Mr. SCHUMER, Mr. KOHL, Mr. SANDERS, Mr. HARKIN, and Mr. CASEY):

S. 352. A bill to postpone the DTV transition date; considered and passed.

By Mr. BROWN (for himself and Mr. BOND):

S. 353. A bill to amend title IV of the Public Health Service Act to provide for the establishment of pediatric research consortia; to the Committee on Health, Education, Labor, and Pensions.

By Mr. WEBB (for himself, Mr. CARDIN, Ms. MIKULSKI, Mr. MENENDEZ, Mrs. MCCASKILL, Mr. CASEY, Mr. KERRY, Mr. LAUTENBERG, Mr. LIEBERMAN, Mr. SANDERS, Ms. STABENOW, and Mrs. GILLIBRAND):

S. 354. A bill to provide that 4 of the 12 weeks of parental leave made available to a Federal employee shall be paid leave, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. DURBIN (for himself, Mr. WHITEHOUSE, Mrs. MURRAY, Mr. CARDIN, and Mr. DODD):

S. 355. A bill to enhance the capacity of the United States to undertake global development activities, and for other purposes; to the Committee on Foreign Relations.

By Mrs. BOXER (for herself and Mr. BURR):

S. 356. A bill to amend the Bank Holding Company Act of 1956 and the Revised Statutes of the United States to prohibit financial holding companies and national banks from engaging, directly or indirectly, in real estate brokerage or real estate management activities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. FEINGOLD (for himself, Mr. BEGICH, and Mr. MCCAIN):

S.J. Res. 7. A joint resolution proposing an amendment to the Constitution of the United States relative to the election of Senators; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 21

At the request of Mr. REID, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 21, a bill to reduce unintended pregnancy, reduce abortions, and improve access to women's health care.

S. 85

At the request of Mr. VITTER, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 85, a bill to amend title X of the Public Health Service Act to prohibit family planning grants from being awarded to any entity that performs abortions.

S. 96

At the request of Mr. VITTER, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 96, a bill to prohibit certain abortion-related discrimination in governmental activities.

S. 144

At the request of Mr. KERRY, the names of the Senator from South Carolina (Mr. GRAHAM), the Senator from Kansas (Mr. ROBERTS) and the Senator from Iowa (Mr. GRASSLEY) were added as cosponsors of S. 144, a bill to amend the Internal Revenue Code of 1986 to remove cell phones from listed property under section 280F.

S. 195

At the request of Mr. DORGAN, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 195, a bill to extend oversight, accountability, and transparency provisions of the Emergency Economic Assistance Act of 2008 to all Federal emergency economic assistance to private entities, to impose tough conditions for all recipients of such emergency economic assistance, to set up a Federal task force to investigate and prosecute criminal activities that contributed to our economic crisis, and to establish a bipartisan financial market investigation and reform commission, and for other purposes.

S. 260

At the request of Mr. DORGAN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 260, a bill to amend the Internal Revenue Code of 1986 to provide for the taxation of income of controlled foreign corporations attributable to imported property.

S. 321

At the request of Mr. VOINOVICH, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 321, a bill to require the Secretary of Homeland Security and the Secretary of State to accept passport cards at air ports of entry and for other purposes.

S. 340

At the request of Mr. GRASSLEY, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 340, a bill to enhance the oversight authority of the Comptroller General of the United States with respect to expenditures under the Troubled Asset Relief Program.

S. 342

At the request of Ms. MURKOWSKI, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 342, a bill to provide for the treatment of service as a member of the Alaska Territorial Guard during World War II as active service for purposes of retired pay for members of the Armed Forces.

S. RES. 25

At the request of Mr. DORGAN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. Res. 25, a resolution expressing support for designation of January 28, 2009, as ''National Data Privacy Day''.

AMENDMENT NO. 39

At the request of Mr. BAUCUS, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of amendment No. 39 proposed to H.R. 2, a bill to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes.

AMENDMENT NO. 74

At the request of Mr. BUNNING, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Utah (Mr. HATCH) were added as cosponsors of amendment No. 74 proposed to H.R. 2, a bill to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes.

AMENDMENT NO. 80

At the request of Mr. HATCH, the names of the Senator from Alabama (Mr. SESSIONS), the Senator from Pennsylvania (Mr. CASEY), the Senator from Nebraska (Mr. NELSON) and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of amendment No. 80 proposed to H.R. 2, a bill to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes.

AMENDMENT NO. 81

At the request of Mr. BUNNING, the names of the Senator from North Carolina (Mr. BURR) and the Senator from Kentucky (Mr. MCCONNELL) were added as cosponsors of amendment No. 81 intended to be proposed to H.R. 2, a bill to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY (for himself and Mr. LEVIN):

S. 344. A bill to require hedge funds to register with the Securities and Exchange Commission, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. GRASSLEY. Mr. President, 3 years ago, I started conducting oversight of the Securities and Exchange Commission. That oversight began in response to a whistleblower who came to my office complaining that SEC supervisors were impeding an investigation into a major hedge fund.

Soon afterward, I came to the floor of the Senate to introduce an important piece of legislation based on what I learned from that oversight. The bill was aimed at closing a loophole in securities law that allows hedge funds to operate under the cloak of secrecy. Unfortunately, that bill, S. 1402, was never taken up by the Banking Committee in the last Congress.

In light of the current instability in our financial system, I think it is very critical for the Senate to deal with this issue and do it in the near future. Therefore, I am pleased Senator LEVIN, who is on the floor, and I worked together to produce an even better version of the bill than I introduced previously, and we are now doing that in the 111th Congress.

I thank Senator LEVIN because he is on a very important oversight committee as well and does a lot of oversight, as I do. I appreciate everything he does in maybe a lot of different areas than I do, but I appreciate working together with him on this issue.

This new bill, the Hedge Fund Transparency Act, does everything the previous version did, but it does more and does it better.

As in the previous version, it clarifies current law to remove any doubt that the Securities and Exchange Commission has the authority to require hedge funds to register—simply to register—so the Government knows who they are and what they are doing. It removes the loophole previously used by hedge funds to escape the definition of an ''investment company'' under the Investment Company Act of 1940.

Under this legislation, hedge funds that want to avoid the stringent requirements of the Investment Company Act will only be exempt if, one, they file basic disclosure forms; and two, cooperate with requests for information from the Securities and Exchange Commission.

I thank Senator LEVIN for not only cosponsoring this legislation but also contributing a key addition to this new version of the bill. In addition to requiring basic disclosure, this version also makes it clear that the hedge funds have the same obligations under our money laundering statutes as other financial institutions. They must report suspicious transactions and establish anti-money laundering programs.

One major cause of the current crisis is a lack of transparency. Markets need a free flow of reliable information to function properly. Transparency was the focus of our system of securities regulations adopted way back in the 1930s. Unfortunately, over time, the wizards on Wall Street figured out a million clever ways to avoid transparency. The result is the confusion and uncertainty fueling the crisis today that we see.

This bill is an important step toward renewing commitment to transparency on Wall Street and establishing credibility in our financial sector among the American populace. Unfortunately, there was not much of an appetite for this sort of commonsense legislation when I first introduced it before the financial crisis erupted. Hopefully, attitudes have changed, given all that has happened since the collapse of Bear Stearns last March. It is all very obvious to us, and particularly connected with the credit crunch and with the recession.

Hedge funds are pooled investment companies that manage billions of dollars for groups of wealthy investors, and do it in total secrecy. Hedge funds affect regular investors. They affect the market as a whole. My oversight of the SEC convinces me that the Commission needs much more information about the activities of hedge funds in order to protect the markets. Any group of organizations that can wield hundreds of billions of dollars in market power every day should be transparent and disclose basic information about their operations to the agency that Americans rely on as the watchdogs of our Nation's financial markets.

As I explained when I first introduced this bill, the Securities and Exchange Commission already attempted to oversee the hedge fund industry by regulation. Congress needs to act now because of a decision of a Federal appeals court. In 2006, the DC Circuit Court of Appeals overturned an SEC administrative rule requiring the registration of hedge funds. That decision effectively ended all registration of hedge funds with the Securities and Exchange Commission, unless and until we in Congress take action.

The Hedge Fund Transparency Act would respond to that court decision by, one, including hedge funds in the definition of investment company; and two, bringing much needed transparency to this supersecretive industry. The Hedge Fund Transparency Act is a first step in ensuring that the Securities and Exchange Commission has clear authority to do what it has already tried to do. Congress must act to ensure that our laws are kept up to date as new types of investments appear.

Unfortunately, this legislation hasn't had many friends. These funds don't want people to know what they do or who participates in them. They have fought hard to keep it that way. Well, I think that is all the more reason to shed some light—particularly some sunlight—on them to see what they are doing.

So I urge my colleagues to cosponsor and support this legislation, to support Senator LEVIN of Michigan and me in this effort as we work to protect all taxpayers, large and small.

Once again I thank Senator LEVIN. And before I yield the floor, Mr. President, I ask unanimous consent to have printed in the RECORD a background paper on the Hedge Fund Transparency Act.

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

HEDGE FUND TRANSPARENCY ACT

Background: This bill is a revised version of S. 1402, which Sen. Grassley introduced in the 110th Congress. While the previous bill amended the Investment Advisers Act of 1940, this bill amends the Investment Company Act of 1940 (''ICA''). However, the purpose is the same: to make it clear that the Securities and Exchange Commission has the authority to require hedge fund registration. This version also adds a provision authored by Sen. Levin to require hedge funds to establish anti-money laundering programs and report suspicious transactions.

HEDGE FUND REGISTRATION REQUIREMENTS

Definition of an Investment Company: Hedge Funds typically avoid regulatory requirements by claiming the exceptions to the definition of an investment company contained in §3(c)(1) or §3(c)(7) of the ICA. This bill would remove those exceptions to the definition, transforming them to exemptions by moving the provisions, without substantive change, to new sections §6(a)(6) and §6(a)(7) of the ICA.

