LEGISLATIVE TRANSPARENCY AND ACCOUNTABILITY ACT OF 2007—Continued

The PRESIDING OFFICER. Under the previous order, there will be 30 minutes of debate with the Senator from Connecticut, Mr. LIEBERMAN, and the Senator from Maine, Ms. COLLINS, to be recognized for 15 minutes each.

The Senator from Utah is recognized.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. COLLINS. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

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

Ms. COLLINS. Madam President, I know the order provides for Senator LIEBERMAN to go first, followed by myself. Since Senator LIEBERMAN has not yet arrived on the floor, I ask unanimous consent that I be permitted to begin. When Senator LIEBERMAN arrives on the floor, I will yield to him and then reclaim my time.

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

Ms. COLLINS. Madam President, today the Senate once again considers significant legislation to reform ethical practices and lobbying practices. Any sense of deja vu among my colleagues is understandable, for the bill before us, S. 1, is identical to the bill passed by the Senate by a vote of 90 to 8 in March of last year. That bill was the bipartisan product of the Senate Committee on Homeland Security and Governmental Affairs and the Senate Committee on Rules and Administration. Because it never became law and because the issues that it addressed have only grown more troubling, the bill stands before us reincarnated but still very much needed.

The recent elections took place in the shadow of far too many revelations of questionable or even downright illegal conduct by Members of Congress. In reaction to those scandals, the American people sent a clear message to Congress that they had lost confidence in their Government. You may ask, Why does it matter? Why does it matter if the American people have confidence in their Government officials? It matters because without the trust of the American people, we cannot tackle the major issues facing this country. As long as our constituents are convinced that the decisions we are making are tainted by special influences or undue influence, then we simply cannot accomplish the work of this Nation.

I think it is appropriate that the first bill that is brought before this Chamber to be debated and considered is one that would reform the lobbying and ethics rules to increase disclosure and to ban practices that might be called into question or create an appearance of wrongdoing. We need to assure the American people that the decisions we make are decisions of integrity, in which their interests are put first.

It is important to remember that the conduct of most Members of Congress and their staffs is beyond reproach. I believe the vast majority of people serving in the House and the Senate are here for the right reason. They are here because they care deeply about their country and they want to contribute to the formulation of public policy they believe will improve the lives of the American people.

The same can be said for the conduct of most lobbyists. In fact, lobbying—whether done on behalf of the business community, an environmental organization, a children's advocacy group, or any other cause—can often provide Members of Congress with useful information and analysis. That information and analysis aids but does not dictate the decisionmaking process.

Unfortunately, today the word ''lobbying'' too often conjures up images of expensive paid vacations masquerading as fact-finding trips, special access the average citizen can never have, and undue influence that leads to tainted decisions. We cannot underestimate the corrosive effect this perception has on the public's confidence in the legislative process.

One of the most important functions of the bill before us is to increase transparency, make it evident what is going on, how our decisions are made. As Justice Oliver Wendell Holmes once noted, ''Sunlight is the best disinfectant.'' That, indeed, is the premise of this bill. It calls for greatly increased disclosure. It provides, for example, for a searchable, accessible public database where information on lobbying contacts and filings will be maintained and disclosed. It requires far more detailed disclosure of lobbyist activities in more frequent filings under the Lobbying Disclosure Act, and it ensures that this information is made readily available to the public via the Internet. The knowledge that the public will be able to scrutinize in detail the activities of a lobbying firm and contacts between Members and lobbyists will help to provide much needed transparency in this whole area. In addition, the enhanced disclosures will allow citizens to decide for themselves what is acceptable and what is not.

This bill also contains some needed reforms of earmarks. Too many times an earmark—the designation of taxpayer dollars for a specific purpose—has been included in the final version of an appropriations bill, or another bill, despite the fact that it was never discussed or debated in either the Senate or the House. By requiring that any earmarks in legislation disclose the name of the Member of Congress who proposed the earmark and also requiring an explanation of the essential governmental purpose of the earmark, and by making this information available on the Internet, this legislation will shed sunlight on the source of and the reason for earmarks and allow them to be fairly evaluated.

I go through a very rigorous process when I decide to press for earmarks. I make sure there is community support, I review them in depth, and I am going to be very comfortable having my name attached to earmarks that I propose. In fact, I hope then that will help my constituents know I am working very hard for a project with which I agree.

It is not the process of earmarks per se that is a problem. The problem is when earmarks are sneaked into the final version of legislation without public debate, without a vote, without any consideration, and no one is sure where the earmark came from, who sponsored it or, in some cases, even who the beneficiary is going to be. That is the problem. That is what this bill would cure.

The enhanced disclosure in this legislation not only applies to the activities of lobbyists but to our own activities as well. I am pleased this legislation takes steps to eliminate the practice of anonymous holds on Senate legislation. This occurs when a Member notifies the cloakroom that he or she wishes to block a piece of legislation from coming to the floor and yet does so anonymously. I can tell you as someone who has had to deal with anonymous holds time and again, it is very frustrating when you can't find out who is holding up your legislation, why they are holding it up, and you cannot begin to resolve whatever the problems are. The hallmark of this body should be free and open debate. A process that allows a secret hold to kill a bill without a word of debate on the Senate floor is contrary to that principle.

The bill also includes some important provisions to slow the so-called revolving door problem, where Members of Congress and high-ranking staff leave their jobs in the Senate or the House one day and then turn around and lobby the institution they once served. Once again, the limitations in this bill get to the heart of the image problem here and help to ensure the integrity of our decisions.

Many of our former colleagues have become lobbyists. There is nothing wrong with that. But there should be a cooling-off period before they come back.

I notice my colleague from Connecticut has now arrived on the floor. Through the Chair, I ask my colleague if he wants me to finish my statement or if he wants to do his now, since he was first in the queue?

Mr. LIEBERMAN. Madam President, to my friend from Maine, it is an expression of the partnership we have had over the years on the committee that the hearing in our committee went until 2 o'clock so Senator COLLINS was able to get here before I was. If she will please finish her statement and I will go after her.

Ms. COLLINS. I thank my colleague from Connecticut.

I am also very pleased to join Senators REID, MCCONNELL, FEINSTEIN, LIEBERMAN, and BENNETT in cosponsoring a bipartisan substitute amendment that will be laid down this afternoon. This substitute amendment will further strengthen the legislation we have before us. I thank all of my colleagues for working together to achieve this goal.

Nevertheless, I make clear, while I strongly support the legislation before the Senate as well as the substitute, the legislation could be further strengthened in a very important way.

Last year, Senators LIEBERMAN, MCCAIN and I proposed an Office of Public Integrity. That concept is also included in another bill that was sponsored this year by Senators MCCAIN, LIEBERMAN, FEINGOLD, and myself. I anticipate Senator LIEBERMAN, Senator MCCAIN, Senator FEINGOLD, and I will be offering this proposal during the course of this debate.

I will debate that issue later at the appropriate time, but right now let me say any true comprehensive reform of our lobbying and ethics rules should include an independent investigatory body. The American people view the way we investigate ethics violations as an inherently conflicted process. Think about it—and I know the Presiding Officer has a law enforcement background—we are our own advisers, our own investigators, our own prosecutors, our own judges, our own juries. We play every role.

As good a job as a Member of the Ethics Committee in the Senate has done in overseeing the conduct of Members and their staff, it remains difficult, if not impossible, to guarantee the system works in a way that gives the public confidence that there is an impartial, thorough review of allegations against Members of Congress when we are fulfilling every role in the process.

Now, I respect and understand the constitutional requirement that Members of Congress sit in judgment of one another and our proposal does not change. The Office of Public Integrity would bring the results of its investigation to the Ethics Committee, which would then decide whether to proceed further, whether there is an actual violation, and what kind of remedy, if any, is necessary. That is an important provision. I look forward to working with the Senator from Connecticut, the Senator from Wisconsin, and the Senator from Arizona in that area.

We need also to make sure we stop having trips that are paid vacations. However, we don't want to interfere with true fact-finding trips. Those are generally useful to our work. We are close to working out the right balance in that area.

I look forward to passing effective legislation that will help to restore the public's confidence in the Senate. By scheduling this bill first on our agenda we have recognized the importance of these issues to the American people. We need to act without delay to help restore their faith in how we do business.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 15 minutes.

Mr. LIEBERMAN. Madam President, I thank my colleague and friend from Maine, Senator COLLINS, for her excellent statement and for her work as she led the committee, which produced a significant part of the bill before the Senate. I will speak about it and put it in a larger context.

We all know that the trust that people have in Congress is at a low point. I don't know that it is a historic low point, but it is a lot lower than anyone wants it to be, both for the national interest and out of a sense of pride we have in the service we attempt to give.

The reasons for the low level of public trust and confidence in Members of Congress and, more to the point, in Congress as an institution are more than one. One of the significant reasons for the low level of confidence in Congress is the partisanship that has divided this institution and, too often, made it impossible to do anything for the people who sent us here, who gave us the privilege of coming here to serve them. Partisanship is one part of the lack of esteem and trust the public has in us.

A second part is the public's doubt about the ethics of Members of Congress and the process we have for judging our ethics. Scandal after scandal unfolded last year. The public was left with the impression that the self-interest of lawmakers and lobbyists too often triumphed over the national good and the national interests. That is not true, but that was certainly the impression made by some of the awful exposures and scandals that were uncovered and by the prosecution of Members and lobbyists.

Unless we take action to restore the public's trust in us—that central confidence between those who are privileged to govern and those who, if you will, are governed—we will not be able to do the things we need to do to take on and to respond, in a constructive way, to the challenges we have before the Senate, including a new strategy for Iraq, a momentous decision that will affect our national security to be kicked off, if you will, redirected, by the statement that the President will make to the Nation tomorrow night; fighting the war on terrorism, reducing the deficit, doing something to fix our health care system, which is broken; improving our public system of education which, for still does not offer an equal opportunity to too many of our children; taking stress off the middle class which is the heart and soul of our country. All of those things will not happen in a good way unless we can rebuild the public's trust in us.

It involves less partisanship, a better self-policing of ethics—and I will come to that in a minute—but also doing some of the things I have talked about, responding to some of the problems, taking advantage of some of these opportunities that will restore the relationship between the people of the United States and those who serve them in the Congress.

And so much of law—we legislate the law—as someone taught me years ago, is the way we express our values, the way we express our aspirations for ourselves as a society, the rights and wrongs, what we hope we will be, is apparent in the system by which we legislate ourselves and those who lobby us. But the reality is that the best system for doing that is our own ethical norms, which most of us, of course, have; that, ultimately, we have to self-police ourselves by not trifling with and demeaning the extraordinary opportunity to serve that our constituents have given us.

Now we come to S. 1. I truly commend our new majority leader, Senator REID, for introducing an ethics and lobbying reform bill as S. 1 and scheduling it as the very first legislative item of business for the Senate in this 110th Congress. I will give a little background to how we got here, particularly legislatively how we got here.

In January of last year, I was privileged to join Senator MCCAIN in cosponsoring a sweeping lobbying reform bill that he crafted following his and Senator DORGAN's courageous investigation into the scandal surrounding the lobbyist Jack Abramoff. Senator FEINGOLD and Senator REID also introduced comprehensive bills that added many constructive, progressive ideas to the debate.

Senator COLLINS seized the moment as Chairman of the Homeland Security and Governmental Affairs Committee, and by early March of last year, our committee reported, with near unanimous bipartisan support, the most significant piece of lobbying reform legislation to come before Congress in over a decade. In the Rules Committee, Senators LOTT and DODD worked together to mark up a tough set of reforms to the Senate ethics rules. Senators FEINSTEIN and BENNETT, as the incoming and ranking members of that committee, have picked up the baton of reform where their predecessors left off.

As a result of a truly bipartisan effort last year, the Senate combined provisions reported out of the two committees—Homeland Security and Rules—and passed the legislation overwhelmingly by a vote of 90 to 8. Unfortunately, the House did not pursue the same course. It passed a weak bill on a mostly partisan vote and the House and Senate never moved to conference.

Now, we begin the new year with a fresh chance to finish old business and clean up our House and Senate for tomorrow. Last year's Senate-passed bill is the text of S. 1 before the Senate now, a set of reforms that would bring greater honesty and transparency to the way we do business in Washington.

This year, we should go beyond last year's proposals, as Senator COLLINS

said, and enact even stronger reforms because the demand and need is greater. Our legislation should go further to include an independent Office of Public Integrity.

What we start with today in S. 1 is a very strong statement that the 110th Congress will put the public interest over special interest.

I will spend a few moments describing the provisions of S. 1 that were reported out of our Homeland Security and Governmental Affairs Committee in March of last year, dealing primarily with the Lobbying Disclosure Act which comes before our committee under the rules.

