In the last Congress, my legislation was approved on a unanimous vote by the Environment and Public Works Committee. But after the committee acted, the bill was killed after some in industry lobbied against it.

This year, the committee apparently is planning to take up a different bill. And let me say, first, that I commend the chairman, Senator INHOFE, and the other members of the committee for addressing this matter. Unfortunately, while I no longer serve on the committee and have not been privy to all of its discussions, it appears that the bill currently under discussion has at least one glaring weakness.

The committee is considering requiring chemical plants to develop security plans and submit them to the Department of Homeland Security. But—and here is the problem—the bill doesn't require the Department to do anything with them. DHS wouldn't have to review them. It wouldn't have to evaluate them. It wouldn't have to approve them. It wouldn't have to audit them. It wouldn't have to do a thing to ensure the public is protected. Instead, the Department could simply let these plans sit on a back room shelf, collecting dust.

Some might ask: Would the Bush administration really do that? Would it really just let security plans sit on the shelf, and not even review them? Well, for those who think that is unrealistic, consider this: The administration's own plan didn't require companies to submit their security plans to the Government at all. And that would certainly be the preference of many of their friends in industry. So, yes, there is every reason to be concerned that, unless forced to do so, the administration will take a hands-off approach and simply ignore these security plans. And the end result would be a lax security system with no real teeth.

Beyond the failure of the bill to require review of security plans, the legislation under development in the Environment and Public Works Committee has other problems, as well. First, it fails to require industry to adopt alternative technologies—such as the use of safer chemicals—if those alternative approaches are cost effective. I think that is a mistake. After all, no matter how many security personnel are hired, and no matter how high a security fence, no security scheme is impenetrable. And we need to prepare for the possibility that terrorists will be successful in attacking a chemical plant and releasing toxic materials. That is why it is important for facilities to implement inherently safer technologies, where practicable, to reduce the resulting death and destruction in the event of an attack.

Thanks largely to the involvement of Senator CHAFEE, the Inhofe mark has made real progress in this area. As I understand it, the chairman has agreed to require detailed consideration of safer technologies. And I think that's a step forward. In my view, though, it still falls short. Given the number of lives that are at stake, I think companies should be required to implement safer technologies if they are cost effective.

Unfortunately, the requirement that facility owners consider safer technologies could be undermined because of a huge loophole in the bill that may allow industry to sidestep many Federal security requirements. Under this provision, DHS's security standards could be waived for any facility that participates in an industry program that is, ''substantially equivalent.''

At first, that may sound like a reasonable approach. But the term ''substantially equivalent'' is so broad that it could well allow the Bush administration to simply rubberstamp an existing chemical industry program that is grossly inadequate. For example, the chemical industry's program has no requirement that industry evaluate safer technologies in any detail. Yet it seems very possible that the Bush administration would exploit the bill's loophole to rubberstamp this industry program, and exempt participating plants even from the bill's limited requirement for consideration of safer alternative approaches.

The last point I want to make about the bill apparently being discussed relates to enforcement. Under the legislation, as I understand it, if a Government employee wrongly discloses a chemical plant's security plan, that employee would be subject to criminal penalties. That sounds right. Yet, if the owner of a chemical plant knowingly violated Federal security standards, the only remedies prescribed in the legislation are civil. That sounds wrong.

That disparate treatment of Government employees and chemical industry officials doesn't seem fair. Nor does it seem appropriate, given the nature of the threats are now confronting. After all, criminal penalties are available for violations of certain anti-pollution laws. Surely violations of a new chemical plant security law—a law designed to save lives—should be punished with an equal degree of severity.

Before I conclude, let me step back for a moment and again remind my colleagues that should terrorists attack one of 123 chemical facilities around the country, at least a million American lives could be at risk. These are real people—mothers, fathers, sisters, and brothers—all innocent Americans who have no choice but to rely on their Government leaders to protect them.