Requirements for Exemptions: An investment company that satisfies either §6(a)(6) or §6(a)(7) will be exempted from the normal registration and filing requirements of the ICA. Instead, a company that meets the criteria in §6(a)(6) or §6(a)(7) but has assets under management of $50,000,000 or more, must meet several requirements in order to maintain its exemption. These requirements include:

1. Registering with the SEC.

2. Maintaining books and records that the SEC may require.

3. Cooperating with any request by the SEC for information or examination.

4. Filing an information form with the SEC electronically, at least once a year. This form must be made freely available to the public in an electronic, searchable format. The form must include:

a. The name and current address of each individual who is a beneficial owner of the investment company.

b. The name and current address of any company with an ownership interest in the investment company.

c. An explanation of the structure of ownership interests in the investment company.

d. Information on any affiliation with another financial institution.

e. The name and current address of the investment company's primary accountant and primary broker.

f. A statement of any minimum investment commitment required of a limited partner, member, or investor.

g. The total number of any limited partners, members, or other investors.

h. The current value of the assets of the company and the assets under management by the company.

Timeframe and Rulemaking Authority: The SEC must issue forms and guidance to carry out this Act within 180 days after its enactment. The SEC also has the authority to make a rule to carry out this Act.

Anti-Money Laundering Obligations: An investment company exempt under §6(a)(6) or §6(a)(7) must establish an anti-money laundering program and report suspicious transactions under 31 U.S.C.A 5318(g) and (h). The Treasury Secretary must establish a rule within 180 days of the enactment of the Act setting forth minimum requirements for the anti-money laundering programs. The rule must require exempted investment companies to ''use risk-based due diligence policies, procedures, and controls that are reasonably designed to ascertain the identity of and evaluate any foreign person that supplies funds or plans to supply funds to be invested with the advice or assistance of such investment company.'' The rule must also require exempted investment companies to comply with the same requirements as other financial institutions for producing records requested by a federal regulator under 31 U.S.C. 5318(k)(2).

Mr. LEVIN. Mr. President, history has proven time and time again that the markets are not self-policing. Today's financial crisis is due in part to the Government's failure to regulate key market participants, including hedge funds that have become unregulated financial heavyweights in the U.S. economy. So I am joining today with my colleague Senator GRASSLEY of Iowa to introduce the Hedge Fund Transparency Act, and I thank Senator GRASSLEY for his leadership on this and in so many other areas involving oversight of our financial institutions.

Hedge funds sound complicated, but they are simply private investment funds in which investors have agreed to pool their money under the control of an investment manager. What distinguishes them from other investment funds is that hedge funds are typically open only to ''qualified purchasers,'' an SEC term referring to institutional investors such as pension funds and wealthy individuals with assets over a

specified minimum amount. In addition, most hedge funds have 100 or fewer beneficial owners. By limiting the number of their beneficial owners and accepting funds only from investors of means, hedge funds have been able to qualify for the statutory exclusions provided in the Investment Company Act and avoid the obligation to comply with that law's statutory and regulatory requirements. In short, hedge funds have been able to operate outside of the reach of the Securities and Exchange Commission.

The primary argument for allowing these funds to operate outside SEC regulation and oversight is that because their investors are generally more experienced than the general public, they need fewer government protections and their investment funds should be permitted to take greater risks than investment funds open to the investing public which need greater SEC protection. Indeed, the ability of hedge funds to take on more risk is the very reason that many individuals and institutions choose to invest in them. These investors accept more risk because that might lead to bigger rewards.

The compensation system employed by most hedge funds encourages that risk taking. Typically, investors agree to pay hedge fund investment managers a management fee of 2 percent of the fund's total assets, plus 20 percent of the fund's profits. The hedge fund managers profit enormously if a fund does well, but due to the guaranteed management fee, get a hefty payment even when the fund underperforms or fails. The analysis up to now has been that if wealthy people want to take big risks with their money, all else being equal, they should be allowed to do so without the safeguards normally required for the general public.

So what is the problem with allowing their investment funds to operate outside of Federal regulation and oversight? The problem is that hedge funds have gotten so big and are so entrenched in U.S. financial markets that their actions can now significantly impact market prices, damage other market participants, and can even endanger the U.S. financial system and the economy as a whole.

The systemic risks posed by hedge funds first became obvious 10 years ago. Back then, Long-Term Capital Management—or LTCM—was a hedge fund that, at its peak, had more than $125 billion in assets under management and, due to massive borrowing, a total market position of $1.3 trillion. When it began to falter, the Federal Reserve worried that it might unload its assets in a rush, drive down prices, and end up damaging not only other firms but U.S. markets as a whole. To prevent a financial meltdown, the Federal Reserve worked with the private sector to engineer a rescue package.

That was just over a decade ago. Since then, according to a recent report issued by the Congressional Research Service, the hedge fund industry has expanded roughly tenfold. In 2006, the SEC testified that hedge funds represented 5 percent of all U.S. assets under management and 30 percent of all equity trading volume in the United States. By 2007, an estimated 8,000 hedge funds were managing assets totaling roughly $1.5 trillion. The most current estimate is that 10,000 hedge funds are managing approximately $1.8 trillion in assets, after suffering losses over the last year of over $1 trillion.

In addition, over the last 10 years, billions of dollars being managed by hedge funds have been provided by pension plans. A 2007 report by the U.S. Government Accountability Office found that the amount of money that defined benefit pension plans have invested in hedge funds has risen from about $3.2 billion in 2000 to more than $50 billion in the year 2006. That total is probably much higher now. And while most individual pension funds invest only a small slice of their money in hedge funds, a few go farther. For example, according to the GAO report, as of September 2006, the Missouri State Employees Retirement System had invested over 30 percent of its assets in hedge funds. Universities and charities have also directed significant assets to hedge funds. The result is that hedge fund losses threaten every economic sector in America, from the wealthy to the working class relying on pensions, to our institutions of higher learning, to our nonprofit charities.

A third key developed is that over the last 10 years, some of the largest U.S. banks and security firms have set up their own hedge funds and used them to invest not only client funds but also their own cash. In some cases, these hedge funds have commingled client and institutional funds and linked the fate of both to high-risk investment strategies. These hedge fund affiliates are typically owned by the same holding companies that own federally insured banks or federally regulated broker-dealers. Because of their ownership, their size and reach, their clientele, and the high-risk nature of their investments, the failure of hedge funds today can imperil not only their direct investors, but also the financial institutions that own them, that lent them money, or did business with them. From there, the effects can ripple through the markets and impact the entire economy.

It is time for Congress to step into the breach and establish clear authority for Federal regulation and oversight of hedge funds. That is the backdrop for the introduction of the Grassley-Levin Hedge Fund Transparency Act.

The purpose of this bill is to institute a reasonable and practical regulatory regime for hedge funds. The bill contains four basic requirements to make hedge funds subject to SEC regulation and oversight.

It requires them to register with the SEC, to file an annual disclosure form with basic information that will be made publicly available, to maintain books and records required by the SEC, and to cooperate with any SEC information request or examination.

In addition, the bill directs Treasury to issue a final rule requiring hedge funds to establish anti-money laundering programs and, in particular, to guard against allowing suspect offshore funds into the U.S. financial system. The Bush Administration issued a proposed anti-money laundering rule for hedge funds seven years ago, in 2002, but never finalized it. A 2006 investigation by the Permanent Subcommittee on Investigations, which I chair, showed how two hedge funds brought millions of dollars in suspect funds into the United States, without any U.S. controls or reporting obligations, and called on a bipartisan basis for the proposed hedge fund anti-money laundering regulations to be finalized, but no action was taken. Hedge funds are the last major U.S. financial players without anti-money laundering obligations, and it is time for this unacceptable regulatory gap to be eliminated.

Our bill imposes a set of basic disclosure obligations on hedge funds and makes it clear they are subject to full SEC oversight while, at the same time, exempting them from many of the obligations that the Investment Company Act imposes on other types of investment companies, such as mutual funds that are open for investment by all members of the public. The bill imposes a more limited set of obligations on hedge funds in recognition of the fact that hedge funds do not open their doors to all members of the public, but limit themselves to investors of means. The bill also, however, gives the SEC the authority it needs to impose additional regulatory obligations and exercise the level of oversight it sees fit over hedge funds to protect investors, other financial institutions, and the U.S. financial system as a whole.

The bill imposes these requirements on all entities that rely on Sections 80a–3(c)(1) or (7) to avoid compliance with the full set of the Investment Company Act requirements. A wide variety of entities invoke those sections to avoid those requirements and SEC oversight, and they refer to themselves by a wide variety of terms—hedge funds, private equity funds, venture capitalists, small investment banks, and so forth. Rather than attempt a futile exercise of trying to define the specific set of companies covered by the bill and thereby invite future claims by parties that they are outside the definitions and thus outside the SEC's authority, the bill applies to any investment company that has at least $50 million in assets or assets under its management and relies on Sections 80a–3(1) or (7) to avoid compliance with the full set of Investment Company Act requirements. Instead, those companies under the bill have to comply with a reduced set of obligations, which include filing an annual public disclosure

form, maintaining books and records specified by the SEC, and cooperating with any SEC information request or examination.

Finally, our bill makes an important technical change. It moves paragraphs (c)(1) and (7)—the two paragraphs that hedge companies use to avoid complying with the full set of Investment Act Company requirements—from Section 80a–3 to Section 80a–6 of the Investment Company Act. While our bill preserves both paragraphs and makes no substantive changes to them, it moves them from the part of the bill that defines ''investment company'' to the part of the bill that exempts certain investment companies from the Investment Company Act's full set of requirements.

The bill makes this technical change to make it clear that hedge funds really are investment companies, and they are not excluded from the coverage of the Investment Company Act. Instead, they are being given an exemption from many of that law's requirements, because they are investment companies which voluntarily limited themselves to one hundred or fewer beneficial owner accepting funds only from investors of means. Under current law, the two paragraphs allow hedge funds to claim they are excluded from the Investment Company Act—they are not investment companies at all and are outside the SEC's reach. Under our bill, the hedge funds would qualify as investment companies—which they plainly are—but would qualify for exemptions from many of the Act's requirements by meeting certain criteria.

It is time to bring hedge funds under the federal regulatory umbrella. With their massive investments, entanglements with U.S. banks, securities firms, pension funds, and other large investors, and their potential impact on market equilibrium, we cannot afford to allow these financial heavyweights to continue to operate free of government regulation and oversight.

When asked at a recent hearing of the Senate Homeland Security and Government Affairs Committee whether hedge funds should be regulated, two expert witnesses gave the exact same one-word answer: ''Yes.'' One law professor, after noting that disclosure requirements don't apply to hedge funds, told the Committee: ''If you asked a regulator what . . . role did hedge funds play in the current financial crisis, I think they would look at you like a deer in the headlights, because we just don't know.'' It is essential that federal financial regulators know what hedge funds are doing and that they have the authority to prevent missteps and misconduct.