The Lobbying Disclosure Act was passed in 1995, more than a decade ago. Since then, the number of lobbyists has skyrocketed. Last year, 6,554 lobbying firms or organizations, not individuals—firms or organizations—registered to lobby. That is almost double the 3,554 registrants in 1996, the first full year of reporting under the Lobbying Disclosure Act. The Office of Public Records received a total of 46,835 lobbying reports last year which represents a tremendous amount of activity. The amount of money spent each year on lobbying has skyrocketed, as well. Here we make estimates that put the number well over $2 billion a year for lobbying.

Now, to state the obvious, but the obvious often needs to be stated, lobbying Congress is not an evil thing to do. Being a lobbyist is not a dishonorable profession. In fact, lobbying Congress is a constitutionally protected right. The first amendment protects the right of all people to petition the Government for redress of grievances. Therefore, we have to be respectful when we legislate in this area. But it is entirely consistent with the first amendment right, and, of course, essential to our Government to provide ethics and transparency for lobbying practices.

First and foremost, are the politicians. In S. 1, we bring the Lobbying Disclosure Act into the age of the Internet by requiring electronic filing and creating a public-searchable database on the Internet, making the information as accessible as a click of the mouse to everyone interested.

We bring greater transparency to the relationship between lawmakers and lobbyists by expanding the types of activities lobbyists must disclose, including their campaign contributions, the fundraisers they host for Federal candidates, travel arranged for Members of Congress, payments to events to honor Members of Congress, and contributions to entities such as charities that are established by, for or controlled by a Member. We would get more timely disclosure from lobbyists by requiring them to submit filings on a quarterly, rather than a semiannual, basis.

S. 1 would also close a major loophole in the Lobbying Disclosure Act by requiring lobbyists, for the first time, to disclose paid efforts to generate grassroots lobbying.

Our former colleague, the late and really great Lloyd Bentsen, a Senator from Texas, once described this kind of grassroots lobbying as ''Astroturf lobbying.'' Why? Because it generates manufactured, artificial rather than real, self-grown, grassroots pressures on Congress.

As it stands now, the Lobbying Disclosure Act requires disclosure only by lobbyists directly in contact with Members. S. 1 would require disclosure of the identity of organizers of media campaigns, mass mailings, phone banks, and other large-scale efforts encouraging the public to contact Members of Congress about specific issues. This is important because it would provide the American people, Members of Congress, ourselves, and the media with a better understanding of whose money is financing which efforts to influence Congress. This bill calls for transparency, but puts no limits on activity.

We would also remove the cloak obscuring so-called stealth lobbying campaigns which occur when a group of individuals, companies, unions, or associations ban together to form a lobbying coalition. These coalitions frequently have innocent-sounding names that give the impression they are promoting positive mom-and-pop, apple pie goals. But, in fact, they lobby on a range of issues that could never be identified by the name of the coalition.

S. 1 would also toughen the enforcement provisions under the Lobbying Disclosure Act by doubling to $100,000 the civil penalty that a lobbyist is subject to for violations of the law's requirements. And, for the first time, this proposal would forbid a lobbyist from providing gifts or travel to a Member of Congress in violation of House or Senate rules.

We would slow the revolving door between Congress and K Street by doubling from 1 to 2 years the so-called cooling off period for former Members of Congress, during which time they would face lobbying restrictions.

In total, the provisions of S. 1, I believe, provide a strong foundation for reform. Can this bill be improved? Of course it can. And I believe it will in the amendment process that will come before this Chamber on S. 1.

The majority leader, I know, is working to craft a comprehensive substitute bill that will go even further toward tightening earmark disclosure and revolving-door rules. I am confident that, through the amendment process, we will emerge with a bill that is even stronger than the good bill we passed last year.

A final word. In my opinion, significant changes to our ethics rules must be accompanied by significant changes to the way we enforce those rules. The public is understandably skeptical about a system in which we investigate, consider, and pass final judgments on allegations of ethical responsibility. They have seen too many Members, in the last few years particularly, caught up in scandal. In order to win the public's confidence, and, frankly, to do what is right to demonstrate our seriousness in this effort, I believe it is time, this year, to create an independent, investigative, and enforcement Office of Public Integrity. That would in no way usurp the ultimate authority of the Senate Ethics Committee, under rules consistent with the Constitution to be the final arbiter of questions about the ethics of Members of the Senate.

Mr. President, in closing, I would say this: We have an opportunity to begin anew—a fresh start at rebuilding the bonds of trust that have been broken between the Congress and the American people because of the unethical behavior of a few Members of this great institution.

S. 1 is the beginning, and a strong beginning, of what I believe will be an even stronger ending to accomplishing that critically important goal.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Madam President, is S. 1 now before the Senate?

The PRESIDING OFFICER. Yes.

AMENDMENT NO. 3

Mr. REID. Madam President, I send an amendment to the desk in the form of a substitute.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for himself, Mr. MCCONNELL, Mrs. FEINSTEIN, Mr. BENNETT, Mr. LIEBERMAN, and Ms. COLLINS, proposes an amendment numbered 3.

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

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

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

Mr. REID. Madam President, I am very happy the Senate has now begun debate on S. 1. It is a strong, bipartisan package of ethics reforms and will help reassure the American people that we answer to them.

The matter now before the Senate, S. 1, without the substitute I have offered, would be the most significant changes in ethics and lobbying reform since Watergate. So if we do nothing else other than adopt the Reid-McConnell S. 1, we should feel very good about what we are able to accomplish in this body.

I repeat, if we accomplish nothing else, the legislation now before this body will be the most significant, important change in ethics and lobbying rules for about three decades. So without any question, S. 1 is a good start.

But we should even do better, and that is what the substitute I sent to the desk on my behalf and that of Senator MCCONNELL will do. It will even do better for the American people.

For those who are watching this debate in the Senate and are expecting

real, meaningful results, that is what is going to happen. I think the American people for sure are not interested in quick fixes or window dressing or a few public relations moves. They want bold changes. They want us to fundamentally alter the way business is done in the Nation's Capital and to ensure that the people's interests—not the special interests—come first in the Halls of Congress.

So today Senator MCCONNELL and I introduced S. 1. And now I have offered on our behalf—Senators MCCONNELL and REID—a substitute amendment designed to make the Senate's ethics legislation even stronger.

First of all, I want the RECORD spread with my appreciation and the acknowledgment of the bipartisan effort of the Republican leader. I think it speaks volumes that the two of us are here before this body asking our Members to support two very fine pieces of legislation, S. 1 and now the substitute amendment. We are asking our Members to join with us.

As I indicated earlier—and I repeat for the third time—if we do nothing other than pass S. 1, tremendous changes in the way we do business in Washington will occur. But now, to add to that, is the bipartisan substitute which will make that even stronger. So I cannot say enough publicly or privately in the way of extending my appreciation to the Republican leader for working with me.

And we worked together on this issue. Our staffs have worked together on this for weeks—weeks. And we did not finalize what we were going to do until today as the Senate convened. The Republican leader suggested to me: Here are some things I think we should do. Here are some things we should not do. What do you think?

I said: I will think about it. I have thought about it. He was right. I acknowledged that he was right and called him a short time later and indicated that to be the case.

What are a few of the highlights of the Reid-McConnell substitute amendment?

First, the substitute will place new prohibitions and disclosure requirements on lawmakers and senior staff when they seek private sector employment. The underlying bill slowed the revolving door between top Government jobs and lucrative private sector employment, but the substitute amendment will do even more to reduce the undue influence that results from the revolving door.

Second, the Reid-McConnell substitute will eliminate dead of night changes to conference reports. Once a conference report has been signed, it will be completely impermissible to change it.

What is this all about? We have had so many instances in recent years where the conference is closed, and sure enough, we come to the Senate floor and the conference report includes matters that were put in the bill after the conference had been closed. That is wrong. That will no longer be possible. What we do with conference reports will have to be done in a public fashion.

Also, you will note this legislation does things other than what has been done on a bipartisan basis with Reid and McConnell. For example, one of the finest relationships we have in this body is between Democrat KENT CONRAD and Republican JUDD GREGG. They are both experts with the Government's money. They work together as much as they can, in a bipartisan fashion, and I think it is better than any two budget people have worked together since we have had a budget process in the Senate.

The substitute includes a reform proposal by the chairman and ranking member of the Budget Committee, Senators CONRAD and GREGG, requiring that conference reports be accompanied by a CBO score. We need to restore fiscal discipline and reduce the large deficits that have developed over the past several years.

In the past we have had conference reports that have had matters included with no ability for Senators to determine how much it was going to cost. Just put these in there and, we were told: Well, the CBO did not have time to do it. It is the end of the session. It is a big bill. They do not have the time to do it.

They are going to have to have the time to do it now or it will not be done. That matter will not be in unless we have a score from the Congressional Budget Office.

There are a number of other things in this substitute. I will not mention them all. But the substitute amendment will strengthen the provision in the underlying bill requiring disclosure of earmarks.

The American public should be concerned about earmarks. Now, I am not opposed to earmarks. They have been in appropriations bills since we have been a country. They have just gotten way, way out of hand. Thousands of them. And it has not shined a good light on our Congress.

In recent years, we have seen lawmakers—working on behalf of lobbyists—insert anonymous earmarks, costing taxpayers millions and millions of dollars, into legislation at the last minute. In these instances, the earmarking process has been subject to abuses that we must all work together to bring to an end.

I have been a Member of the Appropriations Committee for two decades, and there is not a single earmark I have ever put in a bill that I would be afraid to put my name on. And that is in effect what we are asking: if an earmark has merit, a Senator should be willing to stand by it publicly. That is why, under this bill, if a Member of Congress wants to direct taxpayer funds to a specific need—they have a right to do that, and I believe an obligation to do that—if a Member of Congress wants to direct taxpayer funds to a specific need that they believe is important to their State or to this country, they will be required to attach their name to that in the light of day. That is appropriate.

Now, the substitute that Senator MCCONNELL and I have offered to the Senate has more than that. But that is a rough outline of what we have.

Madam President, I ask for the yeas and nays on the substitute amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 4 TO AMENDMENT NO. 3

(Purpose: To strengthen the gift and travel bans.)

Mr. REID. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for himself, Mr. DURBIN, and Mr. SALAZAR, proposes an amendment numbered 4 to amendment No. 3.

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

Mr. REID. Madam President, my presence on this floor relating to this bill is about to come to an end. I would hope that when I finish my brief statement Senators will come and participate in the debate dealing with S. 1, the substitute Senator MCCONNELL and I offered, and this amendment, and then whatever other amendments.

I have indicated there will be an open process here, and I want Senators to feel comfortable that they have the opportunity to offer amendments. I will say, I think we should move forward as quickly as possible. I would very much like to finish this bill next week and have every intention to do so. In fact, everyone should be aware of and alerted to the fact that we are going to finish the bill next week, even if it goes past Friday at 12 o'clock.

We need to finish this legislation. Next week is a short week because of Dr. King's holiday. So we need to work on this legislation. We do not have a lot of time just to wait around and have a lot of quorum calls.

Last November, the American people called for bold changes in the way Washington does business. In the Senate, we have made answering this call for change our first priority, S. 1.

Senator MCCONNELL and I have joined with S. 1, and Democrats and Republicans together introduced a sweeping package of ethics reforms as our first item of legislation. And today, as I have indicated, Senator MCCONNELL and I have made the bill even stronger.

I would like to go even further. That is what this one, final amendment I have offered does. My second-degree amendment contains three major provisions.

First, it strengthens the gift ban in the underlying bill. Whereas S. 1 bans

gifts from lobbyists to Members of Congress and staff, this amendment would go one step further and ban gifts from companies and other organizations that even employ or retain lobbyists.

Two, this amendment strengthens the travel ban in the underlying bill. Whereas S. 1 bans travel paid for by lobbyists, this amendment will go further and ban—with some commonsense exceptions—travel paid for by companies and other organizations that employ or retain lobbyists.

Finally, this Reid amendment will include a very significant reform about which there has been much discussion in recent days.

This amendment will require Members of the Senate to pay the full charter fare if they wish to travel on private airplanes. If a Senator needs to fly on a private airplane for any purpose, he or she should be required to pay the full cost of that trip, not a discounted one. These reforms are not aimed at any particular lawmakers. I have traveled on private airplanes a lot over the years. These reforms are not directed to any particular lawmaker or any political party. We have all done it over the years, with some exception. They are designed to remove even the appearance of impropriety from this Congress.

What we in this body have to do is not only do away with what is wrong but what appears to be wrong. And to the American public, flying around on these aircraft appears to be wrong. I hope it hasn't changed any votes. I am confident it has not. But we want to do away with what even appears to be wrong.

I repeat, this particular reform is not aimed at any particular lawmaker, any particular political party, any particular campaign committee. It is designed to remove even the appearance of impropriety from Members of this body and send a strong signal to the American public that their elected representatives are not unduly influenced by meals, travel, and gifts that lobbyists and large corporations are willing to lavish. We all remember the scandals making headlines across America a year ago. The newspapers were filled with the stories of lawmakers being flown around the world for rounds of golf, corrupt lobbyists bilking their clients for millions of dollars, and of top congressional staff being wined and dined and treated to sporting events by special interests trying to influence their bosses. These stories have a corrosive effect on the great institution in which we all serve. We must make sure they are never repeated by reassuring the American people that legislation can't be traded and that their leaders can't be bought.

