the Nation;

Whereas Patsy Takemoto Mink had unprecedented legislative accomplishments on issues affecting women's health, children, students, and working families; and

Whereas Patsy Takemoto Mink's heroic, visionary, and tireless leadership to win the landmark passage of title IX of the Education Amendments of 1972 opened doors to women's academic and athletic achievements and redefined what is possible for a generation of women and for future generations of the Nation's daughters: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PATSY TAKEMOTO MINK EQUAL OPPORTUNITY IN EDUCATION ACT.

Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) is amended by adding at the end the following:

''SEC. 910. SHORT TITLE.

''This title may be cited as the 'Patsy Takemoto Mink Equal Opportunity in Education Act'.''.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 336—URGING THE INTERNATIONAL COMMUNITY TO REJECT A BOYCOTT OF ISRAELI ACADEMIC AND CULTURAL INSTITUTIONS

Mr. CORZINE submitted the following resolution; which was referred to the Committee on Foreign Relations.

Whereas a campaign is underway by elements of the international academic community to limit cultural and scientific collaboration between foreign universities and academics and their counterparts in Israel;

Whereas a number of European academics have signed petitions calling upon the national governments of Europe, the European Union, and the European Science Foundation to sever contacts with Israeli academics, as well as issue a moratorium on grants to Israeli research centers and cultural institutions;

Whereas the Association of University Teachers and NATFHE, unions that represent professors and researchers employed by research centers and universities in the United Kingdom, have passed resolutions supporting academic boycotts of Israel;

Whereas several institutions of higher education, such as the University of Lille in France, have refused to cooperate with Israeli Universities;

Whereas invitations requesting Israeli researchers to address academic assemblies have been rescinded because of anti-Israel sentiment;

Whereas Israeli scholars, including Gideon Toury and Miriam Shlesinger, have been dismissed from their positions on the editorial boards of academic journals solely because of their affiliation with Israeli institutions;

Whereas because of its location in Israel, the Goldyne Savad Institute in Jerusalem was denied scientific materials needed to develop effective treatments for anemic Palestinian children by a Norwegian school of veterinary medicine;

Whereas a campaign to limit academic ties between the United States and Israel is emerging, as demonstrated by a petition calling for an American academic boycott of Israel circulated by Mazin Qumsiyeh, a Yale University professor;

Whereas counter campaigns to oppose an academic boycott of Israel have gathered significant support in several countries, including France, Poland, the United Kingdom, Germany, Australia, and the United States;

Whereas Philippe Busquin, the Commissioner for Research for the European Union, issued a statement on April 23, 2002, maintaining that ''the European Commission is not in favour of a policy of sanctions against the parties to the conflict but rather advocates a continuous dialogue with them which is the best way to bring them back to negotiations'';

Whereas an open letter written by Paul Scham and Eva Illouz, academics associated with Hebrew University in Jerusalem, asserts that ''the call to boycott Israeli academics shows unpardonable ignorance of the role played by scientists, intellectuals, and artists in challenging the political consensus and in creating the public debate that rages in Israel at all times, including now'';

Whereas an editorial in the May 2, 2002, issue of the respected British scientific journal Nature states that, ''Israel is a research powerhouse that, given an eventual improvement of relations with its neighbors, could rejuvenate science and development in the region through collaboration and training. Rather than signing boycotts, which will achieve nothing, researchers worldwide can help the peace process concretely by actively initiating more. . . collaborations and encouraging their institutions to do the same.'';

Whereas foreign-funded research projects intended to foster cooperation between Israelis, Palestinians, and Arab academics in various disciplines including water resource management, desalinization, and cancer treatment, have continued despite current events;

Whereas Article 19, section 2, of the United Nations Covenant on Civil and Political Rights states that, ''Everyone shall have the right to. . . receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice'';

Whereas any attempts to stifle intellectual freedom through the imposition of an academic boycott is counterproductive since research and academic exchange provide an essential bridge between otherwise disconnected cultures and countries; and

Whereas stifling scientific and cultural exchange would limit the substantial contributions the international academic community makes to humanity: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the international scholarly community, the European Union, and individual governments, should reject, or continue to reject, calls for an academic boycott of Israel and reaffirm their commitment to academic freedom and cultural and scientific international exchange;

(2) the worldwide educational establishment should reverse actions taken to impede academic collaboration and free intellectual expression with Israeli intellectuals and institutions; and

(3) the United States and the American scholarly community should continue to actively support efforts to increase academic cooperation and encourage cultural and scientific exchange between the United States and Israel.

Mr. CORZINE. Mr. President, I rise today to submit a resolution calling on the world community to reject, or continue to reject, calls for an academic boycott of Israel and reaffirm its commitment to academic freedom and cultural and scientific exchange. This legislation also calls on the international educational establishment to reverse any actions it has taken in support of an academic boycott of Israel, and on the U.S. to support efforts to increase academic cooperation and encourage cultural and scientific exchange between the United States and Israel

In recent months I have been troubled by reports that a movement is brewing to limit contact between European Governments, institutions, and academics, with their counterparts in Israel. Petition drives are underway in Europe and elsewhere to encourage decision-makers and scholars to academically isolate Israel as a way of expressing dissatisfaction with Israeli policies regarding the Palestinian population.

Campaigns in support of an academic boycott are as counterproductive as they are unjustified. They breed intolerance, disrupt important scientific inquiries, and undermine efforts towards