The Hedge Fund Transparency Act will protect investors, and it will help protect our financial system. I hope our colleagues will join us in support of this bill and its inclusion in the regulatory reform efforts that Congress will be undertaking later this year.

By Mr. LUGAR (for himself, Mr. KERRY, Mr. BROWNBACK, Mr. LEAHY, and Mr. KAUFMAN):

S. 345 A bill to reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2012, to rename the Tropical Forest Conservation Act of 1998 as the ''Tropical Forest and Coral Conservation Act of 2009'', and for other purposes; to the Committee on Foreign Relations.

Mr. LUGAR. Mr. President, I rise to introduce the Tropical Forest and Coral Conservation Act of 2009, a bill to protect outstanding tropical forests and coral reefs in developing countries through Debt for Nature Swaps that then-Senator Biden and myself first passed more than ten years ago.

This bill reauthorizes a proven program which enjoys the ardent support of the Treasury Department and State Department for the third time since 1998. It will help developing countries reduce foreign debt and provide comprehensive environmental preservation programs to protect tropical forests and endangered marine habitats around the world. This bill will also serve as an important diplomatic tool to provide for our national security.

As one of the most successful U.S. conservation assistance programs, the agreements concluded under the Tropical Forest Conservation Act so far will together generate over $188 million to help conserve over 50 million acres of tropical forests in Asia, the Caribbean, Central and South America. In addition, private donors, including the Nature Conservancy, the World Wildlife Fund, the Wildlife Conservation Society, and Conservation International, have contributed more than $12 million to TFCA swaps, leveraging U.S. Government funds. This is an effective use of scarce Federal conservation dollars. But the rate of deforestation continues to accelerate across the globe.

This bill is an example of how we can use economic incentives and opportunities to change behavior and to influence personal and societal choices. Clearly, there are economic opportunities in clean energy sources, solar, wind and biofuels, and carbon sequestration and storage technologies. But improvements in farming and forestry practices may be among the lowest hanging fruit in the quest to deal with climate change.

During the global climate change discussions in the late 1990s in Kyoto, the concept of carbon sinks provided by forestry and agriculture was taken off the table. Last year during the Bali discussions, the topic of carbon sequestration through forestry and agricultural practices was revived. This is an important development, and it should be embraced by the United States.

Also alarming is the rapid rate of coral reef and coastal exploitation. The burden of foreign debt falls especially hard on nations with few natural resources that often resort to harvesting or otherwise exploiting coral reefs and other marine habitats to earn hard currency to service foreign debt. According to the National Oceanic and Atmospheric Administration, NOAA, 61 percent of the world's coral reefs may be destroyed by the year 2050 if the present rate of destruction continues.

The Tropical Forest and Coral Conservation Act expands the current tropical forest conservation programs to include the protection and conservation of these vital coral ecosystems. This legislation will make available resources for environmental stewardship that would otherwise be of the lowest priority in a developing country. It will reduce debt by investing locally in programs that will strengthen indigenous economies by creating long-term management policies that will preserve the natural resources upon which local commerce is based.

Both Indonesia and Brazil have been declared eligible for Tropical Forest Conservation Act funds. Brazil is the second most populous nation in our hemisphere. It wields enormous influence over neighboring states in South America and has expressed interest in a leading global role. It would be a diplomatic mistake to hinder our outreach to a nation on an issue—conservation—where we have mutual goals. Similarly, we should not encumber conservation cooperation with one the largest democracies in the world, Indonesia. The United States cannot afford to squander diplomatic opportunities that allow us to establish working relationships with key agencies in such strategically important nations.

This legislation has enormous consequences for the existence of critical ecosystems, the health of our planet, the livelihoods of millions of people across the globe, and even the security of Americans here at home.

I would like to provide additional information about activities under this act.

Fourteen TFCA agreements have been concluded to date in Bangladesh, El Salvador, Belize, Peru, the Philippines, Panama, Guatemala, Colombia, Paraguay, Botswana, Costa Rica, and Jamaica. With the reauthorization of TFCA, the U.S. Government will be able to pursue agreements to conserve threatened coral reefs along with tropical forests.

The Tropical Forest and Coral Reef Conservation Act of 2009 authorizes appropriations for debt reduction for eligible countries at $25,000,000 in fiscal year 2009; $30,000,000 in fiscal year 2010; $30,000,000 in fiscal year 2011; and $30,000,000 in fiscal year 2012 subject to appropriations.

First, the bill authorizes a Debt Swap option under which a third party may purchase the debt of a TFCA-eligible country in exchange for the creation of a fund to support tropical forest or coral reef conservation. The terms of the agreement are negotiated with the country, the third party and the U.S. Government.

Under this option, there may be no cost to the United States Government

because the financial assistance involved would come from nongovernmental or private entities. Third-party funding may be leveraged, in part, with U.S. Government appropriated funds.

Second, the bill authorizes a debt reduction option in which principal and interest payments due to the U.S. Government may be wholly or partially reduced. In return, the country accepts a new obligation to make payments to a conservation fund to be administered by a tropical forest or coral reef board within that country.

The bill authorizes appropriations to compensate the United States Treasury for the reduction in the revenues caused by TFCA debt treatment. However, these funds would be effectively leveraged because the amounts placed by an eligible country in its conservation fund would exceed the cost of debt reduction to the United States Treasury.

Third, under the Buy Back option, an eligible country is able to buy back its debt at its asset value in exchange for its willingness to place an additional amount based on the purchase price in local currency in a tropical forest fund.

Under this third option, there would be no cost to the United States Government since the debt is being bought back at its value as determined under the Federal Credit Reform Act of 1990.

The Tropical Forest Conservation and Coral Act applies to concessional loans made under the Foreign Assistance Act of 1961 and credits granted under the Agricultural Trade and Assistance Act of 1954. It is consistent with established Treasury Department debt reduction practices as well as with the Federal Credit Reform Act of 1990.

Within each developing country, the conservation fund would be administered by a commission representing a majority of local nongovernmental, community development and scientific and academic organizations, representatives of the host government and a representative of the United States Government.

The conservation fund could be used to provide grants for the following purposes: to preserve, maintain or restore the tropical forest or coral reef of the beneficiary country through establishing parks and reserves; to develop and implement scientifically sound systems of natural resource management; to provide training programs to strengthen the scientific, technical and managerial capacities of individuals and organizations involved in conservation; to provide for restoration, protection and sustainable use of diverse animal and plant species; to provide research and identification of medicinal uses of tropical forest plant life to treat human diseases, illnesses, and health-related concerns; to develop and support individuals living in or near a tropical forest or coral reef, including the cultures of such individuals.

Oversight of this program would continue through multiple mechanisms including the following: funds for this program are subject to periodic formal evaluations and annual fund evaluations recently required as part of OMB's Program Assessment Rating Tool, PART. TFCA Evaluation Scorecard is completed each year on each TFCA Fund. The Evaluation Scorecard was developed to provide for consistent, on-going evaluation and reporting across local TFCA programs.

Local TFCA funds are subject to regular audits. In addition, the local board or oversight committee monitors performance under each grant agreement to make sure that time schedules and other performance goals are being achieved. Grant agreements include budgets, timelines, and provisions requiring periodic progress reports from the grantee to the board.

In addition, the U.S. Government uses the annual management budget provided by Congress to fund evaluations of local TFCA programs. Evaluations undertaken with these funds include local site visits to determine that activities are being carried out consistent with the terms of the TFCA agreement.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 345

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Tropical Forest and Coral Conservation Reauthorization Act of 2009''.

SEC. 2. AMENDMENT TO SHORT TITLE OF ACT TO ENCOMPASS EXPANDED SCOPE.

(a) IN GENERAL.—Section 801 of the Tropical Forest Conservation Act of 1998 (Public Law 87–195; 22 U.S.C. 2151 note) is amended by striking ''Tropical Forest Conservation Act of 1998'' and inserting ''Tropical Forest and Coral Conservation Act of 2009''.

(b) REFERENCES.—Any reference in any other provision of law, regulation, document, paper, or other record of the United States to the ''Tropical Forest Conservation Act of 1998'' shall be deemed to be a reference to the ''Tropical Forest and Coral Conservation Act of 2009''.

SEC. 3. EXPANSION OF SCOPE OF ACT TO PROTECT FORESTS AND CORAL REEFS.

(a) IN GENERAL.—Section 802 of the Tropical Forest and Coral Conservation Act of 2009 (22 U.S.C. 2431), as renamed by section 2(a), is amended—

(1) in subsections (a)(1), (a)(6), (a)(7), (b)(1), (b)(3), and (b)(4), by striking ''tropical forests'' each place it appears and inserting ''tropical forests and coral reefs and associated coastal marine ecosystems'';

(2) in subsection (a)(2)—

(A) in subparagraph (A), by striking ''resources, which are the basis for developing pharmaceutical products and revitalizing agricultural crops'' and inserting ''resources''; and

(B) in subparagraph (C), by striking ''far-flung''; and

(3) in subsection (b)(2)—

(A) by striking ''tropical forests'' the first place it appears and inserting ''tropical forests and coral reefs and associated coastal marine ecosystems'';

(B) by striking ''tropical forests'' the second place it appears and inserting ''areas'';

(C) by striking ''tropical forests'' the third place it appears and inserting ''tropical forests and coral reefs and their associated coastal marine ecosystems''; and

(D) by striking ''that have led to deforestation'' and inserting ''on such countries''.

(b) AMENDMENTS RELATED TO DEFINITIONS.—Section 803 of such Act (22 U.S.C. 2431a) is amended—

(1) in paragraph (5)—

(A) in the heading, by striking ''TROPICAL FOREST'' and inserting ''TROPICAL FOREST OR CORAL REEF'';

(B) in the matter preceding subparagraph (A), by striking ''tropical forest'' and inserting ''tropical forest or coral reef''; and

(C) in subparagraph (B)—

(i) by striking ''tropical forest'' and inserting ''tropical forest or coral reef''; and

(ii) by striking ''tropical forests'' and inserting ''tropical forests or coral reefs''

(2) by adding at the end the following new paragraphs:

''(10) CORAL.—The term 'coral' means species of the phylum Cnidaria, including—

''(A) all species of the orders Antipatharia (black corals), Scleractinia (stony corals), Alcyonacea (soft corals), Gorgonacea (horny corals), Stolonifera (organpipe corals and others), and Coenothecalia (blue coral), of the class Anthoza; and

''(B) all species of the order Hydrocorallina (fire corals and hydrocorals) of the class Hydrozoa.