I look forward to a spirited debate on these amendments and eventual passage of this bill. Together we must do all we can to restore the faith of the American people in their Government. We need to answer the people's call for change. If an earmark has merit, a lawmaker should be willing to stand by it publicly. If a person wants to fly on an airplane, it should be under the rules that apply to most everybody else in the country.

These are significant proposals of change. They are for the good of the institution. I hope the vast majority of the Senate will support the amendment offered by Senator MCCONNELL and this Senator and also the amendment I offered by myself.

The PRESIDING OFFICER. The majority whip is recognized.

Mr. DURBIN. Madam President, I commend my colleague, Senator REID, the majority leader. I was happy to join in cosponsoring not only the Reid-McConnell substitute but also the Reid amendment that has just been offered. What we are attempting to do is restore the confidence of the American public in Congress. We have a lot of work to do. The sad and troubling events of the last several years which have involved investigations, prosecutions, and convictions of so many on Capitol Hill and those who work nearby are a grim reminder that there are people who will try to exploit this system.

I echo the sentiments of the Senator from Maine, Ms. COLLINS, when she said that the overwhelming majority of the Members of the House and Senate, both political parties, are honest, hardworking people. I have spent many years working with my colleagues in the Senate as well as in the House. I do believe they understand that public service is not supposed to be an avenue to wealth; it is supposed to be an opportunity to serve. If you want to get rich, don't run for office. That is the basic rule which all of us understand. Those who fail to understand it unfortunately tarnish the reputation of Congress and those others who serve honorably.

We are attempting through this effort, which Senator FEINSTEIN and Senator BENNETT are leading on the floor, to make changes in the rules of the Senate and the procedures of the Senate so we can start to restore the confidence of the American people in this institution. It is fitting and proper that this is the first bill we consider. This is the first thing we should do. Everything else should follow after we have addressed this important ethical concern.

I wish to say a word about earmarks because there has been a lot said. Some believe—even the President, in a recent Wall Street Journal article—that earmarks are the root of the real problem on Capitol Hill. I don't agree with the President. I think as long as earmarks in appropriations spending bills are fully transparent, clearly for a public purpose, they are a good thing.

I have been involved in the Appropriations Committees in both the House and Senate, trying to bring back a fair share of funds to my home State of Illinois through the earmark process. Where some may try to squirrel away or secret away an earmark in a bill, I view it much differently. It is usually a race to the press release to take credit for things we have included in the bill because I take great pride in the effort we have made. This legislation addresses the earmark process. It will add transparency and accountability to it and, in so doing, allow us to return to the earmarks and appropriations bills with pride, understanding we have improved that process overall.

The last point I would like to make is that those who would take bribes in public life are clearly criminal. They have violated the law. They should be prosecuted and convicted for that bribery and corruption. We are attempting now to limit the contacts between those who have an interest in legislation and those of us who vote on legislation to make sure that relationship is more professional, less personal, and that there is more disclosure on both sides in terms of that relationship.

I would like to say for a moment that it doesn't get to the heart of the issue. The heart of the issue is not whether any Member of Congress is going to take money or a lavish gift or trip. That happens so rarely. But there is something built into our political system that really has to be debated, that goes to the real heart of this issue; that is, the way we finance our campaigns as elected officials.

Unless you are one of the fortunate few—so wealthy that you can finance your own campaign and never ask for a contribution—most of us spend a good part of our public lives asking for donations. We go to every one we see, from those of modest means who give us small checks to the richest people in America who write much larger checks. It is almost an imperative if you are not wealthy, if you want to finance a campaign, to find millions of dollars to buy the television and radio time to deliver your message in your State. If we really want to get to the heart of restoring the confidence of the American people in our Government, we have to go to the heart of the problem—the way we finance political campaigns.

For many years on Capitol Hill, I resisted the notion of public financing of campaigns. I had some pretty good arguments against it. Why do I want to see public moneys or taxpayer dollars going to crazy candidates representing outlandish causes who have no business in this political process? Well, those arguments held up for a while, but over time I came to understand that while I was arguing against that lunatic fringe in American politics, I was creating a trap for everyone else who was honest and trying to raise enough money to wage an effective campaign.

The time has come for real change. In this last election cycle, which the Presiding Officer knows full well, more money was spent in that off-year election than in the previous Presidential election year. The amount of money

going into our political process is growing geometrically. It means that more and more special interest groups and individuals with an agenda are pouring dollars into the political process. It means that our poor, unsuspecting voters are the victims of these driveby ads that come at them night and day for months before a campaign. It means that candidates, both incumbents and challengers, spend month after weary month on the telephone begging for money.

It is no surprise that the same people we are begging money for are the people who are the subject of this ethics legislation—the lobbyists of the special interest groups. We live in this parallel world.

Today, with the passage of this underlying legislation, we will ban a lobbyist buying me lunch. Tomorrow that same lobbyist can have me over for lunch at his lobbying firm to provide campaign funds for my reelection campaign, and it is perfectly legal. What is the difference? From the viewpoint of the person standing on the street looking through the window, there is none. It is the same lobbyist and the same Member of Congress. The fact that one is a political campaign fundraising event and another is a personal lunch is a distinction which will be lost on most of America.

The reason I raise this is I will support these ethics reforms. They are absolutely essential. They are the product of the scandals we have seen on Capitol Hill in the last several years. But if we stop there, if we do nothing about the financing of our political campaigns, we have still left a trap out there for honest people serving in Congress to fall into as they try to raise money for their political campaigns. In a few weeks I will be introducing public financing legislation to try to move us to a place where some States have already gone—the States of Arizona, for example, and Maine—moving toward clean campaigns, understanding that the voters are so hungry for changes and reforms that will shorten campaigns, make them more substantive, take the special interest money out of those campaigns, make them a real forum and debate of ideas and not a contest of fundraising. Sadly, that is what they have become in many instances.

I urge my colleagues in their zeal for reform not to believe that the passage of S. 1 and its amendments will be the end of the debate. I hope it will only be the beginning and that we can move, even in this session of Congress, to meaningful hearings and the passage of public financing of campaigns that will truly reform the way we elect men and women to office at the Federal level and restore respect to this great institution of the U.S. Congress, both the House and the Senate.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. OBAMA. Madam President, in November, the American people sent a clear message to their representatives in Washington. After a year in which too many scandals revealed the influence special interests have in this town, the American people told us that we better clean up our act, and we better do it fast.

But it would be a mistake if we conclude this message was intended for just one party or one politician. After all, the votes hadn't even been counted in the last election before we started hearing reports that corporations were already recruiting lobbyists with Democratic connections to carry their water in the next Congress. This is why it is not enough to just change the players; we have to change the game.

Americans put their faith in us this time around because they want us to restore their faith in Government, and that means more than window dressing when it comes to ethics reform.

I was hopeful that last year's scandals would have made it obvious to us that we need meaningful ethics legislation, but last year, despite some good efforts on this side of the aisle, the bill we ended up with, I thought, was too weak. It left too many loopholes, and it did too little to enforce the rules. It was a lost opportunity. It would not have restored the people's faith in Congress, and in that end I had no choice but to vote against it.

I don't want that to happen this time. Fortunately, the substitute amendment the majority leader, HARRY REID, has offered today brings us close to the bill that will achieve his stated goal, and that is to pass the most significant ethics and lobbying reform since Watergate. We owe the American people real reform, and if we work hard this week and next, we will get it done.

This time out, we must stop any and all practices that would lead a responsible person to believe a public servant has become indebted to a lobbyist. That means a full gift and meal ban. That means prohibiting lobbyist-funded travel that is more about playing golf than learning policy. And that means closing the revolving door to ensure that Capitol Hill service, whether as a Member of Congress or as a staffer, isn't all about lining up a high-paying lobbying job. We should not tolerate a committee chairman shepherding the Medicare prescription drug bill through Congress at the same time he is negotiating a job with the pharmaceutical industry to be their top lobbyist.

The substitute bill offered by Majority Leader REID contains many of these reforms. I thank him for working with Senator FEINGOLD and me in crafting this package. But in two important respects, I think we still need to go further.

First, we need to go further with respect to enforcement. I will save my remarks on this subject for a later time, but I fully support the creation of an office of public integrity, as Senators LIEBERMAN and COLLINS have proposed. It is similar to the independent ethics commission I proposed last February. Regardless of what approach we adopt, we have to take politics out of the initial factfinding phase of ethics investigations, and we have to ensure sufficient transparency in the findings of those investigations so the American people can have confidence that Congress can police itself.

The second area in which we need to go further is corporate jets. Myself and Senator FEINGOLD introduced a comprehensive ethics bill that, among other things, would close the loopholes that allow for subsidized travel on corporate jets. Today, I am very pleased to see the majority leader has offered an amendment that would serve the same purpose. I fully support him in his effort.

Let me point out that I fully understand the appeal of corporate jets. Like many of my colleagues, I traveled a good deal recently from Illinois to Washington, from Chicago to downstate, from fundraisers to political events for candidates all across the country. I realize finding a commercial flight that gets you home in time to tuck in the kids at the end of a long day can be extremely difficult. This is simply an unfortunate reality that goes along with our jobs.

Yet we have to realize these corporate jets don't simply provide a welcome convenience for us; they provide undue access for the lobbyists and corporations that offer them. These companies don't just fly us around out of the goodness of their hearts. Most of the time we have lobbyists riding along with us so they can make their company's case for a particular bill or a particular vote.

It would be one thing if Congressmen and Senators paid the full rate for these flights, but we don't. We get a discount—a big discount. Right now a flight on a corporate jet usually costs us the equivalent of a first-class ticket on a commercial airplane. But if we paid the real price, the full charter rate would cost us thousands upon thousands of dollars more.

In a recent USA Today story about use of corporate jets, it was reported that over the course of 3 days in November 2005, BellSouth's jet carried six Senators and their wives to various Republican and Democratic fundraising events in the Southeast. If they had paid the full charter rate, it would have cost the Democratic and Republican campaign committees more than $40,000. But because of the corporate jet perk, it only cost a little more than $8,000.

There is going to be a lot of talk in the coming days about how important

it is to ban free meals and fancy gifts, and I couldn't agree more, but if we are going to go ahead and call a $50 lunch unethical, I can't see why we wouldn't do the same for the $32,000 that BellSouth is offering in the form of airplane discounts. That is why I applaud Senator REID on his amendment to require Members to pay the full charter rate for the use of corporate jets.

As I said, I understand that for many Members, these jets are an issue of convenience. They allow us to get home to our constituents, to our families, and to the events that are often necessary for our jobs. But in November, the American people told us very clearly they are tired of the influence special interest wields over the legislative process. The vast majority of Americans can't afford to buy cheap rides on corporate jets. They don't get to sit with us on 3-hour flights and talk about the heating bills they can't pay, or the health care costs that keep rising, or the taxes they can't afford, or their concerns about college tuition. They can't buy our attention, and they shouldn't have to. And the corporation lobbyists shouldn't be able to either. That is why we need to end this corporate jet perk if we are to pass real, meaningful ethics reform.

The truth is, we cannot change the way Washington works unless we first change the way Congress works. On November 7, voters gave us the chance to do this, but if we miss this opportunity to clean up our act and restore this country's faith in Government, the American people might not give us another opportunity.

I urge my colleagues to support both the substitute amendment and the Reid amendment to close the corporate jet loophole. I ask unanimous consent that I be added as a cosponsor to the Reid-McConnell amendment No. 3 and Reid amendment No. 4.

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

Mr. OBAMA. I thank the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. Madam President, there are some Senators here who want to offer an amendment. I simply want to make a brief response to my friend from Illinois and his comments about corporate jets.

I have seen firsthand exactly what he is talking about, where a corporate jet picks you up, takes you to a fairly remote location, and it is not only well stocked with food and drink but with experts who will fill you in on what it is they want you to know.

There is another side of it, however. As the Senate knows, I am unburdened with a legal education, but there is one phrase that comes out of the legal profession and I think applies here, which is: Hard cases make bad law. I am speaking now for the most senior Republican who will very much speak for himself on this issue, but I think in this context it is appropriate to insert these remarks.

In the State of Alaska, the only way one can get to 70 percent of the population locations in Alaska is by air. I suppose one could get there by dogsled, but as a practical matter, the only way you get there is by air.

That being the case, there are planes flying all over Alaska every day, and virtually all of them are owned by corporations.

The corporate executive is flying from Anchorage to point A or from Juneau to point B, or whatever, and says to the Senator: I am going there; can I give you a ride? There is no charter rate for these kinds of activities. Some of the planes are pretty small. But this is the only way you can get around in that State.