We, in Congress, have an obligation to do everything we can to protect these Americans, and to prevent what really could be a tragedy of catastrophic proportions. We should not be satisfied with a largely toothless plan that leaves industry free to design security plans to their own choosing, with no requirement that those plans even be reviewed. That is just unacceptable.

I hope my colleagues on the Environment and Public Works Committee will reconsider this approach. And, if not, I intend to pursue this matter aggressively if, and when, the bill ever reaches the Senator floor.

We need to address chemical plant security. But we need to do so in an enforceable way that will really make Americans safer. The lives of many thousands of Americans may well hang in the balance.

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. CORZINE. Thank you, Mr. President.

CLASS ACTION FAIRNESS ACT

Mr. CORZINE. Lastly, Mr. President, I want to say something about the bill that we are going to be debating in the next hour or so, class action fairness.

I am not a lawyer, so I am not as sharp on all of the terminology and all the other issues, but it is very clear to me that we are taking the small ''d'' democratic processes out of access to our courts with the legislation that is underlying the motion to proceed.

I think it is absolutely essential that we maintain the checks and balances in our present Federal constitutional system. That does not mean there are not abuses, and it does not mean we should not move to correct some of the things with regard to venue shopping, with regard to coupon procedures, which, by the way, are not even dealt with in this bill.

I think this is a radical move. I am very much in favor of Senator BREAUX's proposal, a modified approach, that will deal with some of the flaws. His bill would preserve state class actions while sending truly national class actions to Federal court. At the same time, it addresses the problem of abusive coupon settlements, which is something that the bill before us does not touch.

But instead, at a time when we are fighting a war in Iraq, when we are fighting a war on terrorism worldwide, and we are facing historic budget deficits and job losses, we are debating a radical bill that would legislate away the legal rights of American families. This legislation would dramatically alter the constitutional distribution of judicial power. It would: remove most State law class actions into Federal court; clog the Federal courts with State law cases and make it more difficult to have Federal civil rights cases heard; deter people from bringing class actions; and impose barriers and burdenson settlement of class actions.

I am not a lawyer, but I can appreciate that class actions are critical tools for ordinary citizens who want to hold wrongdoers accountable. For many people who can't afford lawyers, class actions are the only way to vindicate their rights. For consumers victimized by negligence, fraud and reckless misconduct, it is their opportunity to exercise their democratic rights.

Simply put, class actions promote efficiency and level the playing field,

giving persons who are injured in the same manner by the same defendants the ability to hold the wrongdoers accountable. This sort of collective action gives ordinary citizens the ability to level the playing field with powerful defendants. For example, by allowing groups of citizens to band together and demand a safe and healthy environment, class actions often result in courts requiring companies to stop poisoning our neighborhoods and our water. Without the class action tool, it would often be impossible for ordinary citizens to take on powerful defendants when they damage the environment and cause illness.

Class actions are also essential to the enforcement of our Nation's civil rights law. They are, in fact, often the only means by which individuals can challenge and obtain relief from systemic discrimination. Class actions have on important occasions served as a primary vehicle for civil rights litigation seeking broad equitable relief.

In far too many cases, justice delayed is justice denied. No one recognizes this better than the manufacturers and the polluters, who would prefer these cases to be in the Federal court system, where there is a tremendous judicial backlog.

Overloading these courts will inevitably delay the resolution of all cases in Federal courts. Indeed, the Judicial Conference of the United States, headed by Chief Justice Rehnquist—not someone with whom I often agree, I might add—has told Congress that the Federal courts are not equipped to handle all these cases. That is why he opposes this bill.

The delays caused by clogged courts would be particularly damaging in cases where civil rights plaintiffs are seeking immediate injunctive relief to prohibit discriminatory practices—such as racial profiling or predatory lending.

In addition to the above concerns, I was very distressed to learn that the manager's amendment slips mass torts back into this bill, greatly expanding the scope of the bill. This change makes the bill even more extreme, and, by federalizing individual tort suits, will flood the Federal courts with cases involving questions of State tort law.