''(11) CORAL REEF.—The term 'coral reef' means any reef or shoal composed primarily of coral.

''(12) ASSOCIATED COASTAL MARINE ECOSYSTEM.—The term 'associated coastal marine ecosystem' means any coastal marine ecosystem surrounding, or directly related to, a coral reef and important to maintaining the ecological integrity of that coral reef, such as seagrasses, mangroves, sandy seabed communities, and immediately adjacent coastal areas.''.

SEC. 4. CHANGE TO NAME OF FACILITY.

(a) IN GENERAL.—Section 804 of the Tropical Forest and Coral Conservation Act of 2009 (22 U.S.C. 2431b), as renamed by section 2(a), is amended by striking ''Tropical Forest Facility'' and inserting ''Conservation Facility''.

(b) CONFORMING AMENDMENTS TO DEFINITIONS.—Section 803(8) of such Act (22 U.S.C. 2431a(8)) is amended—

(1) in the heading, by striking ''TROPICAL FOREST FACILITY'' and inserting ''CONSERVATION FACILITY''; and

(2) by striking ''Tropical Forest Facility'' both places it appears and inserting ''Conservation Facility''.

(c) REFERENCES.—Any reference in any other provision of law, regulation, document, paper, or other record of the United States to the ''Tropical Forest Facility'' shall be deemed to be a reference to the ''Conservation Facility''.

SEC. 5. ELIGIBILITY FOR BENEFITS.

Section 805(a) of the Tropical Forest and Coral Conservation Act of 2009 (22 U.S.C. 2431c(a)), as renamed by section 2(a), is amended by striking ''tropical forest'' and inserting ''tropical forest or coral reef''.

SEC. 6. UNITED STATES GOVERNMENT REPRESENTATION ON OVERSIGHT BODIES FOR GRANTS FROM DEBT-FOR-NATURE SWAPS AND DEBT-BUYBACKS.

Section 808(a)(5) of the Tropical Forest and Coral Conservation Act of 2009 (22 U.S.C. 2431f(a)(5)), as renamed by section 2(a), is amended by adding at the end the following new subparagraph:

''(C) UNITED STATES GOVERNMENT REPRESENTATION ON THE ADMINISTERING BODY.—

One or more individuals appointed by the United States Government may serve in an official capacity on the administering body that oversees the implementation of grants arising from a debt-for-nature swap or debt buy-back regardless of whether the United States is a party to any agreement between the eligible purchaser and the government of the beneficiary country.''.

SEC. 7. CONSERVATION AGREEMENTS.

(a) RENAMING OF AGREEMENTS.—Section 809 of the Tropical Forest and Coral Conservation Act of 2009 (22 U.S.C. 2431g), as renamed by section 2(a), is amended—

(1) in the section heading, by striking ''**TROPICAL FOREST AGREEMENT**'' and inserting ''**CONSERVATION AGREEMENT**''; and

(2) in subsection (a)—

(A) by striking ''AUTHORITY'' and all that follows through ''(1) IN GENERAL.—The Secretary'' and inserting ''AUTHORITY.—The Secretary''; and

(B) by striking ''Tropical Forest Agreement'' and inserting ''Conservation Agreement''.

(b) ELIMINATION OF REQUIREMENT TO CONSULT WITH THE ENTERPRISE FOR THE AMERICAS BOARD.—Such subsection is further amended by striking paragraph (2).

(c) ROLE OF BENEFICIARY COUNTRIES.—Such section is further amended—

(1) in subsection (e)(1)(C), by striking ''in exceptional circumstances, the government of the beneficiary country'' and inserting ''in limited circumstances, the government of the beneficiary country when needed to improve governance and enhance management of tropical forests or coral reefs or associated coastal marine ecosystems, without replacing existing levels of financial efforts by the government of the beneficiary country and with priority given to projects that complement grants made under subparagraphs (A) and (B)''; and

(2) by amending subsection (f) to read as follows:

''(f) REVIEW OF LARGER GRANTS.—Any grant of more than $250,000 from a Fund must be approved by the Government of the United States and the government of the beneficiary country.''.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—Such section is further amended—

(1) in subsection (c)(2)(A)(i), by inserting ''to serve in an official capacity'' after ''Government'';

(2) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking ''tropical forests'' and inserting ''tropical forests and coral reefs and associated coastal marine ecosystems related to such coral reefs'';

(B) in paragraph (5), by striking ''tropical forest''; and

(C) in paragraph (6), by striking ''living in or near a tropical forest in a manner consistent with protecting such tropical forest'' and inserting ''dependent on a tropical forest or coral reef or an associated coastal marine ecosystem related to such coral reef and related resources in a manner consistent with conserving such resources''.

(e) CONFORMING AMENDMENTS TO DEFINITIONS.—Section 803(7) of such Act (22 U.S.C. 2431a(7)) is amended—

(1) in the heading, by striking ''TROPICAL FOREST AGREEMENT'' and inserting ''CONSERVATION AGREEMENT''; and

(2) by striking ''Tropical Forest Agreement'' both places it appears and inserting ''Conservation Agreement''.

SEC. 8. CONSERVATION FUND.

(a) IN GENERAL.—Section 810 of the Tropical Forest and Coral Conservation Act of 2009 (22 U.S.C. 2431h), as renamed by section 2(a), is amended—

(1) in the section heading, by striking ''**TROPICAL FOREST FUND**'' and inserting ''**CONSERVATION FUND**''; and

(2) in subsection (a)—

(A) by striking ''Tropical Forest Agreement'' and inserting ''Conservation Agreement''; and

(B) by striking ''Tropical Forest Fund'' and inserting ''Conservation Fund''.

(b) CONFORMING AMENDMENTS TO DEFINITIONS.—Such Act is further amended—

(1) in section 803(9) (22 U.S.C. 2431a(9))—

(A) in the heading, by striking ''TROPICAL FOREST FUND'' and inserting ''CONSERVATION FUND''; and

(B) by striking ''Tropical Forest Fund'' both places it appears and inserting ''Conservation Fund'';

(2) in section 806(c)(2) (22 U.S.C. 2431d(c)(2)), by striking ''Tropical Forest Fund'' and inserting ''Conservation Fund''; and

(3) in section 807(c)(2) (22 U.S.C. 2431e(c)(2)), by striking ''Tropical Forest Fund'' and inserting ''Conservation Fund''.

SEC. 9. REPEAL OF AUTHORITY OF THE ENTERPRISE FOR THE AMERICAS BOARD TO CARRY OUT ACTIVITIES UNDER THE TROPICAL FOREST AND CORAL CONSERVATION ACT OF 2009.

(a) IN GENERAL.—Section 811 of the Tropical Forest and Coral Conservation Act of 2009 (22 U.S.C. 2431i), as renamed by section 2(a), is repealed.

(b) CONFORMING AMENDMENTS.—Section 803 of such Act (22 U.S.C. 2431a), as renamed by section 2(a), is amended—

(1) by striking paragraph (4); and

(2) by redesignating paragraphs (5), (6), (7), (8), and (9) as paragraphs (4), (5), (6), (7), and (8), respectively.

SEC. 10. CHANGES TO DUE DATES OF ANNUAL REPORTS TO CONGRESS.

Section 813 of the Tropical Forest and Coral Conservation Act of 2009 (22 U.S.C. 2431k), as renamed by section 2(a), is amended—

(1) in subsection (a)—

(A) by striking ''(a) IN GENERAL.—Not later than December 31'' and inserting ''Not later than April 15'';

(B) by striking ''Facility'' both places it appears and inserting ''Conservation Facility''; and

(C) by striking ''fiscal year'' both places it appears and inserting ''calendar year''; and

(2) by striking subsection (b).

SEC. 11. CHANGES TO INTERNATIONAL MONETARY FUND CRITERION FOR COUNTRY ELIGIBILITY.

Section 703(a)(5) of the Foreign Assistance Act of 1961 (22 U.S.C. 2430b(a)(5)) is amended—

(1) by striking ''or, as appropriate in exceptional circumstances,'' and inserting ''or'';

(2) in subparagraph (A)—

(A) by striking ''or in exceptional circumstances, a Fund monitored program or its equivalent,'' and inserting ''or a Fund monitored program, or is implementing sound macroeconomic policies,''; and

(B) by striking ''(after consultation with the Enterprise for the Americas Board)''; and

(3) in subparagraph (B), by striking ''(after consultation with the Enterprise for Americas Board)''.

SEC. 12. NEW AUTHORIZATION OF APPROPRIATIONS FOR THE REDUCTION OF DEBT AND AUTHORIZATION FOR AUDIT, EVALUATION, MONITORING, AND ADMINISTRATION EXPENSES.

Section 806 of the Tropical Forest and Coral Conservation Act of 2009 (22 U.S.C. 2431d), as renamed by section 2(a), is amended—

(1) in subsection (d), by adding at the end the following new paragraphs:

''(7) $25,000,000 for fiscal year 2009.

''(8) $30,000,000 for fiscal year 2010.

''(9) $30,000,000 for fiscal year 2011.

''(10) $30,000,000 for fiscal year 2012.''; and

(2) by amending subsection (e) to read as follows:

''(e) USE OF FUNDS TO CONDUCT PROGRAM AUDITS, EVALUATIONS, MONITORING, AND ADMINISTRATION.—Of the amounts made available to carry out this part for a fiscal year, $300,000 is authorized to be made available to carry out audits, evaluations, monitoring, and administration of programs under this part, including personnel costs associated with such audits, evaluations, monitoring and administration.''.

By Mr. ROCKEFELLER (for himself and Ms. SNOWE):

S. 348. A bill to amend section 254 of the Communications Act of 1934 to provide that funds received as universal service contributions and the universal service support programs established pursuant to that section are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act; to the Committee on Commerce, Science, and Transportation.

Mr. ROCKEFELLER. Mr. President, I am proud to reintroduce, with my colleague Senator OLYMPIA SNOWE of Maine, a bipartisan effort to ensure that all universal service programs can continue to operate smoothly and effectively. While Congress has annually taken action to deal with this issue, our hope is to enact a permanent solution.