A Senator said this morning in our breakfast meeting: In my State, I can get to every location in the State in less than an hour by automobile. I have been in the State of Delaware. It is hard to stay in the State of Delaware by automobile. But if you go to some of the large States of the West—Alaska being obviously the largest—and an absolute, firm ban on any kind of flight on corporate jets unless you are paying commercial hourly rates for the charter is to say to the Senators of Alaska: You cannot travel around your State; you can't communicate.

Utah is a smaller State than Alaska. I don't take flights around Utah very often. I spend a lot of time in the car. From one end of the State to the other, it takes about 4 hours by car. Sometimes it is easier to do that than try to deal with the hassle of getting in and out of airports, and many of the places I go don't have airports. But I would hope, as we have this debate about corporate jets, that we do not think solely in terms of Halliburton's corporate jet with a single Senator surrounded by lobbyists, and we recognize at the other end of the spectrum there are circumstances that require—indeed, common sense dictates—the use of corporate jets fully reported, paid for in an intelligent way that will allow us to not take a single case and apply it to every situation.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Madam President, I regret the Senator from Illinois left the floor because I thought I might ask a question of him. But he has left the floor. I see a Senator on the other side ready to speak, so I will defer at this time.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. VITTER. Madam President, I have looked forward to joining this debate. I compliment those leaders who had the foresight to bring this very important issue to the floor of the Senate at the very beginning of this new Congress.

I worked with many Senators on both sides of the aisle last year. We had a bipartisan working group very focused on ethics and lobbying reform. We tried to push forward some bold, significant proposals.

In the end, I was rather disappointed, quite frankly, with the final product as it left the Senate floor. But I am very hopeful that we will produce a stronger, bolder final product now in this new Senate this month, particularly having listened to the voters and their very clear statements on the issue in the last election.

AMENDMENT NO. 5 TO AMENDMENT NO. 3

Mr. VITTER. Madam President, in that regard, I will send up three amendments to the desk and I ask that they be considered. I call up the first of those three amendments and I will explain it. I ask that the pending amendment be set aside for that purpose.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. VITTER] proposes an amendment numbered 5 to amendment No. 3.

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

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

The amendment is as follows:

(Purpose: To modify the application of the Federal Election Campaign Act of 1971 to Indian tribes)

At the appropriate place, insert the following:

SEC. _____. APPLICATION OF FECA TO INDIAN TRIBES.

(a) CONTRIBUTIONS AND EXPENDITURES BY CORPORATIONS.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following:

''(d) TREATMENT OF INDIAN TRIBES AS CORPORATIONS.—

''(1) IN GENERAL.—In this section, the term 'corporation' includes an unincorporated Indian tribe.

''(2) TREATMENT OF MEMBERS AS STOCKHOLDERS.—In applying this subsection, a member of an unincorporated Indian tribe shall be treated in the same manner as a stockholder of a corporation.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to any election that occurs after December 31, 2007.

Mr. VITTER. Madam President, this amendment is very simple. It attacks what is a very significant loophole in current campaign finance law, and that is a big and gaping loophole with regard to Indian tribes. As you know, under Federal campaign finance law, entities such as corporations, labor unions, et cetera, can participate in the Federal political process, but they need to do that, in terms of contributions and finances, through PACs, through political action committees. That is not true with regard to Indian tribes. Indian tribes, unlike every other entity, unlike corporations, unlike labor unions, unlike every entity under the Sun, can give money directly from their tribal revenues—including, of course, their biggest source of revenue right now, which is gambling revenue. So they can take that significant

source of money and use that directly, through the leadership vote of the tribe, to give money to political candidates.

In addition, there is another part of this big loophole, and that is that some of the cumulative giving limits that apply to every other entity out there—corporations, labor unions, et cetera—do not apply to Indian tribes. Again, this is a very glaring loophole under present Federal campaign finance law. I do not think there is any good rationale or argument under the Sun to retain it.

I strongly urge all of my colleagues, Democrats and Republicans, to take a good, hard look at this and vote for and support this very simple amendment which simply closes that loophole.

We may have some Member stand on the Senate floor and say: It may be a good idea, but we need to put it off. We are going to look at campaign finance later. We need to talk about this later in a different context.

I strongly disagree. When we think about the events of the last year, when we think about the debate, the national concern about corruption and cronyism, certainly there are big stories having to do with Indian tribes at the center of this. Some of the worst abusers of those situations were not the tribal members nor the tribal leadership themselves, but certainly it involved Indian tribes, and certainly the enormous amount of money available to the tribes because of gambling revenue was at the heart of those very bad situations.

I think we need to address this now. We need to hit it dead on. It is very much part of the stories and concerns we have heard about over the last year or two. Again, this is very simple, straightforward and very fair—which is to treat Indian tribes exactly as we treat other entities, such as corporations, such as labor unions, et cetera. Certainly allow them to participate in the political process, certainly allow them to fully support candidates of their choice but make them do that through setting up PACs, not simply allow them to spend their gambling revenue or other proceeds directly and in many cases without some of the overall limits that apply to other entities such as corporations.

With that, I will be happy to answer any questions or participate in any debate on the floor. I, also, have two other amendments at the desk. Whenever it is in order, I ask to call up those so we may discuss those as well.

Mrs. FEINSTEIN. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 6 TO AMENDMENT NO. 3

Mr. VITTER. Madam President, I ask unanimous consent to lay aside the pending amendment and call up my second amendment at the desk.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. VITTER] proposes an amendment numbered 6 to amendment No. 3.

Mr. VITTER. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To prohibit authorized committees and leadership PACs from employing the spouse or immediate family members of any candidate or Federal office holder connected to the committee)

At the appropriate place, insert the following:

SEC. _____. PROHIBITION ON EMPLOYMENT OF FAMILY MEMBERS OF A CANDIDATE OR FEDERAL OFFICE HOLDER BY CERTAIN POLITICAL COMMITTEES.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by inserting after section 324 the following new section:

''SEC. 325. PROHIBITION ON EMPLOYMENT OF FAMILY MEMBERS OF A CANDIDATE OR FEDERAL OFFICE HOLDER BY CERTAIN POLITICAL COMMITTEES.

''(a) IN GENERAL.—It shall be unlawful for any authorized committee of a candidate or any other political committee established, maintained, or controlled by a candidate or a person who holds a Federal office to employ—

''(1) the spouse of such candidate or Federal office holder; or

''(2) any immediate family member of such candidate or Federal office holder.

''(b) IMMEDIATE FAMILY MEMBER.—For purposes of subsection (a), the term 'immediate family member' means a son, daughter, stepson, stepdaughter, son-in-law, daughter-in-law, mother, father, stepmother, stepfather, mother-in-law, father-in-law, brother, sister, stepbrother, or stepsister of the Member.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

Mr. VITTER. Madam President, this is a second amendment of a package of amendments I am presenting to the full Senate. As I did with the first amendment, what I would like to do—and I have had discussions with the Chair and ranking member, the participants who are leading the floor debate—is I will briefly explain this amendment. I will certainly be happy to engage in a fuller debate at a later time and have a full vote on this amendment, as with the previous one, at a later time, hopefully, in the next few days.

This amendment, also, directly addresses a situation that has clearly arisen and clearly caused great concern among the American people in the last couple of years. That is family members of Members of Congress, Members of the House, Members of the Senate, making money—being paid, in some cases, very large amounts of money—while being employed by that candidate's PAC. Under present law, it is perfectly legal. It certainly doesn't pass the ''smell'' test in the hearts and minds of many Americans, but it is perfectly legal for a Member's campaign to hire a family member, a spouse, a child, any close family member—to help take care of the business of that PAC and be compensated for it, in some cases, with very significant salaries.

Let me say at the outset, I believe there are ways that could be done properly and ethically. The problem is, as is the case in so many of these questions, that there are also many ways where it can be and is and has been abused, so it basically puts a family member on the payroll of an entity that the Member of the House or the Senate controls. There is no real governing entity that polices the situation. No one knows whether that person shows up for work or for how many hours or how significant that work is. At the end of the day, through that family member, the family enjoys a significant additional income because that Member of the House or Senate is in politics and controls that PAC.

Again, this is not a theoretical problem yet to happen. This is not a solution waiting for a problem. This has been done in real life. This has clearly been abused in the past. It has clearly been a conduit for Members to gain family income through entities they control. I think, because of that abuse, because of the real erosion of public confidence we have seen in Congress because of abuses such as this over the last several years, there is only one sure and clean way to solve the problem and that is to simply have a bright-line test and say: Immediate family members can't get paid by the Member's PAC. We are not going to allow that. You have to hire a nonfamily member for these administrative roles so that no one can abuse the situation and put an immediate family member on the payroll, often at a very significant salary.

Again, my amendment is very simple. It says no immediate family member can be hired by the candidate's campaign or leadership PAC, and it defines immediate family member the same way section 110 of last year's Senate-passed bill defined that term, and that is son, daughter, stepson, stepdaughter, son-in-law, daughter-in-law, mother, father, stepmother, stepfather, mother-in-law, father-in-law, brother, sister, stepbrother or stepsister or spouse. It is straightforward, a bright-line rule. To me it is very clear that is the only way we are going to stop this abuse that has occurred in the past and rebuild the confidence of the American people.

AMENDMENT NO. 7 TO AMENDMENT NO. 3

With that, if it is appropriate, I ask unanimous consent to lay aside that amendment and call up my third amendment at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. VITTER] proposes an amendment numbered 7 to amendment No. 3.

Mr. VITTER. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To amend the Ethics in Government Act of 1978 to establish criminal penalties for knowingly and willfully falsifying or failing to file or report certain information required to be reported under that Act, and for other purposes)

At the appropriate place, insert the following:

SEC. ___. KNOWING AND WILLFUL FALSIFICATION OR FAILURE TO REPORT.

Section 104(a) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

(1) by inserting ''(1)'' after ''(a)'';

(2) in paragraph (1), as so designated, by striking ''$10,000'' and inserting ''$50,000''; and

(3) by adding at the end the following:

''(2)(A) It shall be unlawful for any person to knowingly and willfully falsify, or to knowingly and willingly fails to file or report, any information that such person is required to report under section 102.

''(B) Any person who violates subparagraph (A) shall be fined under title 18, United States Code, imprisoned for not more than 1 year, or both.''

Mr. VITTER. Madam President, this third amendment is also very clear and straightforward. It increases the penalties significantly in cases in which there is not just a mistake on a financial disclosure form but a knowing and willful and purposeful attempt to hide information that the Member knows is supposed to be made public under the law. It increases those penalties on the civil side, and it, also, under the appropriate circumstances, creates criminal penalties for that.

Again, I think this goes to the heart of the erosion of public confidence because of lobbyists and ethics lapses and abuses over the last several years which have clearly involved Members of Congress. Some are in jail now as we speak because of those abuses.

This is a very clear and necessary way to remedy those past abuses and that erosion of public confidence. I think it is very important that these penalties are serious on the civil side and on the criminal side but that they only apply to cases where there is knowing and willful misrepresentation, where there is an active and a clear attempt to hide facts, to not comply with the law. Clerical or other mistakes don't cut it. That is not worthy of these very serious civil and, in some cases, criminal penalties. But a knowing and willful misrepresentation, an active attempt to hide facts from the public that the law clearly mandates be made public, that is a different story. We need a zero tolerance policy for that.

Again, my amendment increases those penalties on the civil side and on the criminal side, and I urge all the Members of the Senate to support this very important amendment to rebuild that credibility of this body and of the House.

In closing, let me say, again, I welcome this activity on the Senate floor. I welcome this debate. I compliment Majority Leader REID and all others who made this decision to put this issue front and center, first, on the Senate floor in the new Senate. I am eager to pass a strong, responsible bill to restore, to build up over time—it will not happen overnight—the confidence of the American people in our institutions.

Since I first came to the Senate, I have worked with various Senators, including a bipartisan working group on these issues, on these proposals last year. But I don't think we went far enough last year. Clearly, we didn't pass a bill through the entire process. But even the bill we passed through the Senate I don't think was strong enough. It did not address some of these crucial areas, including the Indian tribal campaign finance loophole, including the area of abuse where candidates and Members can put family members on the PAC campaign payroll, including making sure we increase civil and criminal penalties for knowing and willful violations.

My amendments will do this, and I urge all of my colleagues to take a good, hard look at them. Tomorrow, I will be introducing two, possibly three, other amendments, and I look forward to debating those as well. I appreciate the helpfulness of the managers. I look forward to coming back to these amendments to call them up for full debate and vote.

I yield my remaining time.

The PRESIDING OFFICER (Mr. Tester). The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, I am happy to see the Senator from Montana presiding.

I am very pleased to speak about ethics and lobbying reform and the bill we will consider over the next week or so.

To start, what a pleasure it is to have a majority here that not only supports reform but recognizes the importance of dealing with this issue immediately in this new Congress. There is no better way to show the American people that things have changed in Washington and will continue to change than by taking up and passing strong ethics and lobbying reforms right away. I thank Majority Leader REID for making a decision to start our work in this new Congress with this issue. This is the right thing to do.