By sending a majority of mass tort actions—cases involving products liability and environmental damages—to Federal courts, the bill would completely jam the already overburdened Federal courts and delay justice to hundreds, perhaps thousands, of people injured by defective drugs and medical devices, like the Dalkon Shield, and environmental contamination.

Class actions are an important tool for ordinary citizens to level the playing field and vindicate their rights. They promote safety, protect our health and environment, and are essential to enforcement of our civil rights laws.

The legislation before us would impose new and substantial limitations on access to the courts for victims of discrimination, mass torts, consumer fraud, and other misconduct. This is not a balanced, fair approach. I urge my colleagues to reject it.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CORZINE. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

HEALTHY FORESTS

Mr. BINGAMAN. Mr. President, I rise to speak for just a few minutes about the need for the so-called Healthy Forests initiative that was discussed earlier this week.

Earlier this week, there was a unanimous consent request made to proceed to H.R. 1904, the so-called Healthy Forests initiative. The unanimous consent request sought to limit debate on the bill to a specified list of amendments to be offered by particular Senators.

Included in that list were two amendments that were purported to be offered or suggested to be offered by me. I have never spoken to anybody about my intent with regard to offering amendments. And I certainly have not agreed to any particular amendments that I wanted to offer. Therefore, I have real concerns with that unanimous consent request because the proposed unanimous consent request would have limited me to offering certain amendments that I had not previously heard about. Obviously, I would have objected had not other Senators done so.

This is an important issue that the Senate needs to try to address this year. I do not favor delaying that consideration. There is always a threat that we have seen in the West, particularly in recent years, of unnatural, intense, catastrophic wildfire. That is a threat to many of our communities, to millions of acres of public land and forests in the West.

It was alleged early this week by some who were supporting moving ahead with that unanimous consent request that those who did not favor the unanimous consent request did not favor active management of the national forests. I want to be clear in my statement this morning that I certainly do not fall in that category.

I do not think we should just let nature take its course. I do think we should pursue active management. What I want to be sure of is that the bill we finally enact provides meaningful new authority to our land managers; that it is focused on the communities that are most threatened by wildfire; and that it does not unduly restrict the public's right to participate and have oversight in the management of these lands.

I am aware that a deal of some sort has been developed by certain of the Senators who are concerned on the issue. I was not involved in that set of negotiations that led to that deal. The provisions, as I understand them, that have come out of that are complicated, complex.

I have a number of questions about the ramifications of some of those provisions, especially the ones dealing with administrative appeals, judicial review, and such issues.

I think there should be a hearing. That would be the right way to proceed. We have new legislative language. The right way to proceed would be to have a hearing where we can get testimony on these provisions and better understand them. I have asked for such a hearing. I hope that will occur.

I believe having a clearer understanding of what the amendment means and encouraging constructive suggestions would be a preferable course for us to pursue.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that I be given an additional 2 minutes.

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

Mr. BINGAMAN. Mr. President, to conclude my statement, I do think there are serious questions regarding this new language. It differs substantially from the bill that was reported by the Agriculture Committee. Some of the major issues raised by the amendment include a lack of any new funding to reduce hazardous fuels; failure to eliminate the harmful agency policy of borrowing from proactive forest restoration accounts to pay for firefighting; the curtailment of public participation in the management and oversight of public lands, including the establishment of a new so-called predecisional review process, which I do not, frankly, understand; and also, of course, as I mentioned before, limitations on judicial review.

It also appears to create some new standards for injunctions that might be issued by the Federal court, both preliminary and permanent injunctions. There is no protection that I can see for national monuments and roadless areas and other environmentally sensitive areas in the bill.

I am not aware how some of these issues have been adequately addressed in the proposed amendment. For that reason I think we need to have an opportunity to offer amendments.

I hope the Senate can consider this forest health legislation this year. As do many Senators, especially those from Western States who have suffered in recent years from catastrophic wildfire, I very much want to see us resolve these issues as best we can. But we should do so under conditions that allow for amendments and allow for full debate. And that is my purpose at this stage.

So I hope we can proceed and do so in a way that all of us get to participate in the process.

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