For many years, we have fought hard for universal service, including the E-Rate. It is essential for all of the universal service programs to operate in a timely manner.

The Universal Service Fund is accomplishing its mission, and every member who has worked with us should be proud of the progress of this program. Our country has a strong telecommunications network, and rural customers are getting service at affordable rates. Lifeline and Linkup programs help the poorest of customers keep basic telephone access which is essential in our modern world. Rural health care is helping connect our rural clinics to modern medicine and specialists.

In 1996, when the Telecommunications Act passed, only 14 percent of all classrooms were connected, while just 5 percent of the poorest classrooms were connected. The latest data is encouraging with 93 percent of all classrooms connected and 89 percent of the poorest classrooms connected. Since 1998, West Virginia schools and libraries have received over $101 million in E-Rate discounts. While this is an extraordinary success, the need for E-Rate discounts remains because schools and libraries face monthly telecommunication costs and Internet access fees. Additionally, every school and library will periodically need to upgrade its internal connections as the demand of technology grows and institutions need greater bandwidth to handle ever increasing demand. At the beginning of the debates in 1996, schools were talking about dial-up access,

now every school wants—and needs—broadband.

This legislation gives the Universal Service Fund a permanent exemption from the Antideficiency Act which will provide sustainability and consistency for the program. Over the last few years, we have done one-year exemptions. Other Federal programs have permanent exemptions for the Antideficiency Act, and it is common sense to grant an exemption for the Universal Service Fund.

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

S. 349. A bill to establish the Susquehanna Gateway National Heritage Area in the State of Pennsylvania, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. CASEY. Mr. President, I rise today to introduce legislation that would establish the Susquehanna Gateway National Heritage Area in York and Lancaster Counties, Pennsylvania. Since 1984, Congressionally-designated National Heritage Areas have fostered partnerships between the public and private sectors for undertaking preservation, educational, and recreational initiatives in diverse regions throughout the country. Through these efforts, National Heritage Areas have helped to protect our nation's natural and cultural resources while promoting local economic development. Today, I am proud once again to join my colleague from Pennsylvania Senator ARLEN SPECTER to propose a bill that would grant national recognition to the Susquehanna Gateway region, an area that has played a key role in the development of our nation's cultural, political, and economic identity.

As the Senate continues its work in the 111th Congress, I look forward to working with my colleagues to pass the Susquehanna Gateway National Heritage Area Act soon so that the region can begin to play a national role in sharing America's story.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 349

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Susquehanna Gateway National Heritage Area Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) numerous sites of significance to the heritage of the United States are located within the boundaries of the proposed Susquehanna Gateway National Heritage Area, which includes the Lower Susquehanna River corridor and all of Lancaster and York Counties in the State of Pennsylvania;

(2) included among the more than 200 historically significant sites, structures, districts, and tours in the area are—

(A) the home of a former United States President;

(B) the community where the Continental Congress adopted the Articles of Confederation;

(C) the homes of many prominent figures in the history of the United States;

(D) the preserved agricultural landscape of the Plain communities of Lancaster County, Pennsylvania;

(E) the exceptional beauty and rich cultural resources of the Susquehanna River Gorge;

(F) numerous National Historic Landmarks, National Historic Districts, and Main Street communities; and

(G) many thriving examples of the nationally significant industrial and agricultural heritage of the region, which are collectively and individually of significance to the history of the United States;

(3) in 1999, a regional, collaborative public-private partnership of organizations and agencies began an initiative to assess historic sites in Lancaster and York Counties, Pennsylvania, for consideration as a Pennsylvania Heritage Area;

(4) the initiative—

(A) issued a feasibility study of significant stories, sites, and structures associated with Native American, African-American, European-American, Colonial American, Revolutionary, and Civil War history; and

(B) concluded that the sites and area—

(i) possess historical, cultural, and architectural values of significance to the United States; and

(ii) retain a high degree of historical integrity;

(5) in 2001, the feasibility study was followed by development of a management action plan and designation of the area by the State of Pennsylvania as an official Pennsylvania Heritage Area;

(6) in 2008, a feasibility study report for the Heritage Area—

(A) was prepared and submitted to the National Park Service—

(i) to document the significance of the area to the United States; and

(ii) to demonstrate compliance with the interim criteria of the National Park Service for National Heritage Area designation; and

(B) found that throughout the history of the United States, Lancaster and York Counties and the Susquehanna Gateway region have played a key role in the development of the political, cultural, and economic identity of the United States;

(7) the people of the region in which the Heritage Area is located have—

(A) advanced the cause of freedom; and

(B) shared their agricultural bounty and industrial ingenuity with the world;

(8) the town and country landscapes and natural wonders of the area are visited and treasured by people from across the globe;

(9) for centuries, the Susquehanna River has been an important corridor of culture and commerce for the United States, playing key roles as a major fishery, transportation artery, power generator, and place for outdoor recreation;

(10) the river and the region were a gateway to the early settlement of the ever-moving frontier;

(11) the area played a critical role as host to the Colonial government during a turning point in the Revolutionary War;

(12) the rural landscape created by the Amish and other Plain people of the region is of a scale and scope that is rare, if not entirely unknown in any other region, in the United States;

(13) for many people in the United States, the Plain people of the region personify the virtues of faith, honesty, community, and stewardship at the heart of the identity of the United States;

(14) the regional stories of people, land, and waterways in the area are essential parts of the story of the United States and exemplify the qualities inherent in a National Heritage Area;

(15) in 2008, the National Park Service found, based on a comprehensive review of the Susquehanna Gateway National Heritage Area Feasibility Study Report, that the area meets the 10 interim criteria of the National Park Service for designation of a National Heritage Area;

(16) the preservation and interpretation of the sites within the Heritage Area will make a vital contribution to the understanding of the development and heritage of the United States for the education and benefit of present and future generations;

(17) the Secretary of the Interior is responsible for protecting the historic and cultural resources of the United States;

(18) there are significant examples of historic and cultural resources within the Heritage Area that merit the involvement of the Federal Government, in cooperation with the management entity and State and local governmental bodies, to develop programs and projects to adequately conserve, support, protect, and interpret the heritage of the area;

(19) partnerships between the Federal Government, State and local governments, regional entities, the private sector, and citizens of the area offer the most effective opportunities for the enhancement and management of the historic sites throughout the Heritage Area to promote the cultural and historic attractions of the Heritage Area for visitors and the local economy; and

(20) the Lancaster-York Heritage Region, a 501(c)(3) nonprofit corporation and State-designated management entity of the Pennsylvania Heritage Area, would be an appropriate management entity for the Heritage Area.

SEC. 3. DEFINITIONS.

In this Act:

(1) HERITAGE AREA.—The term ''Heritage Area'' means the Susquehanna Gateway National Heritage Area established by section 4(a).

(2) MANAGEMENT ENTITY.—The term ''management entity'' means the management entity for the Heritage Area designated by section 5(a).

(3) MANAGEMENT PLAN.—The term ''management plan'' means the plan developed by the management entity under section 6(a).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(5) STATE.—The term ''State'' means the State of Pennsylvania.

SEC. 4. ESTABLISHMENT OF SUSQUEHANNA GATEWAY NATIONAL HERITAGE AREA.

(a) IN GENERAL.—There is established in the State the Susquehanna Gateway National Heritage Area.

(b) BOUNDARIES.—The Heritage Area shall include a core area located in south-central Pennsylvania consisting of an 1869-square-mile region east and west of the Susquehanna River and encompassing Lancaster and York Counties.

(c) MAP.—A map of the Heritage Area shall be—

(1) included in the management plan; and

(2) on file in the appropriate offices of the National Park Service.

SEC. 5. DESIGNATION OF MANAGEMENT ENTITY.

(a) MANAGEMENT ENTITY.—The Lancaster-York Heritage Region shall be the management entity for the Heritage Area.

(b) AUTHORITIES OF MANAGEMENT ENTITY.—The management entity may, for purposes of preparing and implementing the management plan, use Federal funds made available under this Act—

(1) to prepare reports, studies, interpretive exhibits and programs, historic preservation projects, and other activities recommended in the management plan for the Heritage Area;

(2) to pay for operational expenses of the management entity;

(3) to make grants to the State, political subdivisions of the State, nonprofit organizations, and other persons;

(4) to enter into cooperative agreements with the State, political subdivisions of the State, nonprofit organizations, and other organizations;

(5) to hire and compensate staff;

(6) to obtain funds or services from any source, including funds and services provided under any other Federal program or law; and

(7) to contract for goods and services.

(c) DUTIES OF MANAGEMENT ENTITY.—To further the purposes of the Heritage Area, the management entity shall—

(1) prepare a management plan for the Heritage Area in accordance with section 6;

(2) give priority to the implementation of actions, goals, and strategies set forth in the management plan, including assisting units of government and other persons in—

(A) carrying out programs and projects that recognize and protect important resource values in the Heritage Area;

(B) encouraging economic viability in the Heritage Area in accordance with the goals of the management plan;

(C) establishing and maintaining interpretive exhibits in the Heritage Area;

(D) developing heritage-based recreational and educational opportunities for residents and visitors in the Heritage Area;

(E) increasing public awareness of and appreciation for the natural, historic, and cultural resources of the Heritage Area;

(F) restoring historic buildings that are—

(i) located in the Heritage Area; and

(ii) related to the themes of the Heritage Area; and

(G) installing throughout the Heritage Area clear, consistent, and appropriate signs identifying public access points and sites of interest;

(3) consider the interests of diverse units of government, businesses, tourism officials, private property owners, and nonprofit groups within the Heritage Area in developing and implementing the management plan;

(4) conduct public meetings at least semiannually regarding the development and implementation of the management plan; and

(5) for any fiscal year for which Federal funds are received under this Act—

(A) submit to the Secretary an annual report that describes—

(i) the accomplishments of the management entity;

(ii) the expenses and income of the management entity; and

(iii) the entities to which the management entity made any grants;

(B) make available for audit all records relating to the expenditure of the Federal funds and any matching funds; and

(C) require, with respect to all agreements authorizing the expenditure of Federal funds by other organizations, that the receiving organizations make available for audit all records relating to the expenditure of the Federal funds.

(d) PROHIBITION ON ACQUISITION OF REAL PROPERTY.—

(1) IN GENERAL.—The management entity shall not use Federal funds received under this Act to acquire real property or any interest in real property.