Ethical conduct in Government should not be an aspiration, it should be a given. For too long, the public has had to open the morning papers and read about how Congress is mired in scandal rather than about how we are going to deal with the really tough problems) facing our country. We might wish that rules aren't necessary, but time has proven, over and over again, that they are. And once there are rules, there seem always to be people who want to bend those rules or skate as close to the line as they can. And sometimes they fall or jump over that line. And so the rules need to be revisited and toughened, based on experience.

Just over a year ago, it looked like the Jack Abramoff scandal had finally lit a fuse under the Congress. Soaring promises were made that reform was on the way last year. Bills were introduced, hearings were held, and ultimately both the House and Senate considered legislation on the floor. But there was always a sense that what was going on was just a show. It was clear that many of those in charge wanted to change as little as possible. It seemed like the Republican leaders in the House believed that the public really didn't care about these issues. First they attached major campaign finance reform provisions to the bill the Senate passed, and then they let it die.

We found out on November 7 just how wrong they were. The new faces in this Senate are the direct result of the public's distaste for how the last Congress handled this issue, and many others. So now it is time for real action. And the public will again be watching closely to see how we perform.

We start our work today on S. 1, which is the same bill that the Senate approved last year, by a vote of 90–8. Last year, I was one of the eight. I thought the bill was too weak in some very significant ways. And so today, along with the junior Senators from Illinois and Connecticut, Senators Obama and Lieberman, I have introduced the Lobbying and Ethics Reform Act. This is our attempt to say what we think the Senate's final product should look like when we finish our work on S. 1.

I do not intend to offer this new bill as a complete substitute. Instead, I will seek to I have important provisions of this bill added as amendments to S. 1. I am happy to say that a number of the suggestions that we make in our bill have been accepted by the majority leader. Some are included in his substitute, which is the base bill for this legislation. Some very important additional improvements are included in the Reid first degree amendment. This is a very good start for this debate, to improve the bill right at the outset.

I take a few minutes as we start this debate to talk about some of the most important issues that we must address in this bill. First, we need an airtight lobbyist gift ban. No loopholes, no ambiguity. We took a first step towards banning gifts from lobbyists, including meals, tickets, and everything else, in last year's bill, but we left open a big loophole. If we do nothing else to improve last year's effort, we have to close that loophole.

I am not going to stand here and say that any Senator's vote can be purchased for a free meal or a ticket to a football game. But I don't think anyone can argue that lobbyists are providing these perks out of the goodness

of their hearts, either. At this point, no reform bill is going to be credible unless it contains a strict lobbyist gift ban.

No one has ever explained to me why Members of Congress need to be allowed to accept free meals, tickets, or any other gift from a lobbyist. If you really want to have dinner with a lobbyist, no one is saying that you can't. Just take out your credit card and pay your own way. I can tell my colleagues from personal experience that you will survive just fine under a no-gifts policy. The Wisconsin Legislature has such a policy and I brought it here with me to Washington. I don't go hungry. We need to just stop the practice of eating out at the expense of others. It is not necessary. It looks bad. And it leads to abuses.

I am happy to say that Senator REID agrees that the lobbyist gift ban is not a ban if organizations that retain or employ lobbyists can still give gifts. He is prepared to close the loophole in S. 1 that would allow that to continue. His amendment does that and I support it.

Another important shortcoming of S. 1 is in the area of privately funded travel. That was the issue that leapt to the fore when Jack Abramoff pled guilty just a little over a year ago. Abramoff took Members of Congress on ''fact finding trips'' to Scotland where they went shopping and golfed at St. Andrews. It was a scandal and Members of Congress were falling all over each other in a race to do something about it. But just a few months later, the Senate passed a bill that did almost nothing at all about it.

My staff keeps a file of invitations for fact-finding trips for staff. Here are a few from over the years. A ''legislative issues seminar'' on St. Michaels Island, sponsored by MCI World Com, with dinner at the Inn at Perry Cabin; a trip to Silicon Valley sponsored by the Information Technology Industry Council, with dinner sponsored by the Wine Institute; a ''congressional field trip'' sponsored by GTE to Tampa and Clearwater Beach. The invitation reads:

> To take advantage of the terrific location beside Tampa Bay and the Gulf of Mexico, we'll demonstrate that you can place a cellular call over water, either while dining aboard a boat or fishing for that night's dinner.

These kinds of ''fact finding trips'' paid for by industry groups were left untouched by the bill the Senate passed. That was one of the reasons I voted against the bill.

Fortunately, the new House leadership recognized the need to do something about privately funded travel, even if they weren't prepared to prohibit it entirely. The House passed a rules change on the first day of the session to allow only trips sponsored by groups that don't employ or retain lobbyists. The only trips that groups that lobby can offer are to a one day event—to make a speech, for example. This is a major improvement, especially because lobbyist participation in organizing, arranging, or planning these trips would be strictly limited.

There are many things that could be done about privately funded travel, but at the very least we should not have more lenient travel rules than the House of Representatives. Again, I am pleased that Senator REID supports the House travel rules and I hope we will adopt his amendment that brings us in line with those rules.

When I introduced my lobbying reform bill back in July 2005, it included a provision addressing the abuse of Members flying on corporate jets. At that time, I have to say, it seemed like a fantasy that we would actually pass such a provision. I heard complaint after complaint about it, that we shouldn't do it.

Slowly but surely, many people have come around to where the public is: Corporate jet travel is a real abuse. Sure, it is convenient, but it is based on a fiction—that the fair market value of such a trip is just the cost of a first class ticket. And when that fiction is applied to political travel, it creates a loophole in the ban on corporate contributions that we have had in this country for over a century. Any legislation on corporate jets must include campaign trips as well as official travel because one thing is for certain—the lobbyist for the company that provides the jet is likely to be on the flight, whether it is taking you to see a factory back home or a fundraiser for your campaign.

Our bill does that. It covers all of the possible uses of corporate jets, and amends all of the Senate rules needed to put in place a strong reform, and the Federal election laws as well. From now on, if you want to fly on a corporate jet, you will have to pay the charter rate. And these flights shouldn't be an opportunity for the lobbyist or CEO of the company that owns the jet to have several hours alone with a Senator. Our bill prohibits that as well. This is what the American people have been calling for. There are no loopholes or ambiguities here. Politicians flying on private planes for cheap will be a thing of the past if we can get this provision into the bill. Senator REID's amendment includes a tough corporate jet provision. I am pleased to support that portion of the amendment. This is a big deal, and I commend the majority leader for taking this step.

Another issue on which I hope we will make some improvements in this bill is the revolving door between between Government service and lobbying firms. One of the things that really sticks in the craw of the people back home is the idea that politicians use their government service as a stepping stone to lucrative lobbying careers. And they also believe, rightly in some cases, that former Members who are lobbyists have special access and influence over their former colleagues. We have a criminal statute that prohibits former Senators from lobbying the Congress for a year after they leave office. The same tough provisions apply to top officials in the executive branch.

But experience has shown that these provisions don't really get at the problem. The cooling off period is too short. Our bill doubles it. And the cooling off period has become more of a warming up period for some Members of Congress who move on to work for an organization with interests in legislation. They basically run the lobbying show behind the scenes during the time they can't lobby their colleagues directly.

Is it too much to ask a Member of Congress who leaves office to take a 2-year breather before accepting money from an employer for trying to influence Congress? I don't think so. We are talking here about highly talented and highly employable people. There are so many employers, so many worthy causes, that would benefit from their talents and experience, doing things other than trying to influence legislation. Fortunately, the Lobbying Disclosure Act has a ready made definition of ''lobbying activities'' that is broader than lobbying contacts. Our bill's revolving door provision prohibits Members of Congress from engaging in lobbying activities for 2 years after leaving office, not just lobbying contacts. That would make the revolving door restrictions really mean something.

I believe that is what the public wants—restrictions that mean something, not rules for show, with hidden loopholes and not a system of rules with lax enforcement. That is why our bill includes the Lieberman-Collins proposal for an Office of Public Integrity to investigate ethics complaints and make recommendations to the Ethics Committee on whether to take action. It is certainly time that this proposal receive very serious consideration. We are on the cusp of making some very significant changes to our own rules. Let's not undermine what we are accomplishing by leaving unaddressed the very real need for tough and independent enforcement.

I also believe this bill must go further in addressing earmarks. Senator MCCAIN's bill, which I have cosponsored, includes a provision that would allow the Senate to strip out earmarks for unauthorized spending. This is an important reform and I hope it can be added to the bill.

Thus far, I have talked only about ethics rules, but the bill on the floor contains some very significant improvements to our lobbying disclosure laws as well. The current law, the Lobbying Disclosure Act, which was enacted in 1995, was itself a landmark reform, the first change in nearly 50 years to the original Federal Regulation of Lobbying Act. I was here when the LDA passed, under the leadership of the Senator of Michigan, Mr. LEVIN. It is an important and effective law.

A decade of experience has shown, however, that it has shortcomings. The

bill on the floor includes some important improvements. My bill incorporates those improvements and also adds some—requiring disclosure by lobbyists of the earmarks they try to get for their clients, and requiring lobbyists and lobbying organizations to file separate reports on their political contributions and fundraising. The use of campaign contributions as a lobbying tool is well known in this city and in this Senate. It is time that our lobbying disclosure laws reflected that. And we should cover all of the tools in the lobbyist's work bench, not just direct contributions but the collection or bundling of the contributions of others. Lobbyists wield influence by serving as fundraisers, not just be giving money themselves.

I have high hopes for this debate. After a false start last year, we can get this job done. The House has moved quickly to pass new ethics rules. It is our turn now. And we can lead the way with serious lobbying disclosure reforms. I am looking forward to working with my colleagues on both sides to start this Congress with a real accomplishment. If we do this, the public's confidence in how we tackle the many pressing issues before us will be greatly enhanced. That, in the end, is the best reason to undertake these reforms. They are the foundation on which the rest of our work together stands.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I thank the Chair.

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

Mr. BYRD. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mrs. FEINSTEIN. Mr. President, I ask that Members know that the floor is open, that now is the time, and that hopefully they will file any amendment and come down forthwith and speak to them.

I thank the Chair and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. LEAHY. Mr. President, I ask unanimous consent to speak as in morning business for a few minutes.

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

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

PAY-GO

Mr. GREGG. Mr. President, I wish to speak briefly, not specifically on this bill, although it is related to this bill. I will have an amendment to this bill. Hopefully, I can offer that tomorrow. But since there is a lull in activities, I want to speak briefly on something the House has recently done as part of its 100-hour agenda. It has passed language which is euphemistically referred to as pay-go.

I think it is important to understand what the implications of that language are because it gives definition to the House leadership rather quickly in this whole process of where we are going in the area of fiscal responsibility as a country because what this language essentially does is guarantee tax increases, but it has virtually no impact on spending restraint.

It has been given this motherhood title ''pay-go'' when, in fact, it should be called and more accurately is described as ''tax-go.''

The implications of this language are pretty simple. It says that when a tax cut lapses or comes to the end of its term, that tax cut will be raised back to the original rate. So, for example, we today have a tax rate of 10 percent for low-income individuals. That tax cut was put in place back in the early 2000 period under the President's tax cuts. That tax cut comes to a close from a statutory standpoint—in the sense that the authorization level of the rate terminates in 2010—and that rate will jump back up to the basic rate, which I believe was 15 percent at the time. So there will be a 5-percent tax increase on low-income Americans who pay taxes. That would be people with over $40,000 of income, for all intents and purposes. That is a tax increase.

One would think that type of mechanism would also be applied, if one is going to use a euphemism such as pay-go, to the spending side of the aisle, so when the spending program used up its authorized life—let's take, for example, the farm program—and it reaches the end of its term, as the farm program is about to do, at that point, that program, which is a subsidized program, would have the cost of the original program go back in place or it would be cut back to having no subsidy at all. But that is not the way it works.

Under the proposal, entitlement programs are perceived to go on forever and to spend money forever at whatever the rate is, even if their authorization ends. But tax reductions are perceived to end and tax rates are perceived to go up. You basically treat the two sides of the ledger entirely differently. On one side of the ledger, taxes go up under this ''tax-go'' proposal if there is no change, and on the other side of the ledger, if there is no change, the entitlement spending goes on for that designated program forever without it falling back and being limited. There is no review of it.

The practical implication of this language is that the only thing it affects, when you put in place this so-called pay-go, which is really ''tax-go,'' is the tax side of the ledger. That is the only thing that can be impacted because the entitlement program under the scoring mechanisms of our Government don't lapse, don't end. The spending is perceived to go on. So pay-go cannot apply to it. You cannot review the program. It is only on the tax side that it applies.

The effect of that is this is a mechanism to force a tax increase because what this basically says is without 60 votes, you cannot continue the lower tax rate. But on the entitlement side, you can continue to spend the money not subject to a 60-vote threshold. Those are two different approaches to the two sides of the ledger in the Congress.

So by taking this action in the House and passing this language, they have essentially said it is their goal to dramatically increase taxes, to use the mechanism of alleged pay-go, or ''tax-go,'' to drive major tax increases on the American public.

If you are on the Democratic side of the aisle in the House, or maybe even on the Democratic side in the Senate, that may make sense; you may want to raise taxes. It is the tradition, of course, of the party to like to raise taxes, I guess. That is how they got the title ''tax and spend'' fixed to their nomenclature. But this is rather a brash way to do it; to start right out with the first major enforcement mechanism for budget, supposedly, restraint being a mechanism that doesn't reduce spending at all, doesn't restrain spending at all. All it does is force us to raise taxes or at least be subject to a 60-vote point of order if we want to maintain taxes at their present level.

Some may say: We need to raise taxes; the tax burden in America is not large enough on earning Americans, especially on high-income Americans. I fundamentally disagree. Why? Because when one looks at the present law and what is generated in revenues, we are seeing a dramatic increase in revenues in this country. Revenues have jumped in the last 3 years more than they have jumped in any period in our history. That is because we have in place a tax system which has created an incentive for people to go out and invest and undertake economic activity which has, in turn, generated revenues to the Federal Government.

Historically, the Federal Government revenues have been about 18.2 percent of the gross national product. That is

how much the Federal Government has historically taken out of our economy and spent for the purposes of governance. That is the average.

We are now getting back in tax receipts, because of these large increases over the last 3 years, close to 18.4, 18.5 percent of gross national product, so we have actually gone over what is the historical level of revenues to the Federal Government. We are generating more revenues than the Federal Government historically gets. That is good news.

It has been done in the right way, by the way. We have generated this extra revenue by creating an atmosphere out there where people are willing to invest in taxable activity. We have seen it over the years. In fact, President Kennedy was the first one to appreciate this, followed by President Reagan, and then President Bush. When you get tax levels too high—the American people are creative. We are a market economy with an entrepreneurial spirit, and when you raise taxes too high, people say: I am not going to pay that tax rate. I am going to invest in something that avoids taxes, some highly depreciated something that expenses items like municipal bonds, something that allows me to put my money where I don't have to pay that exorbitant tax rate.

What has happened, however, under the Kennedy tax cut and the Reagan tax cut and the Bush tax cut is when you get taxes at the right level, when you say to the American entrepreneur and American earner: We are going to charge you what is a reasonable tax rate on your investment, then the American people go out and they invest in taxable activity. That taxable activity generates jobs and jobs create growth. It also is a much more efficient way to have money used. You don't have money inefficiently being invested for the purpose of avoiding taxes. Money is instead invested for the purpose of generating activity, which is productive.

As a result, the entire economy rises, as has happened in the last few years, and you generate significant revenues to the Federal Treasury, as has happened in the last few years, and is projected, by the way, to continue—both by the CBO and OMB.

Some will say: Sure, but that doesn't point out the fact that the high-income people in America got a huge tax cut under this tax proposal. Remember, we are generating more revenue from this tax cut, more revenue than we got before. We had a down period. There are going to be a lot of debates about that. My view is it came out of the bubble of the late 1990s and the attack of 9/11 and the initial impact of the tax cut. But that has all been reversed to a point where we now have an economic situation where we are generating more revenues to the Federal Government than we have as an historical norm. So we are getting more revenues from this tax system.

Interestingly enough, the tax system is more progressive. It is the most progressive it has been in history. The American people with incomes in the top 20 percent are paying 85.2 percent of the Federal tax burden. The top 20 percent pay 85 percent of the tax burden. That compares to the Clinton years where the top 20 percent were paying 84 percent. So, actually, the top 20 percent are absorbing more of the tax burden of America, generating more revenues to the Government, and not only that but the bottom 40 percent of American income-earning individuals are getting more back than they did under the Clinton years, almost twice as much.

If you earn less than $40,000 in America, you are receiving more back than you did in the Clinton years because of the fact of the earned-income tax credit—in fact, almost, as I said, twice as much.

We have a law now that is doing two extraordinary things: it is generating huge revenues to the Federal Treasury because of the economic activity it is encouraging—creating jobs, creating investment, creating taxable events—and it has created a more progressive tax system. That is the good news.

So why do we want to raise taxes? Why do we want to go back and raise taxes on that situation? I don't think we should. But if you follow the pay-go proposal that has been brought forward by the House, that is the only option that occurs as these tax policies start to lapse in the year 2010.

I would probably be willing to fight that fight. In fact, I am willing to fight that fight if we treated the spending side of the ledger the same way under pay-go, or under ''tax go,'' as I call it, but we don't. As I mentioned earlier, because of the way the baseline works around here, the spending side of the ledger does not have to be looked at under the pay-go rules. You can continue to spend on those entitlement programs whatever is in their traditional spending patterns, whatever they are, plus increases as a result of more people using them. Granted, you can't create new entitlement programs. Those would be subject to pay-go. And you can't dramatically expand the programs. For example, the Part D premium would have been subject to pay-go—was subject to pay-go. But that is only a small portion of the spending issue. The real essence of the spending issue is the underlying entitlement, as is, of course, the essence of the tax side, the underlying rate.

What you have essentially done is create a mechanism which, because of the way we score spending versus taxes, causes taxes to be subject to a 60-vote point of order but does not cause spending to be subject to the same discipline. So the practical implications of it are that it will basically be used primarily as a force for forcing tax increases on the American people. That is almost automatically, by the way, because in 2010 these taxes that are in place, these tax rate changes, lapse. Under the rules they will be subject to a 60-vote point of order and getting 60 votes around here for a tax cut, as we know, is pretty difficult.

This is the problem with pay-go as it is presently structured. Interestingly enough, the House has also done this in a way that doesn't even go to the traditional pay-go rules, which would involve sequester, as I understand it. They have done this outside the statutory process. They have done it as a rule and therefore the true enforcement mechanism against a new entitlement, to the extent pay-go would apply against a new entitlement, would be sequester.

What is sequester? It essentially says that either you offset the new spending with spending cuts somewhere or else you have an automatic event which does it for you across the board. That is the right way to do this. You should have a sequester. So the failure to get sequester as part of the exercise just once again shows that there isn't a seriousness of purpose in this rule as it was passed by the House relative to spending restraint. There is only a seriousness of purpose relative to making sure that taxes go up. You really can't defend that position unless you are willing to take the position that really what we are interested in is raising taxes because otherwise, to defend that position, you would have to say: Yes, but we didn't want it to apply to entitlement programs that already exist. And even if there is a new entitlement program we didn't want it to apply to that new entitlement program with any enforcement mechanism that might actually require us to cut spending. We will just sort of finesse that one. The only thing we really want this to be required to attach to is whether taxes go up in 2010.

So I do think it is ironic, if not a bit disingenuous, to have one of the first major items of principle upon which the House Democratic leadership is going to stand be that they want a rule that puts in place the requirement that we raise taxes. In my opinion, it shows there maybe is a superficial purpose relative to actually defending and controlling spending.

I have not been one to shrink from pointing out that my side has not done a great job on spending restraint. I have been rather definitive about that. But I do think that it is inappropriate to start this Congress with the statement that we are going to be fiscally disciplined and then claim that fiscal discipline is going to be hung on one rule. And that appears to be the only thing done over there on the issue of, as they say, ''fiscal discipline,'' one rule which as a practical matter has no practical effect on spending restraint. None.

There are ways to correct this. There are ways to make this rule a statute. In fact, the Senator from North Dakota has proposed that. There are ways to make this rule apply appropriately to

restraining entitlements as well as restraining the issue of tax policy, if that is what you want to do. I might be inclined to support such a rule if it were balanced, if it said we are going to be as aggressive on the issue of spending restraint and entitlements as we are going to be aggressive on the issue of defining how taxes are applied, but that is not the case. That is not the case at all.

This is a rule that comes at us, that treats these two accounts differently and inappropriately in the sense that it treats one as apples, one as oranges, and then says we are only going to deal with the apples.

It is not good policy. For some reason, unfortunately, it has managed to take on a life of its own relative to this nomenclature—pay-go—so that there is almost a sacrosanctness to it. We had an idea around here for years called the lockbox which took on that same sort of sacrosanct concept even though it also was a bit illusory as to what it accomplished versus what it claimed to accomplish. This proposal has the same problem. It is illusory as to what it accomplishes compared to what it claims to accomplish. It does accomplish the raising of taxes. It does not accomplish the disciplining of the entitlement side of the spending accounts.

I understand that this matter is probably not going to be raised on our side until we get to the budget process. That may or may not be the right place to raise this issue because if you are going to do it statutorily, which is actually the way you should do it, the budget process can't accomplish that. But should we, and when we do approach this topic, I hope we can amend this in a manner which would allow us to have it play fairly so that we had apples on both sides of the agenda, both sides of the ledger, or oranges on both sides of the ledger, so that an entitlement program, when it reached its authorizing term, would have to be subject to the issue—not new entitlements, but the actual underlying entitlement. When you have a tax program, when it hits its authorized life, it would be subject to the same. That would be the right way to do it, but it is not the way the House did it, and it wasn't done that way intentionally.

I would like to think that it was just inadvertent that they left out entitlements, but it is not. They left it out because the driving thrust—and I think the reason it has taken on such a life of its own in the nomenclature—the driving thrust is to use this as a mechanism to basically attack the tax cuts of the early 2000 period. It is not an attempt to restrain the rate of growth of this Government on the entitlement accounts.

Why do we need to restrain the rate of growth on the entitlement accounts? It is very simple. The numbers are stark, they are there, and everybody agrees to them. By the year 2025, three accounts in this Government—Social Security, Medicare, and Medicaid—will absorb 20 percent of the gross national product, 20 percent. By the year 2040 they will be absorbing almost 30 percent of the gross national product. If you recall what I said earlier—which I can understand that you don't because I have been going on for a long time—the revenues of the Federal Government are only 18.4 percent of the Federal gross national product. So, by 2025, because of the retirement of the baby boom generation, we will simply be unable to afford this Government unless we are going to radically increase the tax burden on all Americans, working Americans. It is pretty obvious to me you can't tax your way out of this problem. You cannot put a burden on the next generation of 22, 23, 24 percent of gross national product as being their tax burden because that means you deny them the ability to live a lifestyle like we are living. You deny them the extra dollars they would need to send their children to college, to buy their homes, to be able to do what they want to do with their life, because all of that money is going to go to taxes to pay for all the entitlements on the books which we have to pay for as a result of the retired generation.

You cannot tax your way out of this issue, even if we agree with the static models that say as you raise taxes, you get more revenue. I happen to not believe in that. We have proven with Kennedy, Reagan, and Bush cuts that does not work. Even if you were to accept you cannot tax your way out of this problem, you have to address the spending side of the ledger. That is why you have to have a real pay-go rule—not a tax-go rule, a pay-go rule—that actually does address the spending side of the ledger aggressively as it addresses the tax side of the ledger or you should not have the rule at all, because you are basically prejudicing us to move down the road of tax increases and not addressing the fundamental problem, the fundamental issue that is driving the problem our children will confront, which is they are going to get a country they cannot afford. Our generation is going to give them a country they cannot afford. That is not right for one generation to do to another generation.

There are ways to address this. There are substantive ways to address it. The Senator from North Dakota has been one of the leaders and now, as chairman of the Budget Committee, gets to be the leader—I welcome him to that role—in trying to come to some resolution on this whole issue of how you get to the balance between spending and taxes in the face of the human demographic, this huge retirement that will occur and the pressures it will put on our society.

We are getting off on the wrong foot if we simply say we are just going to do it on the tax side of the ledger. That is essentially what this proposal that came out of the House does. There are better ways to do it. There are better ways to structure the proposal. The issue has to be addressed. It means as a society we have to address it. We simply cannot do it on the tax side of the ledger.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. LOTT. If the Senator from North Dakota will yield,

I wonder if we have any information that is available with regard to a vote or votes tonight that Members can be made aware of. Does the Senator from North Dakota have any information on that?

Mr. CONRAD. I do not.

Mr. LOTT. I understand Senator FEINSTEIN might have had some information she could provide on that. I know there are Senators waiting to hear the expected schedule for tonight.

Parliamentary inquiry: Are we still in debate on the underlying ethics and lobbying bill?

The PRESIDING OFFICER. It is the pending question.

Mr. LOTT. Mr. President, Senator FEINSTEIN is in the Senate.

If the Senator from North Dakota would yield briefly.

Mr. CONRAD. I am happy to yield so colleagues know plans for the evening.

Mrs. FEINSTEIN. Mr. President, through the Chair to the distinguished Senator from Mississippi, we have three amendments so far by Senator VITTER. They are being vetted with respect to committees. We are not at the present time prepared for a vote. My view is the likelihood of a vote tonight is remote. I have been in our cloakroom trying to learn if I can say there are no more votes. The closest I can come is to say the likelihood of a vote is not high. Does that help the Senator?