(2) OTHER SOURCES.—Nothing in this Act precludes the management entity from using Federal funds from other sources for authorized purposes, including the acquisition of real property or any interest in real property.

SEC. 6. MANAGEMENT PLAN.

(a) IN GENERAL.—Not later than 3 years after the date on which funds are first made available to carry out this Act, the management entity shall prepare and submit to the Secretary a management plan for the Heritage Area.

(b) CONTENTS.—The management plan for the Heritage Area shall—

(1) include comprehensive policies, strategies, and recommendations for the conservation, funding, management, and development of the Heritage Area;

(2) take into consideration existing State, county, and local plans;

(3) specify the existing and potential sources of funding to protect, manage, and develop the Heritage Area;

(4) include an inventory of the natural, historic, cultural, educational, scenic, and recreational resources of the Heritage Area relating to the themes of the Heritage Area that should be preserved, restored, managed, developed, or maintained; and

(5) include an analysis of, and recommendations for, ways in which Federal, State, and local programs, may best be coordinated to further the purposes of this Act, including recommendations for the role of the National Park Service in the Heritage Area.

(c) DISQUALIFICATION FROM FUNDING.—If a proposed management plan is not submitted to the Secretary by the date that is 3 years after the date on which funds are first made available to carry out this Act, the management entity may not receive additional funding under this Act until the date on which the Secretary receives the proposed management plan.

(d) APPROVAL AND DISAPPROVAL OF MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 180 days after the date on which the management entity submits the management plan to the Secretary, the Secretary shall approve or disapprove the proposed management plan.

(2) CONSIDERATIONS.—In determining whether to approve or disapprove the management plan, the Secretary shall consider whether—

(A) the management entity is representative of the diverse interests of the Heritage Area, including governments, natural and historic resource protection organizations, educational institutions, businesses, and recreational organizations;

(B) the management entity has provided adequate opportunities (including public meetings) for public and governmental involvement in the preparation of the management plan;

(C) the resource protection and interpretation strategies contained in the management plan, if implemented, would adequately protect the natural, historic, and cultural resources of the Heritage Area; and

(D) the management plan is supported by the appropriate State and local officials, the cooperation of which is needed to ensure the effective implementation of the State and local aspects of the management plan.

(3) DISAPPROVAL AND REVISIONS.—

(A) IN GENERAL.—If the Secretary disapproves a proposed management plan, the Secretary shall—

(i) advise the management entity, in writing, of the reasons for the disapproval; and

(ii) make recommendations for revision of the proposed management plan.

(B) APPROVAL OR DISAPPROVAL.—The Secretary shall approve or disapprove a revised management plan not later than 180 days after the date on which the revised management plan is submitted.

(e) APPROVAL OF AMENDMENTS.—

(1) IN GENERAL.—The Secretary shall review and approve or disapprove substantial amendments to the management plan in accordance with subsection (d).

(2) FUNDING.—Funds appropriated under this Act may not be expended to implement any changes made by an amendment to the management plan until the Secretary approves the amendment.

SEC. 7. RELATIONSHIP TO OTHER FEDERAL AGENCIES.

(a) IN GENERAL.—Nothing in this Act affects the authority of a Federal agency to provide technical or financial assistance under any other law.

(b) CONSULTATION AND COORDINATION.—The head of any Federal agency planning to conduct activities that may have an impact on the Heritage Area is encouraged to consult and coordinate the activities with the Secretary and the management entity to the extent practicable.

(c) OTHER FEDERAL AGENCIES.—Nothing in this Act—

(1) modifies, alters, or amends any law or regulation authorizing a Federal agency to manage Federal land under the jurisdiction of the Federal agency;

(2) limits the discretion of a Federal land manager to implement an approved land use plan within the boundaries of the Heritage Area; or

(3) modifies, alters, or amends any authorized use of Federal land under the jurisdiction of a Federal agency.

SEC. 8. PRIVATE PROPERTY AND REGULATORY PROTECTIONS.

Nothing in this Act—

(1) abridges the rights of any property owner (whether public or private), including the right to refrain from participating in any plan, project, program, or activity conducted within the Heritage Area;

(2) requires any property owner to permit public access (including access by Federal, State, or local agencies) to the property of the property owner, or to modify public access or use of property of the property owner under any other Federal, State, or local law;

(3) alters any duly adopted land use regulation, approved land use plan, or other regulatory authority of any Federal, State, or local agency, or conveys any land use or other regulatory authority to the management entity;

(4) authorizes or implies the reservation or appropriation of water or water rights;

(5) diminishes the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting within the Heritage Area; or

(6) creates any liability, or affects any liability under any other law, of any private property owner with respect to any person injured on the private property.

SEC. 9. EVALUATION; REPORT.

(a) IN GENERAL.—Not later than 3 years before the date on which authority for Federal funding terminates for the Heritage Area, the Secretary shall—

(1) conduct an evaluation of the accomplishments of the Heritage Area; and

(2) prepare a report in accordance with subsection (c).

(b) EVALUATION.—An evaluation conducted under subsection (a)(1) shall—

(1) assess the progress of the management entity with respect to—

(A) accomplishing the purposes of this Act for the Heritage Area; and

(B) achieving the goals and objectives of the approved management plan for the Heritage Area;

(2) analyze the Federal, State, local, and private investments in the Heritage Area to determine the leverage and impact of the investments; and

(3) review the management structure, partnership relationships, and funding of the Heritage Area for purposes of identifying the critical components for sustainability of the Heritage Area.

(c) REPORT.—

(1) IN GENERAL.—Based on the evaluation conducted under subsection (a)(1), the Secretary shall prepare a report that includes recommendations for the future role of the National Park Service, if any, with respect to the Heritage Area.

(2) REQUIRED ANALYSIS.—If the report prepared under paragraph (1) recommends that Federal funding for the Heritage Area be reauthorized, the report shall include an analysis of—

(A) ways in which Federal funding for the Heritage Area may be reduced or eliminated; and

(B) the appropriate time period necessary to achieve the recommended reduction or elimination.

(3) SUBMISSION TO CONGRESS.—On completion of the report, the Secretary shall submit the report to—

(A) the Committee on Energy and Natural Resources of the Senate; and

(B) the Committee on Natural Resources of the House of Representatives.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this Act $10,000,000, of which not more than $1,000,000 may be authorized to be appropriated for any fiscal year.

(b) COST-SHARING REQUIREMENT.—The Federal share of the cost of any activity carried out using funds made available under this Act shall be not more than 50 percent.

SEC. 11. TERMINATION OF AUTHORITY.

The authority of the Secretary to provide financial assistance under this Act terminates on the date that is 15 years after the date of enactment of this Act.

By Mr. DURBIN (for himself, Mr. WHITEHOUSE, Mrs. MURRAY, Mr. CARDIN, and Mr. DODD):

S. 355. A bill to enhance the capacity of the United States to undertake global development activities, and for other purposes; to the Committee on Foreign Relations.

Mr. DURBIN. Mr. President, today, along with Senators WHITEHOUSE, MURRAY, CARDIN and DODD, I am introducing a bill to triple the number of Foreign Service officers working with USAID.

As we take stock of America's image in the world, it's clear that we need to do more to help countries stabilize their society and their economy.

Our own security depends on the stability of far-flung places beyond our borders.

America's generosity and ability to help other countries is becoming more important to the effectiveness of our foreign policy.

In the U.S., the responsibility for development falls largely to the U.S. Agency for International Development, or USAID.

USAID was founded by the Kennedy administration in 1961. It became the first U.S. foreign assistance organization with the primary goal of long term economic and social development efforts overseas.

During its first decade, it had more than 5,000 Foreign Service Officers serving all over the world, often in the most difficult of conditions.

Today—at a time when the U.S. needs to show its leadership overseas more than ever—USAID operates with just 1,000 Foreign Service Officers.

With so few people to deploy, our hands are tied and we're missing opportunities to build bridges and foster diplomacy.

For example, more than seven years after U.S. took military action in Afghanistan, the Taliban and al Qaeda continue to undermine progress toward a more stable state.

Our military has done a heroic job in Afghanistan. But success in Afghanistan also depends on improving the lives of the Afghan people—jobs, agriculture, stability, and a functional government.

We have not done enough to win the hearts and minds of the Afghan people. And the military cannot bear this burden alone.

The last time I went to Afghanistan there were only six American agricultural experts for the entire country—I think today there are only slightly more.

For a nation with an agricultural economy and record poppy harvest, we have been able to lend just a handful of agricultural development experts.

Secretary of Defense Robert Gates understands this critical need to partner our military efforts with civilian development expertise. Last month he said:

> The problem is that the civil side of our government—the Foreign Service and foreign-policy side, including our aid for international development—[has] been systematically starved of resources for a quarter of a century or more . . . We have not provided the resources necessary, first of all, for our diplomacy around the world; and second, for communicating to the rest of the world what we are about and who we are as a people.

Many people on both sides of the aisle agree that USAID is no longer equipped to do its job effectively. We simply are not meeting the international development goals of the United States.

USAID has been shortchanged—and America's efforts abroad have suffered as a result.

Now we have a lot of needs here at home, to be sure. But one important lesson of the last few years is that America must be engaged if we are to remain a leader in world affairs.

The Increasing America's Global Development Capacity Act of 2009 would take the first step toward putting the Agency for International Development on firmer footing. As Secretary Clinton said in her remarks to USAID employees last week, it is ironic that that our very best young military leaders are given unfettered resources to spend as they see fit to build a school, to open a health clinic, to pave a road, and our diplomats and development experts have to go through miles of paperwork to spend ten cents. Secretary Clinton said, and I agree, that this is not a sensible approach.

The bill would authorize USAID to hire an additional 700 Foreign Service Officers this year. This would basically double the current number of development officers available to work in targeted countries.

This is fundamental to rebuilding the agency's capacity.

Senator LEAHY, Chair of the Foreign Operations Appropriations Subcommittee, shares a commitment to rebuilding USAID. I am heartened by the Subcommittee's recommended increase in funding for USAID's operating expenses for fiscal year 2009. This was a priority for me in the bill, and Chairman LEAHY has been very supportive.

My bill also would establish a goal of hiring an additional 1,300 Foreign Service Officers by 2012.