Mr. President, I very sincerely urge Members, please come to the floor if Members have amendments. Please file amendments. Please speak to your amendments. We will never finish this bill unless Members are here. The floor has been open all afternoon for amendments. With the exception of one Senator, there are no amendments before the Senate. I hope Members are listening. I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DURBIN. I am sorry to interrupt my colleague. If I could ask the Senator to yield for a moment, through the Chair, I ask the Senator from California as the manager of this bill if she would have any objection if we made it official that there will be no votes further this evening.

Mrs. FEINSTEIN. I have been asking to do just that for 1 hour. Yes, of course.

Mr. DURBIN. I think we should do that in respect to schedules.

Mrs. FEINSTEIN. I respect the Senator for getting the job done.

Mr. DURBIN. Let us also encourage, admonish our colleagues that we will have some votes in the morning and get the bill moving. We want to get

this bill finished. We will stay in session next week until this bill is finished. It is better to frontload it with activity. That means if anyone has a serious amendment, come on down tomorrow morning because we would like to bring it to the Senate floor for consideration.

Mrs. FEINSTEIN. If I may, the Senator from Illinois is absolutely right. I made three appeals for amendments thus far. What I am concerned about is at the very end of the consideration of the bill, we will be flooded with amendments and not have the time to debate the matter. Now is that time. The Senator is absolutely correct. Hopefully we will both be listened to.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

PAY-GO

Mr. CONRAD. Mr. President, I come to the Senate to respond to my colleague, the Senator from New Hampshire, with respect to the issue of pay-go. People deserve to hear the other side of the story.

I say to my colleague from New Hampshire, who has left the Senate floor, that is one of the most creative presentations on pay-go I have ever heard. And very little of it matches the description I would give of pay-go.

The first thing I point out, the Senator from New Hampshire used to be a strong supporter of pay-go. In fact, this is what he said in 2002, 4½ years ago:

> The second budget discipline, which is pay-go, essentially says if you are going to add a new entitlement program or if you are going to cut taxes during a period, especially of deficits, you must offset that event so that it becomes a budget-neutral event that also lapses.
>
> . . . If we do not do this, if we do not put back in place caps and pay-go mechanisms, we will have no budget discipline in this Congress, and, as a result, will dramatically aggravate the deficit which, of course, impacts important issues, but especially impacts Social Security.

He was right. Now we have seen a dramatic transformation in his position. He was exactly right.

Look at the evidence. He said it would aggravate the deficits if we did not have pay-go. We can now look at the record. We have now been 6 years without effective pay-go discipline in this Senate. What has happened? The debt of the country has exploded. The debt is now $8.5 trillion and it is headed for $11.6 trillion under the budget plan our colleagues on the side opposite offered in this Senate.

They did exactly what he predicted almost 5 years ago without pay-go discipline. Deficits and debt have exploded, and increasingly this debt is being financed from abroad. In fact, it took 42 Presidents—all these Presidents pictured here—224 years to run up $1 trillion of U.S. debt held abroad. This President has more than doubled that amount in just 5 years.

The absence of pay-go or effective pay-go is not the sole reason for this, but it is one reason. The Senator from New Hampshire himself predicted that back in 2002. He said that pay-go requires a tax increase. Wrong. Pay-go doesn't require a tax increase. What pay-go does is say this: If you want new tax cuts, you have to pay for them or get a supermajority vote.

The Senator from New Hampshire then says, there is no spending discipline. Wrong again, because pay-go says you can't have new mandatory spending. Remember, mandatory spending is well over half of the budget: Medicare, Social Security—those are examples of mandatory spending. And pay-go says you can't have new mandatory spending unless you pay for it, or you get a supermajority vote.

The Senator from New Hampshire said to us that pay-go is a stalking-horse for tax increases. That is not true. Pay-go is a stalking-horse for budget discipline. He himself said as much 5 years ago.

The Republicans—at least some now—say that tax cuts are treated unequally because they do not continue indefinitely in the baseline. Why is that? It is because our friends on the other side sunset the tax cuts in order to jam more of them into a period of time.

Now they say, after they are the ones who constructed these sunsets, gee, there are sunsets on these tax cuts. Guess what. They are the architects of the sunsets. They are the ones who wrote the sunset provisions into the law. If they had not used reconciliation—which is a large word that simply means special provisions here to avoid extended debate—to avoid Senators' right to amend to put pressure on the Senate to act in a very short period of time, if they had not used those special provisions then, the tax cuts would be part of the baseline on an ongoing basis. They are hoisted on their own petard. That is the reality of what is occurring.

Now, the Senator from New Hampshire said there has been an explosion of revenue under their watch. No, there hasn't been. Last year we got back to the revenue base we had in 2000. It has taken all this time to get back to the revenue base we had then.

What the Senator is talking about is shown on this chart. Here are the real revenues of the United States, and we can see there has been virtually no growth since 2000. In 2000 we had just over $2 trillion of revenue. They put in their tax cuts in 2001 and revenue declined. It declined more the next year. It declined more the next year. And it stayed down the fourth year. Only in 2005 did we start to get close, and only in 2006 did we get back to the revenue base we had in 2000.

Now, just because they cut the revenue base did not stop them from increasing spending. They increased spending 40 percent during this same period. The result was, as I have shown in the previous charts, an explosion of deficits, an explosion of debt.

Here is what happened to the deficits. Here they are. They inherited budget surpluses. In 2002, we were back in red ink; in 2003, record deficits; in 2004, a new record; in 2005, one of the three worst deficits in the history of the country; in 2006, again, huge deficits. And here we are in 2007. This is a projection at about the same level as last year, actually somewhat worse.

But that doesn't even tell the story because, unfortunately, the buildup of the debt is far greater than the size of the deficit.

This was the stated deficit for last year, $248 billion. But the debt grew by $546 billion. We will never hear the word ''debt'' leave the lips of our friends on the other side of the aisle. We will never hear the word ''debt'' leave the lips of our President. Because they know these facts and I know these facts. The ''debt'' is growing much faster than the size of the deficit. It is the debt that is the threat.

As we have indicated, increasingly we are borrowing it from abroad. Last year we borrowed 65 percent of all the money that was borrowed by countries in the world. The next biggest borrower was Spain, at one-tenth as much as we borrowed.

The hard reality is, we are on a collision course because none of this adds up. The result is, we borrowed over $600 billion from Japan. We borrowed over $300 billion from China. We borrowed over $200 billion from the United Kingdom. We have even now borrowed $50 billion from our neighbors to the north in Canada. In fact, we now owe Mexico over $40 billion.

Look, their fiscal prescription has failed—failed completely—and the question is, Do we change course? I believe we must. Part of changing course is to go back to the pay-go discipline we had in previous years. That pay-go discipline—and I want to repeat—says this very clearly: If you want new tax cuts, you have to pay for them. If you want new mandatory spending, you have to pay for it. If you do not pay for it, in either case you have to get a supermajority vote.

Let me just make clear on middle-class tax cuts, I believe we ought to pay for them to extend them, but even if you did not, there is no question you would command a supermajority vote on the floor of the Senate. There is no question that you would get 60 votes for the 10-percent bracket, 60 votes for childcare credits, 60 votes to end the marriage penalty. We know you would command 60 votes on any one of those. I personally think we ought to pay for it. But pay-go does not require that you pay for it if you can command a supermajority. What our friends on the other side are worried about are the outsized tax cuts for the wealthiest among us because they believe, and perhaps rightly, that you could not get 60 votes to extend those, which means you would have to pay for them, which, in the context of the growth of deficit and debt, probably makes perfect sense.

What is most interesting is the change in my colleague's position because, as I indicated, 5 years ago these were his statements. I will end as I began. Five years ago my colleague said:

The second budget discipline, which is pay-go, essentially says if you are going to add a new entitlement program or you are going to cut taxes during a period, especially of deficits, you must offset that event.

That is what pay-go does. That is exactly what he said 5 years ago. He was right then. He is wrong now because he has changed his position. He said then:

If we do not do this, if we do not put back in place caps and pay-go mechanisms, we will have no budget discipline in this Congress. . . .

He went on to say:

. . . and, as a result, we will dramatically aggravate the deficit which, of course, impacts a lot of important issues, but especially impacts Social Security.

The tragedy is, they gutted pay-go. They gutted it. And the result is precisely what he predicted at the time. The deficits and the debt have exploded.

What the House has tried to do and what we will try to do here is restore some basic budget discipline. Pay-go is one part of that. It is not the only part. It is not the salvation to our budget woes, but it is a tool that will help. It helped in the 1990s. It will help now. It does not require tax increases. That is just a false statement. It does not require tax increases. It says if you want new tax cuts, you have to pay for them or get a supermajority vote.

He says there are no spending restraints. Wrong again. In pay-go, it says very clearly that you cannot have new mandatory spending unless you offset it. And if you cannot offset it, you have to get a supermajority vote. That is the kind of budget discipline we need. That is the kind of budget discipline we have had in the past, and it led us from major deficits—in fact, record deficits at the time—to record surpluses.

To say pay-go is a stalking-horse for tax increases is just false. Pay-go is a budget process tool that is designed to help bring some discipline back to this body, to keep us from running up this massive debt. If you think about it, increasingly we are financing these deficits and debt abroad. Fifty-two percent of our debt now is being financed abroad. As a result, we have doubled foreign holders of our debt in just 5 years. That is an utterly unsustainable course.

What could it mean? Well, if these countries which are now advancing us hundreds of billions of dollars decided to diversify out of dollar-denominated securities, what would we have to do? We would have to raise interest rates in order to attract the capital to float this boat. That is what we would have to do. That would have very serious consequences for our economy. That is why we cannot continue on this course.

Pay-go is one part of the solution to these problems. It is only one part. I would not even suggest it is the major part. What is really lacking around here is will. What is really lacking around here is telling the American people the truth about our fiscal condition, and only if we tell them the truth will they respond with the urgency that circumstances require.

I very much hope we are going to be truth tellers in this Congress and we are going to go to the American people and be frank with them about this buildup of debt and the risks it creates for our country and the fundamental challenge it presents to our long-term economic security. The one place I agree entirely with the Senator from New Hampshire is that the long-term entitlement programs must be reformed because we face a demographic tsunami: the retirement of the baby boom generation. Make no mistake, it is going to change everything. This is fundamentally different from anything we have seen before. And this is not a projection because the baby boomers have been born. They are out there. They are alive today. They are going to retire. They are going to be eligible for Social Security and Medicare.

The hard reality is, we cannot foot the bill for all the promises that have been made by past Congresses. The Senator from New Hampshire is dead-on on that issue, and he and I and others are going to work our very best together to try to address these long-term challenges.

I thank the Chair and yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. WHITEHOUSE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

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

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

Mr. WYDEN. Mr. President, if you walked down the main streets of Oregon or Rhode Island or anywhere else in our country and asked what a secret hold was, my guess is that most citizens would have no idea what it was, or maybe they would think it is some kind of hairspray or maybe a smackdown wrestling move.

But the fact is that a secret hold is one of the most powerful tools that exists in our democracy. I and Senator GRASSLEY have worked for a decade to ensure that if a Senator puts a hold on a piece of legislation, they would have to do it in the open. They would have to do it in a way that was considered accountable. A hold in the Senate is, in fact, what it sounds like; it keeps a piece of legislation or an important measure from coming up. In some instances, it can affect millions of people and billions of dollars.

It would be one thing if a Member of the Senate, such as the Senator from Rhode Island or the Senator from Iowa, felt very strongly about something and they came to the floor and said: I am going to do everything I can to block it because I don't think it is in the public interest and I am opposed. That is one thing. It is quite another thing for a Senator to exercise the power and to keep something from even coming before this body in total secrecy. When he was asked why he robbed banks, Willie Sutton said, ''That's where the money is.'' The reason I and Senator GRASSLEY have called for openness with respect to holds is we believe the secret hold is where the power is.

We particularly want to reduce the power of lobbyists who so often hotwire, the way things work here in the Senate, to block everything through a secret hold that the public knows nothing about. Getting a Senator to put a secret hold on a bill is akin to hitting the jackpot for the lobbyists. Not only is the Senator protected by a cloak of anonymity but so are the lobbyists. A secret hold, in fact, can let lobbyists play both sides of the street. They may have multiple clients. They may have multiple interests, and they can figure out how to orchestrate a victory without alienating potential or future clients. This is one of the most powerful tools a lobbyist can have, and it is particularly powerful at the end of a session in the Senate.

We are delighted that the Presiding Officer, the new Senator from Rhode Island, is here. He will see what it is like at the end of a session. Suffice it to say that it is pretty darn chaotic. Measures and proposals are flying every which way, and through a secret hold you can keep something from ever being heard at all. What I was struck by when I had a chance to come to this distinguished body is that in a number of instances in the past, it has not even been a Senator to exercise one of these secret holds; it has been a member of a staff—a personal staff or committee staff—or somebody else. So what you have is this extraordinary power exercised by someone who doesn't even have an election certificate. I think that is an abuse of power, and that is what I and Senator GRASSLEY have sought to change.