After three years, USAID would have more than 3,000 talented, committed Americans serving in the world's most difficult locations helping to improve the lives of others. It won't be the 5,000 experts of the 1960s, but it will be a big improvement from today.

With a stronger development work force, we can send talented public servants to help improve child and maternal health, treat people with AIDS, TB and malaria, provide clean water and sanitation, help farmers and women start or improve their business, and assist reformers and civic leaders to build stronger democratic institutions.

We all recall the renewed interest in public service that emerged after 9/11—many of those people have answered the call, and I bet there are as many more who would welcome an opportunity to serve.

Foreign development assistance is as important a foreign policy tool as diplomacy and defense.

Secretary of Defense Robert Gates is perhaps the most persuasive advocate for rebuilding our civilian development capacity. He argues that we need to engage in non-military ways to pursue global development goals.

The civilian instruments of national security—diplomacy, development assistance, sharing expertise on civil society—are becoming more and more important.

Secretary Gates argues that these tools are good for the world's poor, our national security, and our country.

I agree.

Let us take one concrete step to rebuild that important civilian capacity, which would help improve our ability to help the world's poorest countries and people.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 355

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Increasing America's Global Development Capacity Act of 2009''.

SEC. 2. FINDINGS.

Congress finds that—

(1) foreign development assistance is an important foreign policy tool in addition to diplomacy and defense;

(2) development assistance is part of any comprehensive United States response to regional conflicts, terrorist threats, weapons proliferation, disease pandemics, and persistent widespread poverty;

(3) in 2002 and 2006, the United States National Security Strategy included global development, along with defense and diplomacy, as the 3 pillars of national security;

(4) in its early years, the United States Agency for International Development (referred to in this Act as ''USAID'') had more than 5,000 full-time Foreign Service Officers;

(5) in 2008, USAID had slightly more than 1,000 full-time Foreign Service Officers;

(6) the budget at USAID, calculated in real dollars, has dropped 27 percent since 1985;

(7) this decline in personnel and operating budgets has diminished the capacity of USAID to provide development assistance and implement foreign assistance programs; and

SEC. 3. HIRING OF ADDITIONAL FOREIGN SERVICE OFFICERS AS USAID EMPLOYEES.

(a) INITIAL HIRINGS.—Except as provided under subsection (c), not later than 1 year after the date of the enactment of this Act, the Administrator of USAID (referred to in this section as the ''Administrator'') shall increase by not less than 700 the total number of full-time Foreign Service Officers employed by USAID compared to the number of such officers employed by USAID on September 30, 2008. These officers shall be used to enhance the ability of USAID to—

(1) carry out development activities around the world by providing USAID with additional human resources and expertise needed to meet important development and humanitarian needs around the world;

(2) strengthen the institutional capacity of USAID as the lead development agency of the United States; and

(3) more effectively help developing nations to become more stable, healthy, democratic, prosperous, and self-sufficient.

(b) SUBSEQUENT HIRINGS.—

(1) IN GENERAL.—Except as provided under subsection (c), during the 2-year period beginning 1 year after the date of the enactment of this Act, the Administrator shall increase by not less than 1,300 the total number of full-time Foreign Service Officers over the number of such officers at the beginning of such 2-year period to carry out the activities described in subsection (a), contingent upon sufficient appropriations.

(2) STRATEGY.—Not later than 180 days after the date of the enactment of this Act, the Administrator shall submit a strategy to Congress that includes—

(A) a plan to create a professional training program that will provide new and current USAID employees with technical, management, leadership, and language skills;

(B) a staffing plan for the subsequent 5 years; and

(C) a description of further resources and statutory changes necessary to implement the proposed training and staffing plans.

(c) EXCEPTION.—If the Administrator determines that USAID has competing needs that are more urgent than the hirings described in subsection (a) or (b), or finds a shortage of qualified individuals for such hirings, the Administrator may reduce the number of such hirings and use the available funds for competing needs if the Administrator submits a report describing such competing needs and, if applicable, the nature of the shortage, to—

(1) the Committee on Appropriations of the Senate;

(2) the Committee on Foreign Relations of the Senate;

(3) the Committee on Appropriations of the House of Representatives; and

(4) the Committee on Foreign Affairs of the House of Representatives.

By Mrs. BOXER (for herself and Mr. BURR):

S. 356. A bill to amend the Bank Holding Company Act of 1956 and the Revised Statutes of the United States to prohibit financial holding companies and national banks from engaging, directly or indirectly, in real estate brokerage or real estate management activities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mrs. BOXER. Mr. President, I rise today to introduce the Community Choice In Real Estate Act of 2009. I am pleased to have Senator BURR join me in introducing this bill. In previous Congresses, this bill was introduced by former Senators Allard and Clinton, and I am happy to continue their efforts.

The Community Choice in Real Estate Act of 2003 would clarify Congressional intent that real estate brokerage and management are not financial activities and would therefore retain the separation of commerce and banking that was intended during consideration of the Gramm-Leach-Bliley Act.

The Gramm-Leach-Bliley Act got many things wrong when it repealed the firewall between the activities of banks and those of the stock market, bonds and insurance and allowed these institutions to engage in riskier activities. But one thing that it did get right was maintaining the firewalls separating the financial and commercial sectors.

We already have seen the damage to our economy and real estate market caused when banks began to engage in certain previously prohibited activities. If the firewall separating banking and commerce also were to be torn down, it would further undermine banks' ability to be neutral arbiters of capital and lend based on financial principles and without bias. The S&L crisis of the 1980's has already shown us what can happen when federal rules keeping financial services separate from commercial activities are weakened.

Real estate brokerage and management have always been considered by Congress to be commercial transactions, and not financial matters. This was further reflected when Congress specifically chose not to include real estate activities as one of the powers given to national banks and financial holding companies as part of Gramm-Leach-Bliley.

However, following the passage of that Act, the Federal Reserve and the Treasury Department proposed rules in response to a petition by some financial services entities that would have allowed them to own and operate local real estate brokerage and property management companies.

Since fiscal year 2003, Congress has included language in the annual appropriations bill for the Treasury Department to prevent the use of funds to implement these regulations. These have only been temporary fixes, however, and we ought to resolve this issue once and for all in the 111th Congress.

I urge my colleagues to support this legislation.

By Mr. FEINGOLD (for himself, Mr. BEGICH, and Mr. MCCAIN):

S.J. Res. 7. A joint resolution proposing an amendment to the Constitution of the United States relative to the election of Senators; to the Committee on the Judiciary.

Mr. FEINGOLD. Mr. President, our founding fathers did a remarkable job in drafting the United States Constitution and the Bill of Rights. Their work was so superb that in the 217 years since the ratification of the Bill of Rights, the Constitution has only been amended 17 times. But every so often, a situation arises that so clearly exposes a flaw in our constitutional structure that it requires a constitutional remedy.

Over the past several months, our country has witnessed multiple controversies surrounding appointments to vacant Senate seats by governors. The vacancies in Illinois and New York have made for riveting political theater, but lost in the seemingly endless string of press conferences and surprise revelations is the basic fact that the citizens of these states have had no say in who should represent them in the Senate. The same is true of the recent selections in Delaware and Colorado. That is why I will introduce today a constitutional amendment to end gubernatorial appointments to the U.S. Senate and require special elections to fill these vacancies, as is currently required for House vacancies. I am pleased that the recently elected Senator from Alaska, Senator BEGICH, and the distinguished senior Senator from Arizona, Senator MCCAIN, have agreed to be original cosponsors of the amendment.

I do not make this proposal lightly. In fact, I have opposed dozens of constitutional amendments during my time in the Senate, particularly those that would have interfered with the Bill of Rights. The Constitution should not be treated like a rough draft. Constitutional amendments should be considered only when a statutory remedy to a problem is not available, and when the impact of the issue at hand on the structure of our government, the safety, welfare, or freedoms of our citizens, or the survival of our democratic republic is so significant that an amendment is warranted. I believe this is such a case.

In 1913, the citizens of this country, acting through their elected state legislatures, ratified the 17th Amendment to the Constitution. Our esteemed colleague Senator BYRD, in Chapter 21 of his remarkable history of the United

States Senate, lays out in fascinating detail the lengthy struggle to obtain for the citizens of this country the right to elect their Senators. The original Constitution, as we all know, gave state legislatures the right to choose the Senators for their states. While the first proposal to amend the Constitution to require the direct election of Senators was introduced in the House in 1826, the effort only really picked up steam after the Civil War.

As Senator BYRD recounts: ''In the post-Civil War period, state legislatures became increasingly subject to intimidation and bribery in the selection of Senators.'' Nine cases of bribery came before the Senate between 1866 and 1906. And between 1891 and 1905, the state legislatures from 20 different states deadlocked 45 times when trying to pick a Senator. At one point, a Senate seat from Delaware remained vacant for 4 years because of deadlocks.

The political theater occasioned by these Senate appointment fights dwarfs even the extraordinary events we have witnessed in recent months. Senator BYRD quotes from an account by the historian George Haynes about efforts to select a Senator in Missouri in 1905:

> Lest the hour of adjournment should come before an election was secured, an attempt was made to stop the clock upon the wall of the assembly chamber. Democrats tried to prevent its being tempered with; and when certain Republicans brought forward a ladder, it was seized and thrown out of the window. A fist-fight followed, in which many were involved. Desks were torn from the floor and a fusillade of books began. The glass of the clock-front was broken, but the pendulum still persisted in swinging until, in the midst of a yelling mob, one member began throwing ink bottles at the clock, and finally succeeded in breaking the pendulum. On a motion to adjourn, arose the wildest disorder. The presiding officers of both houses mounted the speaker's desk, and, by shouting and waving their arms, tried to quiet the mob. Finally, they succeeded in securing some semblance of order.

Popular sentiment for direct election of Senators slowly grew in response to events like these. Some states held popular referenda on who should be Senator and attempted to require their legislatures to select the winners of those votes. More and more Senators were chosen in such processes, leading to more support in the Senate for a constitutional amendment. Congress finally acted in 1911 and 1912. There was high drama in the Senate as Vice President James Schoolcraft Sherman broke a tie on a crucial substitute amendment offered by Senator Joseph Bristow of Kansas during Senate consideration of the joint resolution. A few days of parliamentary wrangling ensued over whether the Vice President's tie breaking role in the Senate extends to such situations, and that precedent still stands today. In May 1912, an impasse of almost a year was broken and the House receded to the Senate version of the amendment, allowing it to be sent to the States for ratification. Less than a year later, on April 8, 1913, Connecticut became the 36th State to ratify the amendment, and it became the 17th Amendment to the Constitution.