We want to make it clear we are not trying to reduce the ability of a Member of the Senate who feels strongly about a measure to make sure they can weigh in and be heard on that particular concern. Under our proposal, you are not going to have the end of holds. In fact, last year, I put a public hold on something I felt very strongly about.

Mr. President, I am sure the Chair heard about it in the course of his experience over the last couple of years. I felt very strongly about protecting Internet democracy and making sure there wasn't discrimination against those who use the Internet. A piece of legislation passed the Senate Commerce Committee that, in my view,

would be very detrimental to Internet users. Right now, you pay your Internet access charge and you go where you want, when you want, how you want. Nobody faces discrimination. That would have changed under the bill that was passed by the Senate Commerce Committee. So I came to the floor of this body a few minutes after it passed committee, and I announced I was putting a public hold on that legislation because I wanted to do everything in my power to make sure that the Internet, as we know it today, would continue. So anybody who disagreed with me—and as the Presiding Officer knows, the cable and phone lobbies were spending millions and millions of dollars on advertising. They could tell who was accountable because while I was exercising my hold, everybody knew about it. It wasn't done in the dead of night, wasn't done by skulking around in a fashion where there was no way to hold somebody accountable. I came to the floor of the Senate.

I see my good friend, the distinguished Senator from Iowa. When he and I started working on this, he said: I am going to try this. I think doing public business in public is the way to go and, by the way, I don't think this is going to hurt. I don't think it is going to bite you. I remember the words of the distinguished Senator from Iowa because he and others have seen it. We have had a number of colleagues on both sides of the aisle join us in this effort, including Senator INHOFE, who has been a strong supporter, and Senator SALAZAR from Colorado, a strong supporter. It is almost as if there is a new openness caucus that has come together in the Senate behind the simple proposition that Senator GRASSLEY has stood for and that is that public business ought to be done in public. Senator GRASSLEY and I have worked for a full decade to bring this about.

We are very pleased that as a result of the bipartisan cooperation between the distinguished majority leader, Senator REID, and the distinguished minority leader, Senator MCCONNELL, it has been included in the legislation in the ethics bill before the Senate. Senator GRASSLEY and I know that no matter what you put into law, there will be efforts by some, we are sure, to try to find a way to get around it. But I will tell you that we have seen such an abuse of this practice in recent years, where Senators in secret can avoid any accountability at all. It seems to me that this legislation that is part of the ethics package that requires a Senator who weighs in on a measure to be held publicly accountable is long overdue. We have allowed, particularly through the help of the Senator from Maine, Ms. COLLINS, that it will be possible for Senators to consult on measures very easily.

Senator GRASSLEY and I have no intention of blocking the ability to conduct those consultations that give Senators an opportunity to learn more about a piece of legislation and work together on a bipartisan basis. But what we do feel strongly about is when Senators weigh in, when they make it clear they are going to block something, as I sought to do—and, fortunately, I was successful on the communications debate last year—when Senators weigh in and they want to block something that can affect, as that particular bill would have, billions of dollars and millions of people, then everyone ought to know who is going to be held accountable.

I see my good friend from Iowa. Similar to myself, he has put a full decade into this campaign for a new openness in the Senate, for more sunlight in the Senate. We will have to continue to prosecute our cause as the debate goes forward, and we still have a conference with the other body. I think the fact that this has been included as a result of the strong support of Senator REID, the majority leader, and the Senator from Kentucky, Mr. MCCONNELL, is a strong blow for the cause of open Government and accountability.

With that, I yield the floor and look forward to the remarks of my partner in this whole effort, the Senator from Iowa.

Mr. GRASSLEY. Mr. President, I compliment the Senator from Oregon, Senator WYDEN, for being a bulldog on this issue and working so closely with me. Besides complimenting him on his efforts, and finally being victorious on these efforts, it gives me an opportunity to say to the country at large, people who generally believe that everything done in Washington is done on a partisan basis, this is an example of where one Democrat and one Republican, working together, have been successful, and we have been working together. So everything in Washington is not partisan.

Also, I think it brings to a point that as far as the Senate is concerned, as opposed to the other body, the fact that this probably would not have gotten done if it had not been done in a bipartisan way. For things to be successful in the Senate, it takes some bipartisanship and the broader the bipartisanship the better. But also as a substitute for bipartisan opposition to what we are doing, our bulldogging this issue for a long period of time has proven to override the bipartisan opposition to it because when we put an issue such as this to public debate, common sense has to prevail.

Getting back to what Senator WYDEN quoted me as saying over the last several years, that the public's business ought to be done in public, that people who are surreptitiously trying to do things and then try to explain that to the public, the public is not going to buy into it. But the public does buy into doing what the public thinks Congress is all about, and that is being a very public body because we are representatives of the people.

I say those things aside from the merits of the issue. I cannot express those merits for myself any better than Senator WYDEN has done. I don't intend to try to attempt to do that, but I will give you my version of why this is a very important issue. In doing this, I fully support everything Senator WYDEN has said, and I associate myself with those remarks.

As an extension of what he said, I will say for myself, every Senator does have a right and, if he or she is representing their constituents, ought to exercise this right to object to a unanimous consent request to bringing matters before the Senate that they might feel are detrimental to their constituency or detrimental to the good of the country. Of course, an extension of unanimous consent is putting a hold as a way of protecting that right.

Since Senators cannot be on the floor all the time, a hold is essentially a way of putting the leaders on notice that a Senator intends to object to a unanimous consent request to proceed to a matter. Of course, I have exercised, and the Senator from Oregon has said he has exercised, putting on holds for various reasons. For a long time, I have made my holds public by putting a very short statement in the CONGRESSIONAL RECORD of why I was holding something up, No. 1, because I think the public's business ought to be public, and, No. 2, because I am saying holds ought to be public, so it would be unethical for me to have a secret hold, and No. 3, people who disagree with my hold ought to have an opportunity to discuss with me why they think their position is right, and I ought to have a right to discuss with them why I think something ought to be changed in their bill or some reason I am holding it up, so one can talk and know they are getting together to solve the problem so the work of the Senate can be done.

Since I have done that, I have to say I fully support the right of Senators to place holds on items that they do not consent to consider. However, a Senator has no right to register an objection anonymously. That has not been that way for decades in the Senate because some Senators feel that the public good ought to require that sometimes things ought to be done in secret. I don't happen to agree with that thought. So I am taking the position that the public's business ought to be public.

If I could expand on that a little bit, I suppose there are some legitimate exceptions to it, but except for the privacy laws, except for national security and connected with that maybe our intelligence operation and maybe in the case of executive privilege—meaning people who are in the White House very close to the President—I think there is no reason for business not to be public. That is, 99 percent of the rest of the business that the Federal Government does, from my point of view, ought to be public.

In practice, a hold can prevent a measure from coming before the Senate indefinitely. This gives tremendous

power to a single Senator that no single Senator should be able to exercise for a very long period of time, maybe in the purist way—but in the less pure way should not be able to exercise secretly because the public's business ought to be done in the public.

There is no good reason why a Senator should be able to singlehandedly block the Senate's business without public accountability. For several years now, as I have said, I have practiced using holds for various reasons, but I placed a statement in the RECORD of why I was doing it.

We must have transparency in the legislative process for the right of the public to know what we are doing but also to expedite the public's work. The use of secret holds damages public confidence in the institution of the Senate. I figure a secondary, subsidiary benefit of what we are doing is when people get the idea that we are not trying to do something secret, that the public's business is public, they are going to be less cynical about the institutions of Government generally. The less cynicism we have, the more confidence people are going to have in the institutions of Government and the better our Government is going to operate, the better the representative system of Government is going to operate.

But where does less cynicism start? It doesn't start necessarily with changing the rules. It starts with people such as Senator GRASSLEY, Senator WYDEN, and Senator WHITEHOUSE because when we do things in the way the public expects us to do them and more Senators do that all the time, Senator by Senator we are going to reduce the cynicism and enhance public respect for the institutions of Government.

The purpose of the underlying bill before the Senate is to provide greater transparency in the legislative process. Therefore, the amendment by Senator WYDEN and this Senator from Iowa is a natural extension of that purpose. It is quite appropriate that this underlying bill include disclosure requirements for holds that he and I have been working on for several years.

In the process, we have to compliment Senator REID for including this in the underlying bill and Senator MCCONNELL, and I am not sure how they individually felt about this in the past. But I think it is very clear that with the vote we had last year—I think it was in the mid-eighties—of Senators who support what we are doing, it is a foregone conclusion that regardless of how leaders might feel about it, if they were on the other side, they were very much in the minority.

Realism finally comes through when we have consistency and determination, as Senator WYDEN has demonstrated and that vote demonstrates, and it is a tribute to our leaders that if they don't necessarily like what we are doing, that they have included it in their legislation. Obviously, I have to give thanks to them. I, also, give thanks to Senator LOTT who, over a period of couple of years, has been working with us. I, also, wish to give credit to the President pro tempore, Senator BYRD, who a couple years back gave us some encouragement along this line.

I hope, now that everything is coming together, that within a few short weeks we can have a very open process of making holds public, bringing people together and producing results in the Senate because of one giant step we are taking here.

Doing away with holds might not sound like one giant step, but it is from the standpoint if you knew what the four-letter word ''hold'' does to the legislative process around here, it grinds everything to a halt—everything to a halt. Try to explain to your constituents back home that some Senator has a hold on a bill and try to explain that is why we can't get something done. They wonder what planet we come from. It is very difficult to explain.

We are still going to have holds, we still have to explain it, but at least I can say to people it is Senator SMITH or Senator Jones or Senator Wilson who has a hold on the bill, and I am going to talk with them and see what we can do about it and get something done.

I compliment the Senator from Oregon very much and hopefully the Senate is going to work better.

Mr. GRASSLEY. Mr. President, I wish to speak as in morning business for such time as I might consume, and for other Members, it will be in the neighborhood of about 25 minutes.

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

MEDICARE DRUG BENEFIT

Mr. GRASSLEY. Mr. President, I am back again tonight to talk about the Medicare drug benefit. As I said yesterday, the 110th Congress will consider legislation that would fundamentally change the benefit. The public and Medicare beneficiaries need to fully understand the proposed changes and how they would affect them.

When we talk about the public and Medicare beneficiaries, remember, for the most part, we are talking about the senior citizens of America and people who are on Social Security disability.

Yesterday I spoke about how the benefit uses prescription drug plans in competition to keep costs down and how well that has worked. Today I want to get to the crux of this debate, the so-called prohibition on Government negotiation with drugmakers.

Opponents of the Medicare drug benefit have twisted the law to come up with their absurd claim that Medicare will not be negotiating with drugmakers. They misrepresented the noninterference clause. The language does not prohibit Medicare from negotiating with drugmakers; it prohibits the Government from interfering in negotiations that are ongoing all the time.

So it is a prohibition on Government negotiating. It is not a prohibition on negotiation. It is very important because it is not the Government agency itself that is doing the negotiating. It is the private prescription drug plans that are doing the negotiation.

That may surprise some people who have heard about the so-called prohibition on negotiations. Of course, price negotiations occur on drugs provided to Medicare beneficiaries. Those negotiations occur between the prescription drug plans and the manufacturers. We have a precedent for this. The plans are run by organizations experienced in negotiation with drug manufacturers. They deliver prescription drug benefits to millions and millions of Americans—in other words, meaning millions and millions of Americans beyond senior citizens—and including this 50-year precedent of it being done for Federal employees through the Federal Employees Health Benefit Plans.

As I said yesterday, competition among the plans to get the best price is working. We have lower than expected bids and cost of premiums and lower than expected costs for the Government as a result. So not only is it saving the senior citizens money, as it has been saving Federal employees money for 50 years, but also lowering costs to the taxpayers because there is some subsidy for seniors in the Medicare prescription drug program.

Most importantly, we have lowered prices on drugs for beneficiaries. For the top 25 drugs used by seniors—so I am just taking the top 25 drugs used—the Medicare prescription drug plans have been able to negotiate prices that on average are 35 percent lower than the average cash price at retail pharmacies; 35 percent lower. The purpose of the prohibition on Government negotiation—in other words, getting back to what is referred to as the noninterference clause—is to keep the Government from undermining these negotiations that have been so successful and to keep the Government out of the medicine cabinet.

I have lost count of the number of times I have talked about this so-called prohibition that is not a prohibition on negotiations, because negotiations are going on every day. I am not easily discouraged and that is why I am here talking tonight on this subject. I prefer to debate more substantive issues, but unfortunately that is not the case. The debate that went on during the campaign, the debate that went on in some speeches on the floor in the last Congress, and the debate that will come here on the Senate floor in the next 3 weeks, is in fact a shell game. It is about distortion of the language of the law, it is about manipulation of beneficiaries and, in turn, the public, and it hinges on the convenient lapse in some people's memory about the history of this noninterference clause. What I want to do today is remind people about the history.

We are going to take a little trip down memory lane. For our first stop