I recount this summary of the history of the 17th Amendment, and again, I commend to my colleagues Senator BYRD's chapter on the subject, first to make the point that even though it seems obvious to us that the Senate should be elected by the people, the struggle for that right was not easy or fast. But the cause was just and in the end the call for direct elections was too strong to be ignored. I believe the same result will occur here. It may take time, but in the end, I am confident that the principle that people must elect their representatives will prevail.

Second, this history shows that the public's disgust with the corruption, bribery, and political chicanery that resulted from having Senators chosen by state legislatures was a big motivation for passing the amendment. Gubernatorial appointments pose the same dangers, and demand the same solution—direct elections.

Finally, the history indicates that the proviso in the 17th amendment permitting gubernatorial appointments to fill temporary vacancies was not the subject of extensive debate in the Congress. The proviso originated in the substitute amendment offered by Senator Bristow. The Bristow substitute was designed, its sponsor explained, to ''make[] the least possible change in the Constitution to accomplish the purposes desired; that is the election of Senators by popular vote.'' Most significantly, it deleted a provision in the resolution as originally introduced that year that would have amended Article I, section 4 of the Constitution to remove Congress's supervisory authority to make or alter regulations concerning the time and manner of Senate elections.

The proviso, explained Senator Bristow, ''is practically the same provision which now exists in the case of such a vacancy. The governor of the State may appoint a Senator until the legislature elects.'' Although significant debate over other provisions in the Bristow amendment is found in the Record before the climactic tie vote, which was broken by the Vice President, there seems to have been no further discussion of the proviso.

Thus, it appears that the proviso was simply derived from the original constitutional provision in Article I, Section 3, which gave the power to choose Senators to the state legislatures, but allowed governors to appoint temporary replacements when the legislatures were not in session. It was unremarkable at the time of the 17th Amendment to allow governors to have the same temporary replacement power once direct elections were required. That would explain the apparent lack of debate on the question. The long and contentious debate over the amendment was dominated by much more basic issues, such as whether the people should elect their Senators at all, and whether Congress should also amend the ''time, place, or manner clause'' of Article I, section 4.

Nearly 100 years later, that proviso has allowed a total of 184 Senators to be appointed by governors, and we have a situation in today's Senate where the people of four states, comprising over 12 percent of the entire population of the country, will be represented for the next two years by someone they did not elect. It is very hard to imagine that the Congress that passed the 17th Amendment and the states that ratified it would have been comfortable with such an outcome. Indeed, some argue that the intent of the 17th Amendment was that temporary appointments to fill early vacancies should last only until a special election can be scheduled, rather than for an entire two-year Congress until the next general election. A number of states have adopted that approach, but many have not.

That is not to say that the people appointed to Senate seats are not capable of serving, or will not do so honorably. I have no reason to question the fitness for office of any of the most recent appointees, and I look forward to working with them. But those who want to be a U.S. Senator should have to make their case to the people whom they want to represent, not just the occupant of the governor's mansion. And the voters should choose them in the time-honored way that they choose the rest of the Congress of the United States.

I want to make it clear that this proposal is not simply a response to these latest cases that have been in the news over the past few months. These cases have simply confirmed my longstanding view that Senate appointments by state governors are an unfortunate relic of the pre-17th Amendment era, when state legislatures elected U.S. Senators. Direct election of Senators was championed by the great progressive Bob La Follette, who served as Wisconsin's Governor and a U.S. Senator. Indeed, my State of Wisconsin is now one of only 4 States, Oregon, Massachusetts, and Alaska are the others, that clearly require a special election to fill a Senate vacancy in all circumstances.

The vast majority of states still rely on the appointment system, while retaining the right to require direct elections, as the Massachusetts legislature and the voters of Alaska have done in recent years. But changing this system state by state would be a long and difficult process, even more difficult than the ratification of a constitutional amendment, particularly since Governors have the power to veto state statutes that would take this power away from them. Furthermore, the burden should not be on Americans to pass legislation in their states protecting their fundamental voting rights—the right to elect one's representatives is a bedrock principle and

should be reaffirmed in the nation's ruling charter.

We need to finish the job started by La Follette and other reformers nearly a century ago. Nobody can represent the people in the House of Representatives without the approval of the voters. The same should be true for the Senate.

In the several days since I announced my intention to introduce this amendment, I have heard a number of arguments raised against it. I would like to briefly address them. First of all, some suggest this amendment is an overreaction to the headlines of the day. But there are several precedents for amending the provisions of the Constitution that relate to the structure of government based on specific events. The 22nd Amendment, limiting the presidency to two terms, passed in 1951 in response to President Franklin D. Roosevelt's four-term presidency. The 25th Amendment, revising presidential succession, was passed in 1967 in response to confusion that occurred after the assassination of President Kennedy. If events demonstrate that there is a problem with our government structure, sooner or later we must take steps to address those problems. There is no better time to do that than when the effects of the structural flaw are most evident and most prominently part of the public debate.

Another objection I have heard to this proposal is the potential financial burden on the states that must pay for special elections. As someone with a reputation for fiscal discipline, I always consider a proposal's impact on the taxpayer. But the cost to our democracy of continuing the anachronism of gubernatorial Senate appointments is far greater than the cost of infrequent special elections. And weighing the costs associated with the most basic tenet of our democracy—the election of the government by the governed—sets us on a dangerous path. Besides, the Constitution already requires special elections when a House seat becomes vacant, a far more frequent occurrence since there are so many more Representatives than Senators. I find the cost argument wholly unconvincing.

Another argument I have heard is that special elections garner very low turnouts, or favor wealthy or well known candidates. They are not particularly democratic, the argument goes. And that may very well be true. But they are a whole lot more democratic than the election held inside the mind of one decisionmaker—the governor. Special elections may not be ideal, but they are elections, and every voter has the opportunity to participate. As Winston Churchill said, ''It has been said that democracy is the worst form of government except all the others that have been tried.''

I have also heard the argument that the candidates for the special election will be selected by party bosses because there won't be time for a primary. That is simply not true. Under this amendment, each state can decide how to set up its special elections. My home State of Wisconsin provides for a special election within about 10 weeks of the vacancy, with a primary one month earlier. It's a compressed schedule to be sure, because the state doesn't want to be without representation for too long. But it can be done. I would hope that most states would want to hold primaries, but the point of this amendment is to make clear that only Senators who have been elected by the people can serve, not to micromanage how the states want to implement that requirement.

I believe the core issue here is whether we are going to have a government that is as representative of and responsive to the people as possible. The time to require special elections to fill Senate vacancies has come. Congress should act quickly on this proposal, and send it to the states for ratification.

AMENDMENTS SUBMITTED AND PROPOSED

SA 82. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table.

SA 83. Mr. GRASSLEY (for himself, Mr. HATCH, Mr. ROBERTS, Mr. BOND, Mr. CORKER, Mr. ALEXANDER, Ms. MURKOWSKI, and Mrs. HUTCHISON) proposed an amendment to the bill H.R. 2, supra.

SA 84. Mr. COBURN (for himself, Mr. BURR, and Mr. GREGG) submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 85. Mr. DEMINT (for himself and Mr. VITTER) submitted an amendment intended to be proposed by him to the bill H.R. 2, supra.

SA 86. Mr. COBURN (for himself, Mr. BURR, Mr. GREGG, Mr. MCCONNELL, Mr. ENZI, Mr. CORNYN, Mr. DEMINT, Mr. JOHANNS, Mr. KYL, Mr. ALEXANDER, Mr. GRAHAM, Mr. CHAMBLISS, Mr. THUNE, Mr. BARRASSO, and Mr. VITTER) submitted an amendment intended to be proposed by him to the bill H.R. 2, supra.

SA 87. Ms. STABENOW submitted an amendment intended to be proposed by her to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 88. Ms. STABENOW submitted an amendment intended to be proposed by her to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 89. Ms. STABENOW (for herself and Mr. LEVIN) submitted an amendment intended to be proposed by her to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 90. Ms. STABENOW (for herself and Mr. LEVIN) submitted an amendment intended to be proposed by her to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 91. Ms. STABENOW (for herself and Mr. LEVIN) submitted an amendment intended to be proposed by her to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 92. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 93. Mrs. HUTCHISON (for herself and Mr. CORNYN) submitted an amendment intended to be proposed by her to the bill H.R. 2, supra.

SA 94. Mr. BAUCUS (for himself and Mr. GRASSLEY) proposed an amendment to the bill H.R. 2, supra.

SA 95. Mr. BAUCUS (for himself and Mr. GRASSLEY) proposed an amendment to the bill H.R. 2, supra.

SA 96. Mr. BAUCUS (for himself and Mr. GRASSLEY) proposed an amendment to the bill H.R. 2, supra.

SA 97. Mr. ROCKEFELLER (for Mr. BAUCUS) proposed an amendment to the bill H.R. 2, supra.

TEXT OF AMENDMENTS

SA 82. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. COMPLIANCE WITH STATE AND FEDERAL LAWS.

Notwithstanding any other provision of law, no Federal funds shall be made available under this Act (or an amendment made by this Act) to a health care provider to reimburse such provider for providing an unemancipated minor with a prescription contraceptive drug or device, including the surgical insertion of a contraceptive device or an injection of a contraceptive drug, unless such provider complies with State and Federal child abuse, child molestation, sexual abuse, rape, statutory rape, and incest reporting laws.

SA 83. Mr. GRASSLEY (for himself, Mr. HATCH, Mr. ROBERTS, Mr. BOND, Mr. CORKER, Mr. ALEXANDER, Ms. MURKOWSKI, and Mrs. HUTCHISON) proposed an amendment to the bill H.R. 2, to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; AMENDMENTS TO SOCIAL SECURITY ACT; REFERENCES; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Children's Health Insurance Program Reauthorization Act of 2009''.

(b) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) REFERENCES TO CHIP; MEDICAID; SECRETARY.—In this Act:

(1) CHIP.—The term ''CHIP'' means the State Children's Health Insurance Program established under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.).

(2) MEDICAID.—The term ''Medicaid'' means the program for medical assistance established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(d) TABLE OF CONTENTS.—The table of contents of this Act is as follows: