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Senate

The Senate met at 10 a.m. and was called to order by the Honorable BILL NELSON, a Senator from the State of Florida.

PRAYER

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

Let us pray.

God of mystery and clarity, open our eyes to see the unexpected ways You come to us. Reveal to us Your presence in the beauties of nature, in the promises of sacred Scriptures, and in the challenges that deepen our dependence on You.

Manifest Your purposes to our Senators. Make clear Your plans to them and infuse them with confidence in Your power. Inspire them to use their talents as instruments of liberation and healing. Keep them purposeful and expectant so they will experience a deeper friendship with You in the living of their days. We pray in Your abiding Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable BILL NELSON led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, February 13, 2007.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BILL NELSON, a Sen-

ator from the State of Florida, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, the Senate will be in morning business until 12:30, at which time we will recess for our conference work. All time during this period is equally divided and controlled between the two leaders or their designees.

Members of the Committee on Appropriations will be speaking this morning with respect to the continuing funding resolution. It is my understanding that the chairman of the Committee on Appropriations, Senator BYRD, will be here to speak shortly. The Senate will be in recess from 12:30 to 2:15 today, and when we reconvene at 2:15, we have 15 minutes remaining for debate prior to the 2:30 cloture vote on the continuing funding resolution, H.J. Res. 20. As a reminder, Senators have until 12 noon to file second-degree amendments to the resolution.

RECOGNITION OF THE MINORITY LEADER

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

A PRODUCTIVE WEEK

Mr. McCONNELL. I do not have an opening statement. I indicate to the majority leader that we had a good discussion yesterday about the agenda

ahead, not only for the balance of the week but upon our return, and look forward to having a very productive week, including the confirmation of some judges tomorrow or the next day.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, with Senators permitted to speak therein and with the time equally divided between the two leaders or their designees.

Mr. McCONNELL. I suggest the absence of a quorum and ask unanimous consent that the time be equally charged to each side.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

CONTINUING APPROPRIATIONS

Mr. COBURN. Mr. President, I want to spend a few minutes talking about the importance of what we are doing with this bill and why amendments ought to be allowed in order. I have a very specific amendment I have filed that has to do with health care in this country. Basically, it has to do with the health care of the most vulnerable in this country, babies.

In the early 1980s, an epidemic of an unknown virus started in this country.

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



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We now know it as HIV/AIDS, and a lot of progress has been made in that fight. During the Reagan Presidency, his AIDS Commission recommended routine testing. That was in 1986. In 2005, the CDC finally recognized the wisdom of that AIDS Commission recommendation, and it is now CDC policy that routine testing from the ages of 17 to 64 be carried out on everybody in this country who encounters health care.

The Ryan White bill, which was recently passed in the 109th Congress, took note of those recommendations. And within the HIV community, there has been debate about the CDC guidelines. But some of that was put to rest on the basis of what we know has been an exemplary program in two States that have all but eliminated HIV transmission to babies.

The policies in many States in this country require extensive counseling before anybody can be tested. What was found by the CDC, and many other organizations, is that a small number of people who are pregnant will actually get tested. New York, led by a courageous Democratic legislator by the name of Nettie Mayersohn, passed a law in 1996. In that year they had 500 babies born with HIV. In the last 2 years, since that law has been passed, they have had less than 7.

Now, what happened? What did they do? What they did was they used commonsense public health, and they said: we test women who are pregnant for lots of diseases antenatally so we can know how to handle them and take care of their infant should they have one of those problems. They applied that same common sense to HIV, and hundreds of babies are born every year in New York who do not get HIV because commonsense public health policies were applied.

It is very simple. If we know your HIV status, and you are positive, 99 percent of the time we can keep your child from getting HIV. There is not hardly any other disease we have in obstetrics—and I am an obstetrician—that is that effective.

What we have done in the bill before us is take away all the money for that, take all the money away the CDC says now is the guideline, their recommendation, the recommendation of the American Medical Association, the American College of Obstetricians and Gynecologists. Why are we doing that? There is a claim it was an earmark. I will not spend the time to bore everybody with the definition of an "earmark." This came as part of the Enzi-Kennedy Ryan White bill because it is good public health policy and it applies as an incentive to every State out there to start doing something that will make a difference in someone's life.

The Centers for Disease Control and Prevention recommends that HIV be a routine testing procedure. Washington, DC, has a wonderful Director of their AIDS Commission, Marsha Martin.

Last June they started routine testing in this city. This city has 3.5 percent, it would seem, of its population infected with HIV—about three and half to four times the rest of the Nation. They have identified almost 1,600 HIV patients.

Now, why is that important? The reason that is important is because 70 percent of the infections that are now occurring in HIV are occurring in people who do not know they are infected. And if they do not know they are infected, they will transmit the disease without knowing they are transmitting it.

Before the Nettie Mayersohn law in New York State, only 62 percent of the women who were pregnant knew their HIV status. After that, we are at almost 96 percent. The difference is 500 babies a year born with HIV versus 7—a very significant difference.

What does that mean in terms of the children? It means a life not having a disease, not being stuck, not being given medicine, and having a life expectancy of less than 25 years of age. That is what that means.

So with that leadership in the State of New York, what has been accomplished is 99 percent of the prenatal transmission of HIV has been prevented. It also means those pregnant women who are HIV positive are now being treated at a much earlier stage in their disease, which gives them far greater—probably the same life expectancy as you or I because of the tremendous advances in medicine. What we do know is the later the diagnosis, the shorter their life expectancy and the higher the cost.

Now, let me walk you through, for a minute, what others say about this. CDC also recommends prenatal testing and treatment of newborns. Here is what they have said:

Considering the potential for preventing transmission, no child in this country should be born whose HIV status or whose mother's status is unknown.

It costs \$10 to test, it costs \$75 to treat, to prevent 99 percent of them. It makes a major difference in thousands of children's lives every year. It makes a major difference in thousands and thousands of women's lives every year to have this diagnosis.

What happens if we do not do it, if we do not encourage it? And this part of the Ryan White Act was meant to incentivize States to move to the CDC recommendation. It costs \$10,000 a year to treat a newborn who is infected with HIV.

One of the problems with this tremendous epidemic that we face is it narrows in on a group of people, a large percentage of whom happen to be African-American women. They account for two-thirds of the infection in women yet are 13 percent of our population. How dare us take this away.

Multiple organizations have supported this policy. The Early Diagnosis Grant Program was established by the Ryan White HIV/AIDS Treatment Modernization Act. It provides \$30 million

for grants that will be utilized for States that become eligible to do the testing and the treatment for both mothers and their infants.

To be eligible for the funds, they have to offer a voluntary opt-out HIV testing program for pregnant women. They have to commit to universal HIV testing of newborns when the HIV status of their mother is unknown. They have to offer voluntary opt-out HIV testing of clients at sexually transmitted disease clinics. And they have to offer voluntary opt-out HIV testing of clients at substance abuse treatment centers, where we know most of the disease tends to be seen.

This is current CDC policy—the people whom we trust to tell us what to do. Funding for this grant is provided out of existing HIV moneys at CDC, prevention funds that are already there, which they know will have tremendous positive effects.

Now, think about it: 500 infants at \$10,000 a year, every year. Multiply it, multiply it, multiply it, and it only takes 4½ years to spend \$30 million if we do not do this. These funds are targeted for those most at risk of infection, as well as those most likely to benefit from treatment.

President Bush, in his budget, asked for this money to be directed as well. So this is not something that does not have broad support, both in the health community, with the President, and many of those most active in the HIV community.

The point we should not forget is baby AIDS can be virtually eliminated if expectant mothers with HIV are identified and treated for HIV during their pregnancy. When treatment is provided during pregnancy, labor, and delivery, and to infants after birth, the risk of transmission goes down to less than 1 percent. Without treatment, 25 percent of the infants will become HIV infected.

But how do we treat? We cannot treat unless we know they have it. We cannot know they have it unless they are tested. We cannot test unless we have the incentives to test. So this creates the incentive programs for States to copy what both New York and Connecticut did. Connecticut has not had an HIV-infected baby since 2001.

They have eliminated it in Connecticut. Why should we not do the same thing? Why should we disallow an amendment to restore this funding that goes to the heart of those most vulnerable in our country? It also goes to help those who are most disaffected, those who are on the poorer spectrum, those who have less opportunity because that is where we see more infection.

For the 1 percent who would not be cured, what we know is, we are treating early. We are not waiting until they get the disease in a full-blown state. What we know is, your likelihood of dying, if you are diagnosed when your CD 4 count is below 50, exponentially goes up. So early diagnosis with HIV is of paramount importance.

It also needs to be said that one out of every four people in this country who have HIV don't know it. They have no knowledge that they have it. That one out of four accounts for 70 percent of the new infections in this country. So the CDC policy of frequent testing, opt-out testing, more testing is a policy that makes absolute sense from a public health perspective.

Because only a few States have similar laws to Connecticut and New York, hundreds of babies will still become infected this year. To take this money out, to say none of the money can be spent for this program, condemns hundreds of newborn babies to a life of HIV infection and AIDS. That is what this bill does. It condemns hundreds of babies in this country to a life with HIV. It is a preventable disease. Why would we do that? Why would we come anywhere close to that?

I mentioned Marsha Martin. Since last year, they started a policy of routine frequent testing, and 16,000 individuals in Washington, DC, have been tested. Five hundred eighty people who would not have otherwise been tested have been diagnosed with HIV at a stage at which we can save their life. Some of those were pregnant women. People say: You don't need to do this. Why is it important for every woman to know whether she is HIV positive or negative if she gives birth to a baby? Because only 25 percent of the time does this virus get transmitted to the baby at birth. But what they don't think about is, if they breast-feed the baby, they will transmit the virus as well. So your baby may not be infected at birth, but if you breast-feed your baby and you are carrying HIV, it is a death sentence for the baby. So to not know your status puts your baby at risk, even though it was not infected at birth.

Here is what happened in Connecticut. They went from 28 percent of the women who knew their HIV status before they passed the law to 90 percent of the women. What does that translate into? That translates into saving lives, not just the women who were HIV positive who found out and had early treatment but their children as well. Why would we not want to incentivize the rest of the States to do what has been successful in New York and Connecticut and several other States?

The health commissioner of New York is pushing to change State law to make testing more convenient for patients and health care providers:

We are aggressively offering testing to patients who come to us for routine physicals, heart disease, a sprained ankle. We are lessening the stigma sometimes associated with HIV and helping connect many more HIV-positive individuals with early treatment.

Here is the other difference I would hope the esteemed Members of the Senate would recognize. By doing early testing, the cost to treat is \$10,000 a year. By doing late testing, the cost to treat is \$40,000 a year, with much more

in terms of complications. Again, to test costs \$10, to treat a newborn is \$75, versus \$10,000 a year at a minimum.

Women, children, and African Americans will be most affected by the termination of this program. Since the beginning of the HIV epidemic, African Americans have accounted for almost 400,000 of the estimated 1 million AIDS diagnoses in our country. According to the 2000 census, African Americans made up 13 percent of our population. However, in 2005, 49 percent of the estimated 40,000 new cases were African American. It is 24 times the rate in African-American women than it is in white women. Why would we not want to intercede with testing to save their lives?

Between 120 and 160,000 women in the United States are infected with HIV. In 2001, the National Congress of Black Women issued a report entitled "African American Women and the HIV/AIDS Initiative," that outlined that group's strategy to combat HIV/AIDS among black women. Among their recommendations: Every State should be required to screen all pregnant women for HIV and test all newborns for the virus and Congress should appropriate funds for such initiatives. Every year that passes results in hundreds of more cases of baby AIDS that could have been prevented.

Who supports doing this perinatal testing and treatment? The American Medical Association, the U.S. Preventive Services Task Force, the AIDS Health Care Foundation, the Children's AIDS Fund, multiple medical groups, and, yes, the Centers for Disease Control and Prevention, the one agency we fund to tell us what we should do. It is their policy. We are denying their policy. We are denying infants the right to live without HIV.

Here is what they said:

Based on information presented in the MMWR, the available data indicate that both "opt-out" prenatal maternal screening and mandatory newborn screening achieve higher maternal screening rates than "opt-in" prenatal screening.

The status quo.

Accordingly, CDC recommends that clinicians routinely screen all women for HIV infection, using an "opt-out" approach and that jurisdictions with statutory barriers to such prenatal screening consider revising them. In addition, CDC encourages clinicians to test for HIV any newborn whose mother's HIV status is unknown . . . CDC recommends rapid testing of the infant immediately postpartum so that antiretroviral prophylactics can be offered to HIV-exposed infants.

Ninety-nine percent, we can prevent. We have taken out the capability for other States what New York and Connecticut have done, and we are refusing to allow the replacement of that to save the weakest and most vulnerable in our country.

What are the claims we have heard? Here is the first claim: Even without funding for this particular HIV testing grant program, Federal funds will still be available for HIV testing. What is true is that other Federal funds can

provide HIV testing. As written, section 20613(b)(1) of this bill specifies that none of the funds appropriated for 2007 can be used for any early diagnosis grants. This would specifically forbid Federal funding for HIV testing of pregnant women in any area—newborns, patients receiving treatment for substance abuse, and those accessing services at STD clinics. These populations include those most at risk for HIV, as well as those who can most benefit from early treatment and intervention. It is counterintuitive that this would be a part of this bill.

What are the activities that are supported by this \$30 million that are going to be prohibited, including HIV/AIDS testing, including rapid testing? It only costs \$10. It precludes prevention counseling. It excludes treatment of newborns exposed to HIV. It excludes treatment of mothers infected with HIV or AIDS and the costs associated with linking the diagnosis of AIDS to care and treatment for that disease. The \$30 million instead will revert to other CDC HIV/AIDS program activities which in recent years have included the following: Beachside conferences, flirting classes, erotic writing seminars, zoo trips, and other dubious initiatives that do not have any life-saving impact or near lifesaving impact as early diagnosis and treatment.

This \$30 million is either going to be spent effectively or it is going to be wasted. President Reagan's AIDS Commission was right. They said it in 1986. The CDC caught up last year in 2005 to the policies that were recommended to this Congress in 1985–1986.

Few, if any, States would benefit from the funding provided by this program. The point of this program is to encourage States to update their policies to reflect CDC's recommendations for HIV testing and baby AIDS treatment. That is the whole purpose. That is part of the whole Ryan White grant. It is to improve our approach to HIV, to eliminate newborn infections, and to eliminate transmission from those who don't know. While few States would immediately qualify for early diagnosis grants, the availability of the funds was intended to get them to move to the point where they would take advantage of that, which means they would be saving hundreds of babies' lives every year and protecting the lives of the mothers who were there to nurture them. It makes no sense that we would prohibit money for this process.

Many States, including Illinois, are already moving in this direction. States such as New York and Connecticut have had the policies in place for over a decade. And the proof is there.

What is the other claim? This bill defunds all earmarks. The Early Diagnosis Grant Program is an earmark and, therefore, has not been singled out but has been removed, along with other special funding projects.

Fact: The Early Diagnosis Grant Program is not an earmark. All States

with routine testing policies are eligible for the funding provided by this grant. Those which are not currently eligible can become eligible by passing the law or implementing State regulations to meet funding eligibility.

Mr. BYRD. Mr. President, will the distinguished Senator yield for a question?

Mr. COBURN. I am happy to yield to the senior Senator from West Virginia.

Mr. BYRD. May I inquire as to how much longer the distinguished Senator will be speaking?

Mr. COBURN. About 10 minutes.

Mr. BYRD. I thank the Senator. If the Senator will yield further momentarily, I ask the Chair, what is the parliamentary situation?

The ACTING PRESIDENT pro tempore. We are in morning business. The minority has 41 minutes; the majority has 66 minutes.

Mr. BYRD. I thank the Chair and the distinguished Senator for yielding.

Mr. COBURN. This program doesn't match the definition or criteria of an earmark approved by the Senate in January or used by the Congressional Research Service. On January 16, 2007, the Senate approved an amendment by a vote of 98 to zero, defining the term "earmark" as a provision or report language included primarily at the request of a Member, delegate, resident commissioner, or Senator, providing, authorizing or recommending a specific amount of discretionary budget authority, credit authority or spending authority for a contract loan, loan guarantee, loan authority or other expenditure with or to an entity or targeted to a specific State, a specific locality or a specific congressional district, other than through a statutory or administrative formally driven competitive war process.

This doesn't come anywhere close to that definition. It doesn't meet any of criteria that the Senate has defined as earmark. It is not directed to any specific State, any entity, any location, and does not bypass the statutory award process.

CRS defines an earmark as funds set aside with an account for specific organization or location, either in the appropriations act or the joint explanatory statement of the conference committee. CRS notes that such designations generally bypass the usual competitive distribution of awards by a Federal agency. This doesn't meet any of that. It is hogwash to call this an earmark, and everybody knows it. Everybody knows it.

Claim: This program would violate the privacy rights of women by requiring mandatory HIV testing.

This doesn't require mandatory HIV testing. It offers women to have testing and they can say, "I don't want to be tested," rather than for them to have to ask to be tested.

Current laws mandating extensive pre- and post-test counseling make HIV testing the most overregulated diagnostic and thereby discourage health

providers from offering patients screening for HIV.

Testing newborns for HIV is too little too late. That is the other point I have heard. The science doesn't support that at all. If the baby has HIV antibiotics, 99 percent of the time we can prevent them from becoming infected. Of those who do, the 1 percent who do become infected, we can treat so much better by knowing it at an early stage. We can extend their life for years at less than \$40,000 a year, at \$10,000 a year. By not knowing and waiting until their CD4 counts come down precipitously low, we go from \$10,000 a year in treatment to \$40,000 a year in treatment.

I will finish with a couple of comments.

In the early eighties, I delivered a little girl. Her name was Megan. Two years later, her mother re-presented to me with full-blown AIDS. The mother died 3 weeks later. Megan lived an additional 8 years.

Had we done this and had we known to have done this, Megan would be alive and flourishing. Her mother would be alive with HIV. Megan would have never gotten HIV.

I will never have that little girl's face removed from my memory. We, by this bill and not allowing the reestablishment, are creating thousands of Megans in this country—thousands, thousands. If this body wants that on their shoulders, continue what we are doing today. But if we claim to be here to help the helpless, to put in place policies that, No. 1, the best of the science tells us are the right policies, and No. 2, makes a massive difference in individual lives, then make in order this amendment to restore this money. By not doing so, you walk out of here condemning hundreds of infants, thousands of infants to death, at worst, and a life on medicines for the rest of their life.

You also condemn a large group of African-American women to the lack of knowledge and the lack of effective drugs that can give them a normal life. You can decide. The power is on the majority side. They get to decide this issue. But you dare not come back into this Chamber saying that you care for children, that you care for minorities, and at the same time have gutted one of the programs that will give hope to those same groups of people. You can't have it both ways. You can't single out good medicine, good public health care, and true compassion for those most at risk, and then come back and claim you care.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. BYRD. Mr. President, for how long am I recognized?

The ACTING PRESIDENT pro tempore. The Senator has under morning business up to 65 minutes.

Mr. BYRD. I thank the Chair.

Mr. President, today marks the 136th day of the fiscal year. The fiscal year is over one-third complete. We will be de-

bating House Joint Resolution 20, a joint funding resolution for the nine remaining appropriations bills that were not completed during the 109th Congress. The Republican leadership during the 109th Congress left us with a great deal of unfinished appropriations business. Only 2 of the 11 appropriations bills were enacted into law; 13 of the 15 Federal Departments are struggling to cope with a very restrictive continuing resolution which expires at midnight this coming Thursday.

As I noted last week, this was not the fault of the Appropriations Committee. Under the able leadership of Chairman THAD COCHRAN, all of the fiscal year 2007 appropriations bills were reported from the committee by July 20. All—1-1—all of the bills were bipartisan bills approved by unanimous votes. Unfortunately, the Republican leadership of the 109th Congress chose not to bring domestic appropriations bills to the floor before the election and then chose not to finish those bills after the election. Instead, Congress passed a series of restrictive continuing resolutions.

If Congress were to simply extend the existing continuing resolutions, we would leave huge problems for veterans and military medical care, for education programs, law enforcement programs, funding for global AIDS, funding for energy independence, and funding for agencies that provide key services to the elderly, such as the Social Security Administration and the 1-800-Medicare call center.

In December, the new House of Representatives appropriations chairman, DAVID OBEY, and I plotted a bipartisan and bicameral course for dealing with this problem. Based on that plan, there were intense negotiations—intense negotiations—in January which included the majority and the minority in the House and the Senate.

I, as chairman of the Senate Appropriations Committee, consulted with several Senators, and especially with Senator THAD COCHRAN, several times during that process, and his ranking members and their staffs were included throughout the process.

The resolution that is now before the Senate is the product of these efforts. The resolution, which totals \$463.5 billion, meets several goals. Let me repeat the figure: \$463.5 billion. That would be \$463.50 for every minute that has passed since our Lord, Jesus Christ, was born.

Get this. These are the goals: First, funding stays within the \$873.8 billion statutory cap on spending, the cap which was set during the 109th Congress and which equals the President's request.

Second, the legislation does not—does not—include earmarks. We eliminated over 9,300 earmarks. Hopefully, the ethics reform bill will establish greater transparency and accountability in the earmarking process. Once the ethics reform bill is in place, we will establish a more open, disciplined,

and accountable process for congressional directives in the fiscal year 2008 bill.

Third, there is no—there is no—emergency spending in this resolution.

Finally—finally—essential national priorities receive a boost in the legislation. To help pay for these priorities, we cut over \$11 billion from 125 different accounts and we froze spending at the 2006 level for 450 accounts. These national priorities have broad bipartisan support, as noted in the White House Statement of Administration Policy. Many of these increases reflect administration priorities.

For veterans care, we include \$32.3 billion, an increase of \$3.6 billion over the fiscal year 2006 level. For defense health initiatives, we include \$21.2 billion, an increase of \$1.4 billion over fiscal year 2006. To provide care for military members and their families, including treating servicemembers wounded in action in Iraq and Afghanistan, for the Labor, HHS, and Education bill, funding is increased by \$2.3 billion.

Title I grants for our schools are funded at \$12.8 billion, an increase of \$125 million over fiscal year 2006, which will provide approximately 38,000 additional low-income children with intensive reading and math instruction. The legislation also funds the title I school improvement fund at \$125 million to target assistance to the 6,700 schools that failed to meet No Child Left Behind requirements in the 2005–2006 school year. For the first time in 4 years, we will have an increase in the maximum Pell higher education grant from \$260 to \$431.

The National Institutes of Health are funded at \$28.9 billion, an increase of \$620 million over fiscal year 2006.

Three hundred million dollars is included for the Federal Mine Safety and Health Administration. Let me say that again. Three hundred million dollars is included for the Federal Mine Safety and Health Administration, an increase of \$23 million over fiscal year 2006, to allow the agency to continue its national efforts to hire and train new mine safety inspectors for safety in the Nation's 2,000 coal mines.

The legislation increases funding for Federal, State, and local law enforcement by \$1.6 billion. According to the FBI, last year violent crime rose—went up—in America for the first time in 15 years.

Under the continuing resolution now in law, highway funding is frozen—frozen—at the 2006 level. Under this joint funding resolution, the Federal-Aid Highway Program is fully funded at the level guaranteed in the highway law.

The joint resolution includes \$4.8 billion for global AIDS and malaria programs, an increase of \$1.4 billion over fiscal year 2006.

Last week there was debate concerning the level of funding for the 2005 base closure and realignment program. The resolution that is before the Sen-

ate provides \$2.5 billion for the base closure and realignment 2005 program. This level is \$1 billion—I say again—this level is \$1 billion higher than the level available in the current continuing resolution the President signed on December 9. However, this level is \$3.1 billion below the level requested by the President. I assure all Senators that the Appropriations Committee, of which I have the honor of being chairman, intends to address the \$3.1 billion increase when the Senate takes up the \$100 billion supplemental the President sent to the Congress last week. Last week, I have every expectation that the supplemental will be before the Senate next month. This being February, I have every expectation that the supplemental will be before the Senate next month.

Now, let me take a moment to review how we came to be where we are on funding the base closure account. Last year, under the very able and competent leadership of Chairman THAD COCHRAN, Senator HUTCHISON, and Senator FEINSTEIN, the Senate Appropriations Committee reported out the Military Construction bill on July 20, which was over 6 months ago, and the bill included \$5.2 billion for the base closure account. Unfortunately—I say unfortunately—that bill was never sent to the President. The President triggered the problem when he vowed to veto the fiscal year 2007 Defense bill unless the Senate added \$5 billion—\$5 billion; that is \$5 for every minute since Jesus Christ was born—\$5 billion to the Senate version of the Defense bill. This is the same \$5 billion the Senate Appropriations Committee had put toward addressing needs, such as funding the base closure account and funding veterans medical care.

The Republican leadership of the 109th Congress followed the President's lead, appropriated the \$5 billion to the Defense bill, and did not send to the President the Military Construction-Veterans bill or eight of the other appropriations bills. Funding for BRAC was among the many victims of that decision. Thus, and therefore, it was left to the 110th Congress to solve the budgetary mess left by that decision.

While the extra \$1 billion added to BRAC in this resolution does not bring the program up to the level of the President's budget request, it is sufficient—it is sufficient—to address one of the Defense Department's most urgent BRAC priorities; namely, the construction of facilities needed to bring U.S. troops back from Europe. The remaining \$3.1 billion for the base closure effort can and will be addressed through the supplemental next month.

This is not a perfect resolution, but it is a thoughtful resolution. By complying with the statutory cap on spending, it is a fiscally disciplined resolution. By eliminating earmarks, it provides Congress with time to pass ethics reform legislation to increase transparency and accountability. By targeting resources toward national prior-

ities, such as veterans and military medical care, we—the pronoun “we”—solve the most distressing of the problems created by the existing continuing resolution.

Now, looking ahead to the fiscal year 2008 bill, I am committed to working with my friend and colleague, Senator THAD COCHRAN, the ranking member from Mississippi, to bring—hear me—to bring 12 individual bipartisan and fiscally responsible fiscal year 2008 appropriation bills to the floor. When? When? This year.

However, on this, the 136th day of fiscal year 2007, adoption of House Joint Resolution 20 will ensure that we answer some of our Nation's most pressing needs and avoid an unnecessary Government shutdown. It is time to act. I urge swift—not Tom Swift, but swift adoption of the resolution.

I yield the floor. I suggest the absence of a quorum and I ask unanimous consent that the time be charged equally against both sides.

The PRESIDING OFFICER (Mr. TESTER). Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. CASEY). Without objection, it is so ordered.

Mr. SMITH. Mr. President, I ask unanimous consent that morning business be dispensed with, that the Senate resume consideration of H.J. Res. 20, the continuing resolution.

The PRESIDING OFFICER. In my capacity as a Senator from the State of Pennsylvania, I object.

Mr. SMITH. Mr. President, I came to the Senate yesterday to spend several hours speaking to the Senate to describe the loss of a program critical to rural counties in my State. The Secure Rural School and Community Self-Determination Act of 2000 benefits more than Oregon. In fact, there are 38 other States and 700 counties nationwide that are affected. The safety net program it embodies protected 8.5 million schoolchildren, 557,000 teachers, and 18,000 schools from Washington State to California to Mississippi and West Virginia. That safety net was removed through expiration last September.

Last week, I filed an amendment to the continuing resolution that would have extended the Secure Rural School and Community Self-Determination Act by 1 year. This time is needed to keep these 700 counties whole while Congress writes and enacts a longer term program.

Yesterday, I was allowed to speak but not as long as I had hoped to speak. In fairness to other colleagues and at the request of the majority leader, I ended up only taking up a couple of hours. I thought it was necessary yesterday and, still, to describe fairly the severe impacts the expiration of the

Secure Rural School Fund will have upon my State and upon many others. Likewise, the amendment tree has been filed to prevent the Senate from considering amendments such as mine.

The CR is critical to my State and others to have this amendment on it simply because of the operation of time. There is one other vehicle coming up—the emergency supplemental—that could also serve to mitigate the damage which is being done. But that bill is not expected to pass until sometime in April. Between now and then, thousands of public employees will be laid off. Public libraries will be closed, public services curtailed, public safety put in jeopardy.

While this bill will keep the Federal Government afloat, the most basic elements of our extended democracy in places such as Oregon will be in peril. That is not fair. It is not something I will condone or bless with my vote on this bill.

I will continue to come to the Senate and speak to this, even after cloture is invoked, to try to appeal to my colleagues that this continuing resolution, which is the continued work product of the 109th Congress, should include this indispensable provision, this funding, that is so vital to the most basic services which Government is called upon to provide.

Some may wonder why we are at this juncture, why it has taken so long, where there has been no action. As a former Member of the majority, I cannot begin to count the numbers of meetings I attended, pleading the case of my State, asking for consideration and being met with warm words but no commitments. My colleague now, Senator WYDEN, is undertaking nobly to do the same thing as a Member of the current majority. Together, we are both committed to doing everything that is possible, that this business not be left undone because it is so critical to the State of Oregon and others.

It affects Oregon disproportionately because the formula for the Secure Rural School and Community Self-Determination Act was based on historic timber levels. Many Americans do not realize that Oregon is over half owned by the Federal Government. The Federal Government created the western expansion in large measure because of the Railroad Act, incentivizing people to go and settle. California had the gold, but Oregon had the green gold in the form of timber, logs, raw material for building homes and structures throughout America and, frankly, throughout the world.

The relationship that was developed between Oregon and the Federal Government was based upon timber. Because local and State governments are constitutionally prohibited from taxing the Federal Government, the Federal Government realized, as the greatest landowner, it had to provide some opportunity for local communities to have things such as schools, paved roads, police officers, and the like, the

things which are normally in the general funds of counties. What it did, when the Federal Government would put up timber for sale, it would do it on a bid basis; 75 percent of the money received from bidding Federal timber would come to Washington, DC; 25 percent would go to the local communities. This was in lieu of property taxes because they had no other recourse to tax the Federal Government. This went on for well over 100 years and it worked wonderfully.

But the ethic in the United States has changed as it relates to the harvesting of trees and the extraction of natural resources. The spotted owl was held up as an emblem that its survival was imperiled by the harvesting of trees. After 15 years of the Endangered Species Act listing of the spotted owl, it has now become clear the threat to the spotted owl was not logging; it was, in fact, the barred owl, which is not native to Oregon but which eats the spotted owl. In addition to that because timber harvest was ended on public lands, we now suffer extraordinary nonhistoriclike wildfires that consume millions of acres, destroying spotted owl habitat.

But in all of this, through the decade of the 1990s, President Clinton generously recognized the forest policies he had implemented were doing great harm to rural communities, to timber-dependent towns, so we established the Secure Rural School and Community Self-Determination Act. In establishing that, it made up the difference, a bandaid, if you will, until we could write Federal timber policy in a way that would allow for these communities to survive in the interim.

President Bush was elected to office. He has tried mightily, through the Healthy Forest Initiative, through supporting and, for the first time, funding the Northwest Forest Act, to try to free up timber so the funds are not necessary. But despite his best efforts, the courts and the laws of Congress have prevented that from occurring.

So with the expiration of this act, we desperately need its continuance, its reenactment, as we continue to work to rebalance the environmental and economic equation.

The irony is we are losing spotted owls through natural predation and through catastrophic wildfire. And all of the 30,000 jobs lost in my State—family wage jobs—those have not been replaced and Americans still need timber.

So where do we get our timber? We get it from Canada. Canada has spotted owls as well. But what Canada does to fill the void America created for American consumers is to overcut its lands without near the environmental protections we have on our own forest lands. As a result of that, the question ought to be asked: Does the spotted owl know the difference between the border of the United States and the Canadian border? I believe the answer is no.

As science and evidence is proving more all the time, the peril to the spotted owl is not humankind, it is its own kind, the barred owl, and then, of course, catastrophic wildfire.

Congress needs to live up to this. This is an obligation that comes when the Federal Government, as the biggest land owner, has said you can't cut trees. But when it says you can't cut trees, that comes with a cost. It is a cost with a price, and it is a price which the Federal Treasury owes as a matter of a moral obligation.

The time to act is now. Yes, we can wait for the emergency supplemental, but if we do, much of the damage will already have begun to take place. It is not necessary that we wait. It is necessary that we act now. That is my appeal. That is my message. That will continue to be the reason why I come to the Senate to inform my colleagues of this problem and of this moral obligation. If we can't have the resources in terms of dollars, then allow Oregonians to restore its timber industry so it can produce jobs, produce timber, produce the tax base so these communities can live. It is basic fairness.

The time to show it is now on the continuing resolution, at this time and today.

I suggest the absence of a quorum. The PRESIDING OFFICER. The clerk will call the roll.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. SMITH. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the quorum call be equally divided.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mrs. MURRAY. Mr. President, I am out here again today to urge the Senate to pass the bipartisan joint funding resolution that is before us. It is H.J. Res. 20. As I mentioned yesterday evening when I was out here on the Senate floor, President Bush's Transportation Secretary, Mary Peters, testified before us last week that we will see "drastic consequences" if we fail to pass this funding resolution that is now in front of us. We are going to see painful cuts to aviation safety, highway safety, and highway construction. I also can tell my colleagues we will see painful and unnecessary cuts in housing, law enforcement, and veterans health care.

I want to make sure every Senator understands the importance of the vote

we are going to have and understands the difference between the continuing resolution that our Government is currently running on and the joint funding resolution, H.J. Res. 20, that we are currently debating.

If we fail to pass H.J. Res. 20, the bill before us, and, instead, extend the current continuing resolution for the rest of this year, we are going to see families across this country lose their housing. We are going to see airline safety inspectors who are furloughed. We are going to see air traffic controllers who will be furloughed, highway construction will be cut, and, as a result, some States are going to have to wait until the next construction season to deal with very critical safety and congestion problems.

In short, failing to pass H.J. Res. 20, the issue before us, we are going to hurt our communities severely. That is why it is so important we pass this resolution, which is a bipartisan bill, that has been very carefully crafted to address the most critical funding shortfalls across our entire Government. We have to pass H.J. Res. 20, and we need to do it this week, by this Thursday.

Communities across our country need more help in fighting crime, and that is one reason we have to pass this joint funding resolution. Without this resolution, without this bill, our State and local law enforcement will be cut by \$1.2 billion. The joint funding resolution we have before us will prevent that drastic cut, and our resolution adds money for Byrne grants and COPS grants, providing a \$176 million increase over last year for those two programs. That money will go straight to our local communities to help them fight crime.

When I go home and sit down with our law enforcement officials in my home State of Washington, they tell me they need more help from all of us in the Federal Government.

A few months ago, I was out in Yakima, WA, listening to our local law enforcement officials talk about their tremendous efforts to fight meth and gangs. They told me that Byrne grants are absolutely critical to their efforts.

There is a huge difference for Byrne grant funding under a continuing resolution—that we would be under if we do not pass this joint funding resolution—and the joint funding resolution. Under the joint funding resolution, the Byrne Grant Assistance Program is funded at \$519 million. That is an increase of \$108.7 million over fiscal year 2006. Under our bill, the COPS Program is funded at \$541.7 million. That is an increase of \$67.9 million over fiscal year 2006.

Those programs are exactly the type of support that our local law enforcement officials need. But they will only get that—they will only get that—if we pass the joint funding resolution that is now before the Senate.

Our resolution also supports national efforts to fight crime. Under a continuing resolution, the FBI would have

to lay off 4,000 special agents. Let me repeat that for my colleagues. If we go under a continuing resolution and fail to pass the funding resolution that is before us, the FBI will have to lay off 4,000 special agents.

Now, at a time when violent crime is rising, when robberies are up nearly 10 percent nationwide, when the FBI is working very hard to fight crime, do we really want to lay off 4,000 FBI agents? Of course not. That is why the resolution provides the FBI with an additional \$216 million over fiscal year 2006. That means the FBI will not have to lay off those special agents if we pass this funding resolution. If we do not pass H.J. Res. 20, those FBI agents will be furloughed, sitting at home, unpaid, rather than out working to fight crime.

Also the Justice Department's Violence Against Women office is funded at \$382.5 million in our resolution. That is nearly \$1 million over their funding of fiscal year 2006, critical dollars for a very important initiative to fight violence against women.

The joint funding resolution will also help us to cut off funding to terrorists. The Treasury Department today is working very hard to block the flow of money to terrorists. Last year, Treasury hired new intelligence analysts in that effort. Under a CR, those new analysts would be furloughed. Talk about a step backwards in the fight against terror. Our joint funding resolution, however, ensures that those analysts will stay on the job and keep disrupting terror financing.

In short, we have to pass H. J. Res. 20 so we prevent cuts in local law enforcement, so we prevent the layoffs of thousands of FBI agents, and we keep our Federal law enforcement efforts on track. This vote coming up is very critical. Either you vote to support funding law enforcement at an appropriate level or you are voting to cut funding to your local law enforcement community. That is the choice every Senator will have to make.

America's veterans also have a great deal at stake when the Senate votes on this joint funding resolution. I just came from a hearing with VA Secretary Nicholson this morning. It is absolutely clear to me that we are not doing enough yet to meet the needs of those who have served our country so honorably. Veterans today are facing long lines for health care. Veterans who need mental health care are being told they have to wait to see a doctor. The VA is not prepared for the many veterans who are coming home with serious physical challenges. We need a VA budget for the current year that meets their needs. If we pass a continuing resolution, veterans are going to get less funding and, with it, fewer medical services, less funding for medical facilities, and more delays in getting the benefits they have earned. We owe our veterans more than cuts and delays. Under the joint funding resolution, total funding for VA medical care

is \$32 billion. That is an increase of about \$3.5 billion over the fiscal year 2006 appropriated level.

Let me talk about one other VA account in particular. Under the joint funding resolution we have before us, VA medical services are funded at about \$25 billion. That is an increase of \$2.965 billion over the fiscal year 2006 appropriated level. That money is going to help our veterans with medical care, including inpatient and outpatient care, mental health care, and long-term care. Under our bill, there is an extra \$70 million for the VA's general operating expenses, and some of that money is going to help our Veterans Benefits Administration deal with the massive backlog of benefit claims. The VA has told us they wanted to hire a net of 300 more employees so we can cut down this waiting time all of us are hearing about from our veterans when we go home who can't get the benefits they need. Without the joint funding resolution, the VA will not be able to hire those new employees, and veterans are going to continue to tell us they face long delays for the benefits they have earned and deserve.

I also want to talk about the effect that not passing the joint funding resolution would have on critical programs under my own jurisdiction in the Transportation, Housing, and Urban Development Subcommittee. If we do not pass the joint funding bill, our air traffic controllers are going to be furloughed. Our air safety inspectors will be furloughed. If we fail to pass this bipartisan bill, we are going to see a decline in our ability to provide railroad inspections, pipeline safety inspections, and to make sure we get truck safety inspections across the country. Simply put, if we don't pass this bipartisan bill, the safety of the people we represent is going to be put in danger.

We are also going to feel the consequences in the critical area of housing. If we don't pass this funding resolution, hundreds of thousands of Americans are going to face a housing crisis. In fact, 157,000 low-income people could lose their housing; 70,000 people could lose their housing vouchers; and 11,500 housing units that are housing the homeless could be lost.

Those are only some of the consequences Americans will face if this Congress fails to act in the next 2 days to pass this joint funding resolution. Don't take my word for it. Last Thursday I held a hearing with President Bush's very able Secretary of Transportation Mary Peters. At that hearing, she talked in very clear terms about the consequences of not passing this joint funding resolution. I asked Secretary Peters what it would mean for safety and hiring if we did not pass this joint funding resolution. She said to me:

[We will see a serious decline in the number of safety inspectors: truck safety inspectors, rail safety inspectors, aviation inspectors across the broad range in our program.

That is directly from the Transportation Secretary.

Does any Senator want to be responsible for voting for a serious decline in the number of truck safety inspectors, rail safety inspectors, aviation safety inspectors? How would you ever explain that to your constituents, that you voted to undermine their safety as they travel by car or train or plane?

We also need to pass this joint funding resolution because without it, our States will not be able to address their most pressing highway, bridge, and road problems. In fact, Secretary Peters, President Bush's Transportation Secretary, warned us last week that some States could miss an entire con-

struction season if we do not pass this bill this week. She said:

It is especially important to those States who have a construction season that will be upon us very, very shortly, and if they are not able to know that this funding is coming and be able to let contracts accordingly we could easily miss an entire construction season.

All of us better recognize that our constituents are going to feel the impact of this vote on their roads and bridges and highways if we do not pass the joint funding resolution. The bill before the Senate provides an additional \$3.75 billion in formula funding for our Nation's highway and transit

systems. That funding will serve to create almost 160,000 new jobs, and it will help us alleviate congestion, an issue many of us face in our States. It is going to be an important infusion of cash for the States to address their needs.

I ask unanimous consent that a table that has been provided to me by the Federal Highway Administration which displays the highway funding increases that will be seen by each of our States be printed in the RECORD.

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

U.S. DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION—COMPARISON OF ACTUAL FY 2006 OBLIGATION LIMITATION AND ESTIMATED FY 2007 OBLIGATION LIMITATION INCLUDING REVENUE ALIGNED BUDGET AUTHORITY
[Including takedowns for NHTSA Operations and Research]

| State | Actual FY 2006 obligation limitation | Estimated FY 2007 | Delta |
|----------------------|--------------------------------------|-------------------|---------------|
| Alabama | \$535,056,170 | \$600,869,788 | \$65,813,618 |
| Alaska | 228,288,252 | 270,731,918 | 42,443,666 |
| Arizona | 499,506,758 | 593,277,405 | 93,770,647 |
| Arkansas | 330,837,555 | 381,949,909 | 51,112,354 |
| California | 2,381,267,388 | 2,680,526,468 | 299,259,080 |
| Colorado | 338,198,419 | 400,663,892 | 62,465,473 |
| Connecticut | 376,937,736 | 402,325,874 | 25,388,138 |
| Delaware | 104,178,113 | 121,131,724 | 16,953,611 |
| District of Columbia | 112,407,878 | 123,804,359 | 11,396,481 |
| Florida | 1,289,559,918 | 1,544,927,499 | 255,367,581 |
| Georgia | 940,654,903 | 1,067,010,791 | 126,355,888 |
| Hawaii | 120,644,520 | 127,596,268 | 6,951,748 |
| Idaho | 197,536,278 | 222,829,360 | 25,293,082 |
| Illinois | 898,006,320 | 1,010,811,302 | 112,804,982 |
| Indiana | 661,150,145 | 775,353,318 | 114,203,173 |
| Iowa | 288,499,793 | 330,589,700 | 42,089,907 |
| Kansas | 292,376,091 | 309,772,956 | 17,396,865 |
| Kentucky | 460,544,276 | 520,949,132 | 60,404,856 |
| Louisiana | 404,683,450 | 474,862,364 | 70,178,914 |
| Maine | 128,192,073 | 136,355,671 | 8,163,598 |
| Maryland | 418,246,584 | 490,032,577 | 71,785,993 |
| Massachusetts | 466,003,994 | 501,926,732 | 35,922,738 |
| Michigan | 828,533,266 | 909,761,902 | 81,228,636 |
| Minnesota | 425,664,013 | 485,442,279 | 59,778,266 |
| Mississippi | 310,973,491 | 367,059,847 | 56,086,356 |
| Missouri | 618,465,606 | 711,268,494 | 92,802,888 |
| Montana | 255,215,718 | 287,386,573 | 32,170,855 |
| Nebraska | 197,252,237 | 223,867,736 | 26,615,499 |
| Nevada | 172,076,917 | 210,350,302 | 38,273,385 |
| New Hampshire | 130,407,725 | 137,769,576 | 7,361,851 |
| New Jersey | 695,744,922 | 822,265,394 | 126,520,472 |
| New Mexico | 250,952,902 | 290,194,749 | 39,241,847 |
| New York | 1,292,715,319 | 1,366,155,757 | 73,440,438 |
| North Carolina | 755,312,308 | 872,183,722 | 116,871,414 |
| North Dakota | 166,994,190 | 189,098,718 | 22,104,528 |
| Ohio | 951,965,833 | 1,109,710,100 | 157,744,267 |
| Oklahoma | 413,931,430 | 459,904,524 | 45,973,094 |
| Oregon | 299,292,210 | 347,410,836 | 48,118,626 |
| Pennsylvania | 1,287,067,418 | 1,357,719,130 | 70,651,712 |
| Rhode Island | 134,484,666 | 154,154,462 | 19,669,796 |
| South Carolina | 424,589,865 | 511,384,433 | 86,794,568 |
| South Dakota | 174,696,675 | 202,845,805 | 28,149,130 |
| Tennessee | 572,103,666 | 672,761,834 | 100,658,168 |
| Texas | 2,183,334,526 | 2,574,558,747 | 391,224,221 |
| Utah | 190,146,092 | 220,645,255 | 30,499,163 |
| Vermont | 115,678,528 | 129,379,891 | 13,701,363 |
| Virginia | 697,407,933 | 830,852,486 | 133,444,553 |
| Washington | 448,545,807 | 519,595,013 | 71,049,206 |
| West Virginia | 285,867,458 | 325,592,845 | 39,725,387 |
| Wisconsin | 520,781,728 | 586,036,437 | 65,254,709 |
| Wyoming | 174,357,693 | 207,256,184 | 32,898,491 |
| Subtotal | 26,447,336,756 | 30,170,912,038 | 3,723,575,282 |
| Allocated programs | 9,103,451,278 | 8,794,320,215 | -309,131,063 |
| Total | 35,550,788,034 | 38,965,232,253 | 3,414,444,219 |

Amounts include formula limitation, special limitation for equity bonus and Appalachia Development Highway System. Amounts exclude exempt equity bonus and emergency relief. Allocated programs amount reflect NHTSA transfer of \$121M.

Mrs. MURRAY. It is very important that we each understand the impact of not passing this joint funding resolution with the additional \$3.75 billion in funding formula to each and every one of our States.

The failure to pass this resolution is also going to have a painful impact on hundreds of thousands of Americans when it comes to housing. In this bipartisan bill, we worked to make sure our vulnerable families would not be thrown out in the streets or face out-

of-reach rent increases. We provided critical support for section 8 homeless assistance grants, housing equity conversion loans, HOPE VI, and public housing operating funds. If we do not pass this joint funding resolution and continue on a CR, that would mean housing vouchers are going to be lost, many of our low-income residents will become homeless, renters will be displaced or face unaffordable rent increases, and many of our seniors are going to lose a valuable source of eq-

uity. And importantly, efforts to replace deteriorating public housing units will be eliminated.

Clearly, for all I have walked through, the consequences of not passing the joint funding resolution are going to be severe for some of our country's most vulnerable families. It is clear that our communities across the board are going to pay a very high price unless we pass H.J. Res. 20 before us. I urge my colleagues to vote to allow our low-income families to keep

a roof over their heads. I urge my colleagues to vote to keep our safety inspectors on the job, to keep highway construction projects moving forward, to help our local law enforcement fight crime, and I urge Senate colleagues to vote to give our veterans the care and benefits they have earned.

I urge my colleagues to support H.J. Res. 20; otherwise, you will have to tell your veterans and your police officers, your commuters, your air traffic controllers, your public housing tenants, your housing advocates, and your airline passengers, pilots, and flight attendants why you voted against them.

I urge my colleagues this afternoon to vote for cloture and then allow us to finish H.J. Res. 20 so we can put the funding in place that is sorely needed in every area in our local communities and for the people we represent.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, I ask unanimous consent that I be recognized for up to 5 minutes, and that following my remarks, the remaining time until 12:30 p.m. be provided to the Republican side.

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

Mr. KOHL. Mr. President, today I have the unenviable task of encouraging my colleagues to support the continuing resolution that lies before the Senate. Loading all of the unfinished bills from last year into a continuing resolution that barely funds programs at adequate levels is not my idea of a job well done by the Senate. The Senate should have worked its will last year and passed these bills separately before the end of the fiscal year. But that is now water under the bridge. Our task today is to finish off this process so that we can move forward with a fresh start in a new year.

The continuing resolution before us is a stripped down, bare bones version of a funding bill. It contains no earmarks—not a one. It provides the minimum funding needed to protect our rural communities, and keep our farming economy going. It provides support for critical research that helps keep our agriculture sector productive and put food on our tables—but we have left it up to the USDA to apportion these funds. Critical efforts to protect rural drinking water and grow rural housing were also maintained. In short, we did the best we could to protect rural America, save small farms, and maintain a safe and reliable food supply.

I understand that some Members may not be happy with some of the difficult choices that we had to make. But the alternative is much worse. Continuing to live under the current funding agreement would have been devastating to rural America, agribusiness, and would have shaken consumers' faith in the food they buy at the local grocery store.

Without this continuing resolution, the Food Safety and Inspection Service

would not have enough funds to get through the rest of the year. Without it, FSIS would have to lay off employees beginning in September. Without inspectors, 6,000 meat and poultry facilities would be shut down across the country. Do any of my colleagues want to explain to their constituents why they can't buy meat during the month of September? Without this CR, 700,000 people connected to the food industry will be laid off once the USDA can no longer inspect the meat produced in this country.

The proposal before us may not be perfect, but I believe it is a better alternative than endangering our food supply.

The cuts threatened by the current funding agreement will hurt more than just our grocery shopping habits. They will also be felt in doctor's offices and hospitals around the country. Continuation of the current CR will force the Food and Drug Administration to lay off 652 personnel. Some of these employees have the job of approving new medical devices. Does the Senate really want to force patients to wait up to 20 percent longer for the medical care that will help them recover? Does the Senate really want to stand in the way of these kinds of life and death decisions?

Sometimes in this body we can get caught up in the dollars and cents of the decisions we make, and lose track of the impact our votes have on real peoples lives. I understand that there are many of my colleagues that are concerned about the budget deficit. I am as well. I came to the Senate when there were record deficits, and we took difficult votes to get this country back into financial shape and create budget surpluses. I know what it takes to balance a budget. But not funding food inspections and delaying life saving medical care is not the way we should balance the budget. We have a responsibility to protect the health and welfare of the people back home. The current CR fails to fulfill that mission, but the bill we are going to pass succeeds.

Mr. President I yield the remainder of the time to my colleague from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, inquiry: Can you advise me how much time remains in morning business on both sides?

The PRESIDING OFFICER. The Republicans now control 16 minutes.

Mr. CORNYN. I thank the Chair. I thank the Senator from Wisconsin for his courtesy.

Mr. President, I would like to speak for no more than the next 10 minutes. If the Chair will advise me after the expiration of that time, then I will yield to the senior Senator from Texas.

The House passed a continuing resolution that is before the Senate. In fact, it is a \$464 billion omnibus spending bill that makes major policy changes and shifts billions of dollars

away from important national priorities.

The omnibus, I believe, is a flawed proposal and should be fixed before it becomes law, which means that amendments should be offered and voted on by the Senate.

Unfortunately, the majority leader has decided not to allow the usual process for amendments to be offered and voted on to occur and, in fact, has blocked those amendments, and it is unlikely we will have an opportunity to improve this Omnibus appropriations bill before it is voted on.

We have several amendments we are prepared to offer on this omnibus bill, if allowed to do so, which I do believe would measurably improve it. While our colleagues on the other side of the aisle have pledged, as we have, to support our troops, this bill will delay the return of many U.S. troops from overseas. We are prepared to offer a budget-neutral amendment to restore more than \$3 billion in funding for the U.S. military. More than 12,000 American troops serving overseas will be unable to come home if the plan on the floor now becomes law without any amendments. The barracks necessary to house these returning troops will not be funded in this spending plan.

To have the majority not allow the Senate to vote on the proposed amendment which would restore this funding and support our troops and to prevent our troops from coming home to the facilities they need in order to accommodate them, to me, is simply a bad way to do business and is difficult for me to explain to my colleagues and my constituents back home.

The majority promised not to change policy through a spending bill but now have eliminated a bipartisan baby AIDS prevention program. We have an amendment by Senator COBURN that will ensure that more than \$30 million dedicated to this lifesaving baby AIDS program is not blocked by this omnibus.

We were also told by the majority they believe in earmark reform, special projects that are funded through an earmark in the budget process, but they are in this Omnibus appropriations bill allowing what I would call back-door earmarking.

We have an amendment we are prepared to offer that would protect taxpayers' funds by guaranteeing that the omnibus is truly earmark free and by preventing back-room deals to fund wasteful programs after this bill is passed.

Finally, in a general sense, talking about the kinds of amendments that need to be offered and voted on on this bill, the majority promised to be sensitive to those who are in the most need of assistance, but this Omnibus appropriations bill takes money from crime victims, \$1.2 billion, and spends it on other Government programs. This is simply, I believe, a bad way to do business and I think is inconsistent with the spirit of bipartisanship with

which this Congress started with the work we have been able to do on lobby and ethics reform, on minimum wage, and small business tax and regulatory relief.

I also have two other amendments I would like to call up to this bill that I wish to mention briefly, but unfortunately, as I already mentioned, the majority leader has seen fit to deny any Senator the opportunity, in this the world's greatest deliberative body, to even offer any additional amendments. Nevertheless, I wish to take a moment to highlight them.

The first amendment would restore funding to the Department of Energy's FutureGen Program and do so without busting the budget. FutureGen, as my colleagues know, is a demonstration project launched by President Bush in 2003 to test new technology in refining coal in generating electricity. If successful, FutureGen technologies could help lower energy costs, increase domestic energy resources, and eliminate harmful air pollutants.

On the Senate floor, we talk a lot about ending our reliance on foreign sources of energy, as well as our need to produce energy in the cheapest way possible.

The Omnibus appropriations bill that is on the floor, to which we are being denied an opportunity to offer amendments, pulls the carpet from under the FutureGen Program which seeks to address both of those needs.

Solutions to our energy future must be made by utilizing a variety of technologies, both traditional and new, innovative technology. We cannot turn our back on our most abundant domestic resource, coal, but we can make sure that the kind of innovation and research that this FutureGen project is designed to do can make sure we can use that domestic energy resource in a way that is entirely consistent with our universal desire to have a clean environment.

One other amendment I would offer would restore the cuts that the omnibus bill makes from the U.S. Marshals Service. This amendment also does not bust the budget. The Omnibus appropriations bill shortchanges the men and women in the U.S. Marshals Service who are on the frontlines protecting the safety of our Federal judges and our court personnel.

Every day the Marshals Service protects more than 2,000 sitting Federal judges, as well as other court officials, at more than 400 courthouses and facilities across the Nation. The protection of our Federal judges by the U.S. Marshals Service is one of the most important and perhaps least-recognized assignments in law enforcement. But a disturbing trend is afoot. Increasingly, judges, witnesses, courthouse personnel, and law enforcement personnel who support them are the subject of violence simply for carrying out their duties.

We can all agree that the safety of our men and women who serve in these

important law enforcement capacities deserve the proper funding necessary for them to do their job.

Mr. President, I regret, more with a sense of disappointment than anger, the fact that the majority leader has denied us an opportunity to offer amendments on any of these priorities, matters which I think we can all agree deserve our consideration and close scrutiny. But given the fact that, rather than the bipartisan cooperation we were promised at the outset of this Congress, we are seeing basically a my-way-or-the-highway approach to this Omnibus appropriations bill, not only are our troops not going to get the \$3.1 billion that is necessary to provide housing and assets for them to return home, but we know clean coal-burning technology and research is going to be denied and put off, pushed down the road with harm to our Nation and, finally, we know the U.S. Marshals Service, responsible for protecting our Federal judiciary, is going to be denied the resources they need to do their job.

This is simply not the right way to do business, certainly not in the bipartisan spirit which we were promised at the outset of this Congress. I hope that the majority leader will reconsider and allow us to offer amendments and have an up-or-down vote on each of these amendments.

I yield the floor.

Mrs. HUTCHISON. Mr. President, how much time remains in morning business?

The PRESIDING OFFICER. A little less than 7½ minutes. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that I be notified at 3½ minutes, and I will then leave the rest of our time for the distinguished Senator from South Carolina.

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

Mrs. HUTCHISON. Mr. President, I am very troubled by this process. We are taking up a \$463 billion appropriations bill. There is no amendment on the House side and no amendment on the Senate side being allowed. We are going to cloture with no capability of amendments. Yet the deadline for this bill is February 15. We have several days in which we could offer amendments, debate amendments, and go back to the House, if we set our minds to doing it. And if there was a true bipartisan spirit, we would be able to do that.

It has been said we didn't pass these appropriations bills last year, and that is correct. We didn't for a variety of reasons, some of which was obstruction from the other side and some of which was obstruction on this side. I understand that. But now we are where we are. We have been here before.

When the Republicans took control in 2003, after the Democrats had the majority, we didn't put a continuing resolution forward for the 11 appropriations bills that had not been passed. We

put forward an Omnibus appropriations bill, a bill that was amendable. There were, in fact, 100 amendments offered. There were 6 days of debate, and the bill was passed with mostly Democratic amendments.

I do think, in a sense of fairness, that is what was expected when the majority switched, that we would have an Omnibus appropriations bill with some reasonable number of amendments. Our leadership certainly offered a limited number with a limited time for debate. We wouldn't have had to have a cloture vote if we had been able to have that open dialog, but we didn't. Now we have a \$463 billion bill, in which \$3 billion has been taken out of what this Congress passed last year for military construction to prepare for the base closing law we passed and to implement that on the deadline we made, which was 6 years. There was a request for \$5.6 billion that was necessary for us to bring 12,000 troops home this year and to go forward with the rest of the appropriations for the troops coming home from overseas, and \$3 billion was taken out of the bill that has passed and put into other priorities with no hearings and no amendments allowed on the floor.

I don't see that is in any way able to be described as fair, bipartisan. It is not the way we ought to do business in the Senate.

So here we are taking \$3 billion from our military accounts and putting them into accounts throughout the Federal Government. I cannot think of anything more important than making sure our troops, when they come home from overseas, have living conditions and training facilities that we are trying to provide for them. The reason we are moving them home from overseas is to give them better training facilities. That is what the bulk of the \$3 billion is going to do, and that is why we need to stop cloture on this bill, offer one or two amendments and send the bill to the House. We have plenty of time to work out something so simple.

The PRESIDING OFFICER. The Senator is at the 3½-minute mark.

Mrs. HUTCHISON. Mr. President, I urge my colleagues: Do not vote for cloture on this bill yet. We will have plenty of time to fund the other priorities in the bill, but we can also add amendments. This is the Senate. There are 100 Members, and we should have a say in a \$463 billion omnibus appropriation.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. DEMINT. Mr. President, I rise today to speak about my amendment No. 253 that I would like to offer to the fiscal year 2007 omnibus spending bill.

My amendment seeks to strengthen the provisions in section 112 dealing with earmarks. According to the sponsors, the goal of this section is to turn off the hidden earmarks for this year's spending, but, unfortunately, it does not achieve that goal.

First, the language in H.J. Res. 20 say—on page 9—that hidden earmarks shall have no “legal effect,” but it does not clearly state that hidden earmarks shall have no guiding effect. These earmarks already have no legal effect. The point of this section was not to restate current law, but rather to make it clear that hidden earmarks have no effect, legal or otherwise.

As my colleagues know, over 95 percent of all earmarks are not even written into our appropriations bills. If we don't fix the language in this resolution we are debating today, all of these earmarks could continue. It is not certain that they will but they could and that is something we should fix to protect American taxpayers.

Our Federal agencies need to understand that hidden earmarks mean nothing and should be completely ignored in their decisionmaking. Our Federal agencies need to spend American tax dollars in ways that meet their core missions and serve true national priorities. Federal agencies should not feel pressure to fund special interest earmarks written by the powerful lawmakers who may cut their funding in retaliation.

Second, the language in H.J. Res. 20 applies to hidden earmarks in the fiscal year 2006 committee reports, but it does not turn off the hidden earmarks buried in committee reports prior to 2006 or those after it. In addition, the language does not turn off earmarks that may be requested through direct communications between lawmakers and our Federal agencies, either by phone or in private emails.

I understand that the Democratic leader is not going to allow any amendments. The Democratic leader scheduled this debate right before the Government's current funding expires so we will all be forced to accept it. This practice has been going on for years, and I am afraid it has become very destructive.

We are going to vote on whether to cut off debate on this measure today at 2:30 p.m. and I will be forced to oppose that motion. Since the Democratic leader has blocked me and other Senators from getting votes on our amendments, I cannot in good conscience vote to cut off debate. My amendment makes small changes to this resolution that would greatly improve its integrity, and there is still time to send this measure back to the House for its approval.

I also want to make it clear that while we have a responsibility in this body to address hidden earmarks in this resolution, the President also has a responsibility to do his part. In a letter that I sent last week, I called on him to instruct his agencies to ignore all earmark requests that do not have the force of law, and I believe he will. He said in the State of the Union Address this year that:

Over 90 percent of earmarks never make it to the floor of the House and Senate—they are dropped into committee reports that are

not even part of the bill that arrives on my desk. You didn't vote them into law. I didn't sign them into law. Yet, they're treated as if they have the force of law. The time has come to end this practice.

It appears as though our Federal agencies are beginning to follow through on the President's directive. Last week, a memo was circulated at the Department of Energy that said:

Because the funding provided by H.J. Res. 20 will not be subject to non-statutory earmarks and the President's policy on earmarks is clear, we must ensure that the Department only funds programs or activities that are meritorious; the Department itself is responsible for making those determinations.

This is a great sign of progress and I hope other agencies will circulate their own memos to this effect. Our agencies have been under the thumb of powerful appropriators for so long, it may be difficult for them to transition to a world without earmarks. But that is what they must do because that is what the American people expect. Americans want their Federal tax dollars to be spent in competitive ways that meet the highest standards. If a project is going to get Federal funding, they expect—just like with a Federal contract—that the money go to the project with the most merit regardless of whose State or district it is in.

We are making great progress on reforming our budget process and reducing earmarks, and I urge my colleagues to help us continue this progress and win back the trust of the American people.

Mr. President, I wish to make a few additional comments about my amendment No. 253 to the fiscal year 2007 omnibus spending bill. This is an amendment that would strengthen a provision in the bill that is under section 112. This gets back to the earmark discussion. The Senate can be proud of the debate and the votes we have taken to disclose earmarks and to eliminate the hidden earmarks that have been added in conference for years. Unfortunately, the language in this omnibus bill continues the status quo. It says that earmarks have no legal effect. It does not take the debate we have all agreed on and make it a prohibition that earmarks cannot be added in conference.

We know that 95 percent of earmarks are in report language. They do not have the force of law. Yet, through intimidation and other ways, Congress has been able to get the executive branch to follow through on these earmarks for years. My amendment would simply go back to what we have already agreed on as a Senate and prohibit these wasteful, hidden earmarks that waste billions of taxpayer dollars every year from being included in report language.

I am encouraged that the White House is responding. We have a memo that the Energy Department sent out last year to its managers telling them not to give preferential treatment to nonbinding, nonlegal congressional earmarks; that earmarks should be

meritorious, as they said in their memo, before they are considered. This would free up all the Federal agencies to focus their spending and their time on Federal priorities, not just specific special interest earmarks that a Member of Congress happens to attach to a bill.

I understand the majority leader is not going to allow any amendments. That is very regrettable, particularly since it leaves out something on which I think we all agree.

The cloture motion we have been asked to vote on at 2:30 is a motion to cut off debate. That means we can no longer talk about the provisions in ways that could improve this bill. For that reason, I am going to have to vote against cloture and hope the majority leader will reconsider, particularly amendments like this which are easy and which this Chamber has already voted unanimously to support.

Mr. President, with that, I yield back.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until the hour of 2:15 p.m.

There being no objection, the Senate, at 12:30 p.m., recessed until 2:14 p.m. and reassembled when called to order by the Presiding Officer (Mr. CARPER).

MAKING FURTHER CONTINUING APPROPRIATIONS FOR THE FISCAL YEAR 2007

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.J. Res. 20, which the clerk will report by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 20) making further continuing appropriations for the fiscal year 2007, and for other purposes.

Pending:

Reid Amendment No. 237, to change an effective date.

Reid Amendment No. 238 (to Amendment No. 237), of a technical nature.

Motion to recommit the bill to the Committee on Appropriations, with instructions to report back forthwith, with Reid Amendment No. 239, to change an effective date.

Reid Amendment No. 240 (to the instructions of the motion to recommit), of a technical nature.

Reid Amendment No. 241 (to Amendment No. 240), of a technical nature.

The PRESIDING OFFICER. Under the previous order, the time until 2:30 will be equally divided between the two leaders or their designees.

Who yields time? The Senator from West Virginia.

Mr. BYRD. Mr. President, I can do this, I think in 5 or 6 minutes. I yield myself such time as I may consume. Am I recognized?

The PRESIDING OFFICER. The Senator is recognized.

Mr. BYRD. Mr. President, today is the 136th day of fiscal year 2007. It is

past time to complete the remaining nine fiscal year 2007 appropriations bills. Agencies have limped along through October, November, December, January, and half of February based on a very restrictive continuing resolution. Thirteen of the fifteen departments do not know how much money they will have for a fiscal year that is now one-third gone, one-third over.

This is a deplorable way to run a government, any government, specifically the Federal Government—this Government.

Under the existing continuing resolution, our veterans hospitals are confronting the need to deny health care to 500,000 veterans and to force 850,000 veterans to wait longer for their care. H.J. Res. 20 includes an increase of \$3.6 billion to solve the problem. On this, the 136th day of fiscal year 2007, it is time to act.

Under the existing continuing resolution, the Social Security Administration is facing longer lines for approving benefits, and furloughs of employees. The 1-800 Medicare call centers, which have received over 35 million calls from the elderly with questions about their coverage, will have to shut down for the final months of the fiscal year. H.J. Res. 20 solves those problems. It is time to act.

Under the existing continuing resolution, the Department of Defense will have to delay elective surgeries, non-emergency care, and increase the cost of some pharmaceuticals for Active-Duty members, their families, and retirees. H.J. Res. 20 includes an increase of \$1.4 billion to solve the problem. It is time to act.

Under the existing continuing resolution, funding for highways and transit is frozen at fiscal year 2006 levels, putting 160,000 jobs at risk. H.J. Res. 20 fully funds the highway and transit guarantees. It is time to act.

Under the existing continuing resolution, no funds are provided to the Department of Defense to build the facilities needed to bring our troops back home from Europe. H.J. Res. 20 includes \$1 billion to solve that problem. It is time, again I say, to act.

According to the White House Office of the Global AIDS Coordinator, under the existing continuing resolution 110,000 to 175,000 people will likely die of HIV-related causes. H.J. Res. 20 includes a \$1.4 billion increase to help HIV victims. It is time to act.

H.J. Res. 20 complies with the \$872.8 billion statutory cap on spending. It contains no earmarks and, I should say, eliminates 9,300 prior earmarks.

Hallelujah. It eliminates 9,300 prior earmarks.

H.J. Res. 20 cuts 125 accounts below fiscal year 2006 levels and freezes 450 accounts at the 2006 level. H.J. Res. 20 is tough, it is disciplined, and it addresses critical needs. It is time to act.

I urge Members to vote aye on the cloture motion and on the resolution.

Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. The Senator has about 4 minutes remaining.

Mr. BYRD. I thank the Chair. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

CLOTURE MOTION

Under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close the debate on Calendar No. 18, H.J. Res. 20, Continuing Funding resolution.

Robert C. Byrd, Sherrod Brown, Joe Lieberman, Pat Leahy, Patty Murray, John Kerry, Barbara A. Mikulski, Dick Durbin, Ken Salazar, Jack Reed, Tom Harkin, Dianne Feinstein, H.R. Clinton, Mary Landrieu, Herb Kohl, Carl Levin, Byron L. Dorgan, Ben Nelson.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on H.J. Res. 20, making further continuing appropriations for fiscal year 2007, and for other purposes, shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN) and the Senator from South Dakota (Mr. JOHNSON) are necessarily absent.

Mr. LOTT. The following Senator was necessarily absent. The Senator from Kansas, Mr. BROWNBACK.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 71, nays 26, as follows:

[Rollcall Vote No. 46 Leg.]

YEAS—71

| | | |
|-----------|------------|-------------|
| Akaka | Craig | Lieberman |
| Baucus | Crapo | Lincoln |
| Bayh | Dodd | Lott |
| Bennett | Domenici | Lugar |
| Bingaman | Dorgan | McCaskill |
| Bond | Durbin | McConnell |
| Boxer | Enzi | Menendez |
| Brown | Feingold | Mikulski |
| Bunning | Feinstein | Murkowski |
| Burr | Grassley | Murray |
| Byrd | Harkin | Nelson (FL) |
| Cantwell | Inouye | Nelson (NE) |
| Cardin | Isakson | Obama |
| Carper | Kennedy | Pryor |
| Casey | Kerry | Reed |
| Chambliss | Klobuchar | Reid |
| Clinton | Kohl | Rockefeller |
| Cochran | Landrieu | Salazar |
| Coleman | Lautenberg | Sanders |
| Conrad | Leahy | Schumer |
| Corker | Levin | Shelby |

| | | |
|----------|--------|------------|
| Specter | Tester | Webb |
| Stabenow | Thune | Whitehouse |
| Sununu | Vitter | |

NAYS—26

| | | |
|-----------|-----------|-----------|
| Alexander | Gregg | Sessions |
| Allard | Hagel | Smith |
| Coburn | Hatch | Snowe |
| Collins | Hutchison | Stevens |
| Cornyn | Inhofe | Thomas |
| DeMint | Kyl | Voinovich |
| Dole | Martinez | Warner |
| Ensign | McCain | Wyden |
| Graham | Roberts | |

NOT VOTING—3

| | | |
|-------|-----------|---------|
| Biden | Brownback | Johnson |
|-------|-----------|---------|

The PRESIDING OFFICER. On this vote, the yeas are 71, the nays are 26. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mrs. MURRAY. I move to reconsider the vote.

Mr. DURBIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Georgia.

RELATIVE TO THE DEATH OF REPRESENTATIVE CHARLES W. NORWOOD, JR., OF GEORGIA

Mr. ISAKSON. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 79, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 79) relative to the death of Representative Charles W. Norwood, Jr., of Georgia.

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Charles W. Norwood, Jr., late a Representative from the State of Georgia.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns or recesses today, it stand adjourned or recessed as a further mark of respect to the memory of the deceased Representative.

There being no objection, the Senate proceeded to consider the resolution.

Mr. ISAKSON. Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The resolution (S. Res. 79) was agreed to.

Mr. ISAKSON. Mr. President, I ask unanimous consent that Senator CHAMBLISS and I, from Georgia, be recognized for a few minutes to pay tribute to Representative NORWOOD.

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

The Senator from Georgia.

Mr. ISAKSON. Mr. President, first of all, I thank Leader REID and Leader MCCONNELL for bringing this resolution

forward in a very timely fashion. We learned during the lunch hour today that Representative CHARLIE NORWOOD of Georgia passed away, a victim of cancer.

CHARLIE had been fighting valiantly that disease for over 3 years, having a lung transplant, and, unfortunately—after the transplant's success for a year and CHARLIE doing well—cancer occurred in one lung and then transferred to his liver.

His wife Gloria has been an absolutely wonderful human being, seeing to it that CHARLIE continued to do his work in the House of Representatives, even though suffering greatly from the effects of the cancer that reoccurred.

CHARLIE NORWOOD was elected in 1994 and was a classmate and fellow representative with many of us here—Senator COBURN, Senator GRAHAM, Senator LINCOLN, Senator CHAMBLISS, and myself.

On behalf of all of us who have had the chance to serve with CHARLIE NORWOOD, we today pay tribute to his life, the great accomplishments he made on behalf of his district, and his untiring effort to bring about quality, affordable health care within the reach of every single American.

He will be remembered for many things: his tenacity, his great sense of humor, his commitment to his district, and to his people. But from a political standpoint and a service standpoint, he will be remembered for Norwood-Dingell, the legislation that laid the groundwork for reforms in health care that even go on at this day.

So as a Member of the Senate from Georgia, as a personal friend of CHARLIE NORWOOD and his beautiful wife Gloria, and as one who is so thankful for the contributions he made to my State, to me as an individual, and to this body, I pay tribute to CHARLIE NORWOOD, pass on the sympathy and the condolences of my family to his wife Gloria and his many friends.

And again, I repeat my thanks to Senator MCCONNELL and Senator REID for their timely recognition of the passing of CHARLIE NORWOOD.

It is my pleasure now to, with unanimous consent, recognize Senator CHAMBLISS from Georgia.

The PRESIDING OFFICER (Mrs. MCCASKILL). The Senator from Georgia is recognized.

Mr. CHAMBLISS. Madam President, I thank my friend and colleague from Georgia for those very generous and kind words about our mutual friend.

I rise today to pay tribute to a guy who has been a great inspiration not just for the last 3 years when he has so bravely fought the deadly disease that ultimately got him—cancer—but CHARLIE NORWOOD and I were elected to Congress together in 1994.

CHARLIE was one of those individuals who came to Congress for the right reason; that is, to make this country a better place for our generation as well as for future generations to live.

CHARLIE worked every single day to make sure he could personally do ev-

erything he could as a Member of the House of Representatives to make this country better.

CHARLIE grew up a Valdosta Wildcat. Now, to people in this body that may not mean a whole lot, but to anybody who lives in our great State, growing up a Valdosta Wildcat and playing for the Wildcat football team is a very special asset.

Valdosta is a very unique town down in my part of the State, down in the very southern part of our State. The football lore of Valdosta is second to no other community in the country.

CHARLIE loved his Valdosta Wildcats. He and I used to sit on the floor of the House every now and then, particularly during football season, and talk about his days of growing up. My hometown of Moultrie is the biggest football rival of Valdosta.

CHARLIE loved life. He loved things like football. He also loved his family. He was the proud husband of Gloria Norwood, who is one more great lady, and he had two sons and several grandchildren.

CHARLIE used to take his grandchildren to Atlanta every year at Thanksgiving, used to take the girls. He would let those girls have the run of a very nice hotel in Atlanta to do whatever they wanted, including CHARLIE NORWOOD, a mean, gruff, old dentist from Augusta, GA, sitting down in the afternoon and having tea with his granddaughters. He was, indeed, a very special person, a guy who loved his country, loved his State, loved his family, and really cared about what is best for America.

One anecdote about CHARLIE I will never forget. He and I became good friends during the 1994 campaign. We both signed the Contract with America. We ran on the Contract with America. One provision in there was requiring an amendment to the Constitution calling for the Federal budget to be balanced. CHARLIE and I both felt very strongly about that. We were sitting on the floor of the House of Representatives one night together, as we were debating and voting on the amendment to the Constitution calling for a balanced budget, and as the numbers in favor of the bill grew and grew, the roar within the Chamber itself got louder and louder. It took 397 votes to reach the point where the balanced budget amendment would pass, and when it hit 350, the roar got louder. It hit 360. Finally, it hit 397. CHARLIE looked over at me and said: SAX, that is why we came here. He was that kind of person who truly cared about his country and the principles for which he stood.

He was a man who will truly be missed, as my colleague, Senator ISAKSON, said, for his ideas on health care. He truly believed that every person who received health care treatment in this country ought to have the ability to look their physician in the eye and make sure they had the right to choose the physician from whom they

were receiving medical services. It is only fitting that CHARLIE's Patient's Bill of Rights was reintroduced in the House in the last several days. I look forward, hopefully, to Congressman DINGELL taking up that bill and debating that bill. It was a controversial bill then. It will be controversial again. But just because CHARLIE NORWOOD felt so strongly about it, I am hopeful we will see some movement on that bill.

As I wind down, I have such fond memories about CHARLIE from a personal standpoint. But most significantly, the great memories I will always have about CHARLIE NORWOOD are about his commitment to America, his commitment to freedom, his commitment to the men and women who wear the uniform of the United States, of which he was one—he was a veteran of Vietnam—and about the great spirit CHARLIE NORWOOD always brought to every issue on the floor of the House of Representatives. He was a great American. He was a great Member of the House of Representatives. He was a great colleague. He was a great friend who will be missed.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

MAKING FURTHER CONTINUING APPROPRIATIONS FOR THE FISCAL YEAR 2007—Continued

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

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

Mr. ALEXANDER. Mr. President, I ask unanimous consent that I be allowed to speak for up to 20 minutes on the continuing resolution.

The PRESIDING OFFICER. The Senator has that right.

Mr. ALEXANDER. Thank you, Mr. President.

A few days ago, I came to the floor deeply concerned because someone, someone over in the House of Representatives—first, let me ask the Chair, will you please give me a minute's notice when my 20 minutes is up?

The PRESIDING OFFICER. At the conclusion of 19 minutes, the Senator will be given notice.

Mr. ALEXANDER. Thank you very much.

Someone over in the House of Representatives, before they sent that continuing resolution or joint funding resolution over here, had taken the Teacher Incentive Fund, which was to be funded at \$100 million a year, and reduced it to \$200,000. In other words, they killed the funding. I couldn't imagine someone would do that on purpose, and so I came here to say so. I know it was a confusing time and there were lots of different priorities to be met. Perhaps, in the difficulty of putting together the joint funding resolution, it was just a slip-up. I said I

hoped it wasn't the signal of what the new Democratic majority's education policy would be because I couldn't imagine the new Democratic majority—or the old Democratic minority, for that matter—or any of us on either side being against the Teacher Incentive Fund.

What the Teacher Incentive Fund does is almost the most crucial thing we need to do in helping our schools succeed. It makes grants to States and cities that are doing the best work in trying to find fair ways to reward outstanding teaching and to reward good principals. Every education meeting I go to, and I have been going to them for years, that ends up being the No. 1 thing we need to do. First are parents, second are teachers and principals, and everything else is about 5 percent. In other words, a child who has a head start at home is a child who is going to get an education almost no matter what else happens. But if you add an outstanding teacher and an outstanding principal to whatever happens at home, the school is better and the classroom is better and the child succeeds. This is especially true for low-income children in America, which is exactly what the Teacher Incentive Fund is designed to meet.

Well, I wasn't disappointed because within 5 minutes after I began, the distinguished Senator from Illinois, Mr. DURBIN, the assistant Democratic leader, came on the floor, and I think I am being fair in characterizing his remarks when he said: Whoa, wait a minute. This is a good program. In fact, I just received a call this afternoon, said Senator DURBIN, from the superintendent of the Chicago schools, and he said we need this program. He said we have a lot of low-income, poor kids who aren't making it, whom we are leaving behind, we want to help them, and this helps us do that. He said we have a grant under the Teacher Incentive Fund to do it.

We heard further testimony at a roundtable in our Health, Education, Labor, and Pensions Committee that in the Chicago schools they closed some schools where children were not learning year after year after year. What did they do? They put in a new team—a new principal, a new set of teachers. And what did they do with the teachers? They paid them \$10,000 a year more than they were otherwise making to make sure they would go there because they were the teachers known in Chicago to be able to help low-achieving students achieve.

We all know from our experience and research that virtually every child can learn. Some children just need a little extra help getting to the starting line. If you don't get it at home, you especially need it at school. And where you get it at school is from outstanding teachers and principals.

So it wasn't Senator DURBIN, who is the assistant Democratic leader in the Senate, who was trying to kill the Teacher Incentive Fund. So I have been

wondering for the last few days, well, then, who was it? Who was it? Well, now I know, Mr. President, because they have announced it.

Today comes a letter to me—"Dear Senator ALEXANDER"—on behalf of the National Education Association, the NEA, with 3.2 million members, saying:

We urge your opposition to several ill-conceived amendments to the continuing resolution. Specifically, we urge you to vote "no" on an amendment to be offered by Senator ALEXANDER, Republican of Tennessee, that would provide \$99 million for the teacher incentive fund.

So the NEA, in its brilliance, has written me a letter to ask me to vote against my own amendment.

I am astonished. That doesn't surprise me so much. Any of our offices can make a mistake. But what I want the President to know, and I want our colleagues to know—I want them to know who is against this, and I want the world to know what they are against. What they are against is helping find a fair way to pay good teachers more for teaching well and to train and help good principals lead schools, especially in big cities where we have a lot of low-income children who are falling behind.

This is not some abstract notion. The President had recommended \$100 million for the Teacher Incentive Fund as part of the No Child Left Behind legislation. In a bipartisan way it passed several years ago, and we are in the midst of a remarkably bipartisan approach to see what we need to do about NCLB as we reauthorize it for 5 years, and part of it is the Teacher Incentive Fund.

In a very tight budget, President Bush has recommended not just \$100 million for the next year, he has recommended \$200 million.

I placed into the RECORD a few days ago Secretary of Education Spellings' letter saying this is very important. We have just started this program. We made a number of grants to cities all across America, 16 grants across the country, at least one State—in South Carolina. You have cut us off. You stopped us from making an evaluation and reporting back to the Senate, to the Congress, how this is working. You are disappointing these school districts who have stepped up to do this.

That is what has happened. Just to be very specific, here is the kind of thing that the Teacher Incentive Fund grant does. Memphis, our biggest city, has an unusually large number of our lowest performing schools. It is our poorest big city, one of the poorest big cities in America. It has a real solid school superintendent, she's excellent, and they are working hard to improve.

A lot of the Memphis citizens are putting together a special effort to say: One of the single best things we can do in Memphis is to take every single one of our school principals, put them through a training program for a year, hook up with New Leaders for New Schools to do that, continuing after

the year, and then we will put them back in charge of their school. We will give them autonomy to make the changes they need to make, and we will see if these children can succeed because we know if they can succeed, if we help them the correct way—we give them extra hours, as we have in our charter schools, give them extra training, we know they will succeed.

Memphis City Schools and New Leaders for New Schools were awarded a grant for \$3.1 million in the year 2006, the first year after the 5-year grant totaling \$18 million. Over the 5-year grant, Memphis plans to provide training and incentive grants to 83 principals serving almost one-third of the schools in the Memphis school system. Principals will receive incentive grants of at least \$15,000 a year.

What is wrong with that? Why would the largest educational association in America oppose taking a city with low-performing students and saying we are going to kill the program that trains your principals and pay them \$15,000 more a year to do a better job? Why would they do that?

The assistant Democratic leader doesn't agree with that. At least he said so on the floor of the Senate. I don't agree with it. I don't think the parents of the children agree with it. The school superintendent doesn't agree with it, nor does the mayor. Who is against this? We are trying to pay more money to the members of the association that is trying to kill the program. That is what we are trying to do.

It is not just Memphis. I think it is important that my colleagues in the Senate—if the snow and the ice has not caused them to flee to the suburbs. I think most of them are in their offices, maybe a few are even listening. I want them to know that the National Education Association wants to kill the program for the Northern New Mexico Network, the Northern New Mexico Network for Rural Education, a nonprofit organization, one of the 19 grantees of the Teacher Incentive Fund. It is partnering with four school districts. They serve a region with high levels of poverty, high concentrations of Native Americans and Hispanic students, extreme rural conditions, small schools. So the NEA wants to kill the program to help make those teachers and those principals better.

Here's another project, New Leaders for New Schools in the DC public schools. This is a coalition with DC public schools and several others, to provide direct compensation to teachers and principals who have demonstrated their ability to move student achievement.

What a terrible thing to reward—teachers who have demonstrated an ability to move student achievement. Let's kill that program right away. We don't want that happening in the District of Columbia, do we?

Let's go to the Chicago public schools. Chicago has taken a lot of steps in their public schools. The

mayor deserves a lot of credit for that. The school system deserves a lot of credit. They know these children can't wait 5 or 10 years to have a good education experience, so, as I mentioned earlier, in some cases they are not moving the school, they are just transforming it. How do you transform a school? There is only one way. You move in a new principal and you move in some really good teachers. There is only one way to transform a school, and that is it.

So the Chicago public schools in collaboration with the National Institute for Excellence in Teaching proposes the Recognizing Excellence in Academic Leadership. At the heart of that is multiple evaluations, opportunities for new roles and responsibilities, recruitment, development, retention of quality staff in 40 Chicago high schools that serve 24,000 students. The NEA wants to kill that program. That is the third grantee.

Let's go to Denver. The Denver public schools proposed a twofold district-wide expansion of its professional compensation system for teachers—that means we pay them more—to develop and implement and evaluate a performance-based compensation system for principals.

My goodness, Denver wants to pay its best principals more money so they might stay in the school? And how are they going to do that? They are going to think about it. They are going to work within the system. They are going to ask for outside help. They are not just imposing a one-time bonus, merit pay system. They are trying to lead the country in doing this. The National Education Association says: No, let's kill it.

The National Education Association not only said, no, let's kill it, they issued a threat to Members of the Senate. "Votes associated with these issues may be included in the NEA legislative report card for the 110th Congress." That means if you vote against the Alexander amendment or anybody else's amendment supporting the Teacher Incentive Fund, what we, the National Education Association, will do is write all the teachers in Tennessee or Rhode Island or wherever we may be and say: Your Senator is anti-education.

Why is the Senator anti-education? Because he wants to support a program to find a fair way to reward outstanding principals and teachers who are teaching low-income children and helping them succeed.

California—my goodness. The Mare Island Technology Academy—here is another thing that NEA would like to stomp out. It proposes to extend a current project to award incentives to teachers and principals instrumental in increasing student achievement. We can't have that in California, at least under the NEA.

The Houston independent school district—maybe Senators Cornyn and Hutchison would like to know about

this. It is the largest public school district in Texas, the seventh largest in the United States. It proposes an incentive plan for teachers that focuses on teacher effectiveness and growth in learning. We don't want that in any school, do we?

Guilford County, NC—maybe Senator BURR and Senator DOLE would like to be aware of this because their schools proposed a financial recruitment project called Mission Possible and plans to extend the program to an additional seven schools, charter schools in various States.

Another project. Alaska—one school district there serves as the fiscal agent. They are working on the same sort of progress and expanding on a current program with the Re-Inventing Schools Coalition.

South Carolina Department of Education. A modified version of the existing teacher advancement program to implement a performance-based compensation system to address problems with recruitment and retention in 23 high-need schools in six districts. We wouldn't want 23 high-need schools in six South Carolina districts to have a program to pay good teachers more for teaching well, would we? We would like to kill that in the Congress because the National Education Association might put us on their list of not voting for the NEA legislative report card.

Dallas independent school district—they have a similar program. They want to identify and reward principals and teachers based on a combination of direct and value-added measures of student achievement. Can't have that.

The school district of Philadelphia, PA. Let's pay particular attention to this one. The overall purpose of Philadelphia's initiative is to pilot a performance-based staff development and compensation system that is teacher pay and principals, that provides teachers and principals with clear incentives that are directly tied to student achievement, growth and classroom observations conducted according to an objective standards-based rubric at multiple points during the school year. Twenty high-need urban elementary schools that have demonstrated high degrees of faculty buy-in—that means the teachers want it—will participate in the pilot.

Nobody is making them do it. They are volunteering to do it. The teachers want it. Leaders from the school district of Philadelphia's administration and from two unions, representing all Philadelphia teachers and principals, have designed the pilot and will oversee its implementation. So the National Education Association says kill the program in Philadelphia for a lot of high-need kids, even though the program involves the unions who work in those schools. That is a very arrogant attitude, it seems to me.

Ohio, State Department of Education, Eagle County, CO, and Weld County, CO—those are just the schools and school districts and the States

where the Department has made 16 grants in the first year of its operation.

As you can see, the common thread running through here is, can we find a fair way to reward outstanding teachers and help in training and reward outstanding principals so they will stay in the classroom, so they will have an even better idea of what they are doing, so we can honor them, treat them in a more professional way? If we were to do that, wouldn't that be better?

Why wouldn't the largest educational association in America welcome this? I know in Chattanooga, TN, when the new Senator from Tennessee, BOB CORKER, was mayor, he was more effective than I was in working with the local teachers association or union, and he did just this—generally with their participation and agreement. And he helped, in a model school system in Chattanooga, TN, find a way to attract teachers to the schools where children were having trouble learning and needed extra help. These were teachers who had shown an ability to help these students achieve more. So they were paid more for that. They were paid more for that.

Let me conclude my remarks. I ask unanimous consent for another 5 minutes, if I may?

The PRESIDING OFFICER. The Senator has that right.

Mr. ALEXANDER. I will conclude my remarks with a little bit of history. If you sense, in my voice, a heavy amount of disappointment, it is because this goes back a long ways. In 1983, when I was Governor of Tennessee, I proposed what then was the first statewide program to pay teachers more for teaching well. We called it the Master Teacher Program.

I was astonished, after a term as Governor, to discover that not one State was paying one teacher one penny more for teaching well. I could not understand how we were going to keep outstanding men and women in the classrooms, particularly—this was 25 years ago, almost—now that women had many more employment opportunities. The math teacher was headed for IBM, the science teacher was going over here. One reason was because of the teacher pay scale. You could make more for staying around a long time, you could make more for getting another degree, but you couldn't make a penny more for being good.

I went around to try to find out how do we reward outstanding teaching, and everybody said you can't do that. Not quite everybody. One person who did not say that was Albert Shanker, who was the head of the American Federation of Teachers, which is the second largest teachers union. Mr. Shanker said if we have master plumbers we can have master teachers, and maybe we need to get busy trying to think of a fair way to do that. He invited me to go to Los Angeles and speak to the convention of the American Federation

of Teachers. They were very skeptical—which I understand, because professionals who are already working in their profession have a right to be skeptical of outsiders who would come in and say we are going to grade you. Even though these teachers are in the business of grading themselves.

I spoke to the American Federation of Teachers. I worked with Mr. Shanker. I even raised taxes in Tennessee. Guess who was against doing what we eventually did? The National Education Association. Their President said we are going to send whatever we need into Tennessee to defeat Alexander's silly ideas, and we fought for a year and a half and finally I won, temporarily, and Tennessee established a career ladder program which eventually attracted 10,000 teachers with 10- or 11-month contracts who volunteered to go up the career ladder to a second or third level. They were called master teachers.

We raised the pay for every teacher by \$1,000, just if they took the basic teacher competency test. That was voluntary, too, but more than 90 percent did it. And 10,000 teachers did. That was quite a number. This was sort of the model T of the teacher compensation plans.

Since then, a lot has happened across the country. Governor Jim Hunt and others, with the support of the teachers unions, have developed the National Board of Professional Teaching Standards Certified Teacher Program, which is one way of certifying a biology teacher in the same way you would certify an orthopedic doctor. This is helpful if you are on the school board in Providence, you can say: I don't have the means to evaluate if this teacher is better than that teacher, but if you are a board certified teacher we will pay you \$10,000 more a year. That has worked pretty well. Some places around the country have found ways to do that, but it is not possible for a school board in the town to take on the whole mixture of difficulties that go with a fair way to reward teachers.

We did it in 1983 and 1984, and we had to create a panel of teachers who were outside the district of the teacher who wanted to be a master teacher to avoid politics. We made sure one of those teachers was of that same subject. If it was an eighth grade U.S. history teacher, then somebody on the panel was an eighth grade U.S. history teacher. Principal evaluations were part of it and a teacher portfolio was part of it.

One thing we did not know how to do then and we are just beginning to understand in our country is how to measure student achievement. Our common sense says a teacher makes a big difference, but how do we measure it? The challenge, as we work on schools that need help, is how do we make sure they have the best teachers and the best school leaders? It is a big challenge, but it is not impossible.

We are learning, after 4 years of No Child Left Behind, that 80 percent of

our schools I would call high-achieving schools are meeting all the adequate yearly progress requirements for No Child Left Behind. That means we have about 20 percent of our schools that aren't. In 5 percent of the schools, they are only behind in one category. So it is only 15 percent of the schools where children are chronically not learning and being left behind. The ugly fact was, before No Child Left Behind, we let that happen.

Now we put the spotlight on it, and we have to do something about it. The best way to do something about it is what? Get a terrific school leader and help him or her be a good principal, move in some tremendous teachers or reward those who are there and keep them teaching. And the National Education Association says kill the program that is the most important Federal program to do that? I don't understand that; I don't understand.

I say to my colleagues in the Senate of both parties, I hope this approach will have unanimous opposition in the Senate. I hope we say we want to reward efforts in Memphis, in New Mexico, DC, Chicago, Denver, Dallas, Houston, Philadelphia, Chattanooga, where they tackle the problem. No, we are not talking about a one-time bonus pay for people, or teacher of the year, who the principal might like. We are talking about a more professional system where we can say talented men and women who are teachers, we like to honor you. We want to work with you in your district to form a way to honor you and raise your pay.

There is one reason I regret having to make this speech, I had a wonderful visit the other day. It came from six or seven members of the Tennessee Education Association. Earl Wiman, Guy Stanley, Paula Brown, Nita Jones, and Kristen Allen came to my office. We visited for a while. I am about to write a handwritten note to Earl Wiman to say how much I appreciated the visit. He was a career ladder teacher, making \$75,000 extra dollars over his tenure. He said "I want to thank you for that." We acknowledged there were problems with the master teacher program we had in Tennessee as there always are when you start up something new. It was a terrific visit from people I greatly respect.

It reminded me, wherever I go in Tennessee, retired teachers or current teachers come up to me and say, thank you for the master teacher program. It paid for my child's education. It honored my work. It raised my retirement pay. It kept me teaching. You would be surprised how many times this happened, so I know this can be done.

But it cannot be done if the largest educational association in America sends out letters such as this threatening Senators with, in effect, writing every teacher in their district, and saying you are a bad Senator because you voted against the NEA legislative report card.

I would give them an F on a letter for another reason. They said that the

Teacher Incentive Fund restricts the use of funds to only two possible uses: merit pay and tenure reform. That is not true, at least not according to the Department of Education. We called over there today. This is what they told me: The Department of Education says the words "tenure" or "merit pay" do not even appear in the application forms. The specific goals of the teacher incentive fund include: one, improving student achievement by increasing teacher and principal effectiveness; two, reforming teacher and principal compensation systems so that teachers and principals are rewarded for increases in student achievement; three, increasing the number of effective teachers teaching minority, poor, and disadvantaged students in hard-to-staff subjects; and finally, creating sustainable, performance-based compensation systems.

Applicants must outline how they will utilize classroom evaluations that are conducted multiple times throughout the school year and provide incentives for educators to take on additional responsibilities and easy leadership roles.

The Department also gives extra points to applications that demonstrate they have support from a significant proportion of teachers, the principal, and community. As I mentioned, in Philadelphia or Denver, that means the teachers' union.

I know in this joint funding resolution it looks as though we are not going to have a chance to amend that. That is why I voted against cloture. I understand that. Both sides of our aisle did not get our work done so we have had to clean it up too quickly this year. The Teacher Incentive Fund took a big hit.

I say earnestly to my colleagues in the Senate, I hope Senators will look at the Teacher Incentive Fund carefully. I hope you will think about what your ideas are for improving schools with low-performing students. I hope you will ask yourself whether what they are doing in Chicago, for example, to move in a new principal and to move in a team of teachers and to train them more and to pay them more might not be one way to do it. If Denver wants to do it this way, and Dallas wants to do it that way, and Philadelphia wants to do it that way, and Mayor CORKER helped Chattanooga do it, why shouldn't we help them?

We don't want the Federal Government to take over the local schools, but clearly one of the appropriate things for the Federal Government to do in support of elementary and secondary education and high school education is to help solve this tough problem of how do we fairly and effectively reward outstanding teaching and outstanding school leadership.

If we don't do this in our current system, we are not going to be able to keep the best men and women in our classrooms, especially in the most difficult classrooms, which is where our

spotlight is going. We know that 80 percent of our schools in America are high-achieving schools, they are making the advanced yearly progress under No Child Left Behind. Five percent more are just missing it, and in the 15 percent, don't we want to ignore this letter from the National Education Association?

I will answer their letter from here. I am not going to vote against the Alexander amendment.

I hope they will write me often. I hope it is not this kind of letter again. I say to my friends from Tennessee who were good enough to travel all the way up here and visit with me, I am going to work a little harder in communicating with them. I know there will be issues upon which we disagree—the Tennessee Education Association and I have proved in the past we can disagree.

What I want to prove to them in the future is there are lots of ways we can agree. I know they are dedicated professionals, they are working hard every day under difficult circumstances—many with children whose parents don't feed them well, don't teach them before they come to school, and don't take care of them in the afternoon. I want to be sensitive to that.

In my remarks today I want to send a clear message to the National Education Association: I am disappointed in their attitude. I hope the Senate rejects their attitude. But I want to be as clear to my friends in the Tennessee Education Association that I greatly appreciate their visit.

I look forward to redoubling my efforts to work with them. I look forward to talking with them over time about support. I encourage their ways to honor their professionals, including development of a compensation program that rewards outstanding teaching and schools.

I ask unanimous consent the letter from the National Education Association be printed in the RECORD.

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

FEBRUARY 13, 2007.

Hon. LAMAR ALEXANDER,
U.S. Senate,
Washington, DC.

DEAR SENATOR ALEXANDER: On behalf of the National Education Association's (NEA) 3.2 million members, we urge your opposition to several ill-conceived amendments to the FY07 Continuing Resolution. Specifically, we urge you to vote NO on:

An amendment to be offered by Senator Alexander (R-TN) that would provide \$99 million for the Teacher Incentive Fund (TIF); and

Any amendment that would call for across-the-board cuts to already depleted domestic programs.

Votes associated with these issues may be included in the NEA Legislative Report Card for the 110th Congress.

NEA strongly opposes the Teacher Incentive Fund, which diverts scarce resources from existing underfunded professional development programs. For example, Title II of the Elementary and Secondary Education

Act allows use of funds for the stated purposes of the Teacher Incentive Fund and also gives states and school districts significant flexibility to utilize funds for activities that best meet their needs. In contrast, the Teacher Incentive Fund restricts use of funds to only two possible uses—merit pay and tenure reform.

The proposed CR would reduce TIF funding, while increasing funding for programs proven effective in maximizing student achievement. We support the CR as proposed and oppose any effort to increase TIF funding.

NEA also opposes any proposal to reduce funding across-the-board, further stretching limited resources among already struggling domestic programs. Although such amendments may be addressing very worthy goals, we believe they are more appropriately considered as part of bills to be debated later, such as Emergency Supplemental legislation. Therefore, we urge your vote against any such amendment.

We thank you for your consideration of our views on these important issues.

Sincerely,

DIANE SHUST,
*Director of Govern-
ment Relations.*

RANDALL MOODY,
*Manager of Federal
Policy and Politics.*

Mr. ALEXANDER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. CARDIN). Without objection, it is so ordered.

Mr. NELSON of Florida. Mr. President, we are in the posture of having to pass an appropriations bill that is to none of our liking because the Congress is not fulfilling its responsibility in the budgeting and the appropriations process. It goes back to the fact that albeit the Senate and the Senate Appropriations Committee were responsible in producing all 13 appropriations bills, the leadership in the last Congress decided they did not want to pass 11 of those 13. To the best of my recollection, it was the Departments of Defense and Homeland Security appropriations bills that were passed, leaving all the others without funding. Each time we have continued emergency stopgap funding. The particular law that is in effect now goes until midnight this Thursday. That is no way to run a railroad. It puts us in the posture of having to take something instead of nothing which would shut down the Government. That is not a logical way to do it.

The entire Federal budgetary process ought to be revamped. In the old days, back in the 1970s, the Budget Act was enacted because it was giving the new tools available for the Congress to discipline itself on spending, to hold down spending. Over 22 years, we have seen the Budget Act become not an economic process but a political process in which budget documents are submitted—for example, the one sub-

mitted by the President, completely unrealistic—so that political goals can say they are going to be achieved; in other words, moving the budget toward balance. The President has pointed that out over a 5-year period. When, in fact, the reality is that a lot of the President's assumptions in his budget he has sent to the Congress are not realistic. In fact, they are fiction.

For example, there is a tax that is called the alternative minimum tax. It was designed years ago so that people with higher incomes that had huge deductions couldn't offset all of their income. They would have to pay some tax. It was designed to go to that higher income group so that they would still pay their fair share. If that alternative minimum tax is not allowed to be applied in the future—and I can't tell you the technicalities—it comes down and it swoops in a great deal of the middle class, which it was never intended to do, middle-income people, with the result that much higher taxes would be paid in the very income levels that the alternative minimum tax was never designed to hit.

Naturally, a Congress in the future is not going to let that happen, for that additional tax to go on the middle class. Yet the President's assumptions in the budget he has sent are that that alternative minimum tax is going to go away and, therefore, the increased revenue is going to be coming into the Federal Government from the middle-income taxpayers. Therefore, it makes it look like his budget deficit is getting smaller and smaller and moving toward balance.

The same thing is true with the tax cuts that were enacted back in 2001. Over the next several years, a number of those tax cuts expire. Those tax cuts that affect the middle class are not going to expire because the Congress is not going to let that happen. If it did, as the President has proposed in his budget, the revenues to the Government are going to be greater and, therefore, the annual deficit is going to be less. But that is not realistic. So what we have is a document of political fiction.

This isn't the first time. This has been going on over the last couple of decades. But when it leads us down the path of fiction, sleight of hand, a head fake on what the budgetary condition of the country is, as the country, indeed, ought to make its staggering steps toward balancing the budget, at least down the line in the next 5 to 7 years, when that is all a political fiction, it undermines confidence. It undermines the entire system. In large part, it leads to where we are today.

We are going to pass what is known as a continuing resolution, which is an end-of-the-day budget that is pared down, that doesn't address priorities as it should. And are the American people served best by this kind of process? No.

This Senator thinks it is time for us to have some major overhaul of the Budget Act. There are a lot of other

things in the Budget Act that could be reformed, many of which are technical in nature and very extensive. I will not take the time to go into them today. But when are we going to learn? When are we going to stop using the budget of the United States as a political tool instead of moving us in an economic way toward a sound economic plan to bring our fiscal house in order?

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KOHL. Mr. President, I rise today to speak in more detail about the "earmarks" that some members of this body claim remain in H.J. Res. 20. On February 7, 2007, one of our colleagues issued a press release on his Web site which was critical of H.J. Res. 20, the continuing appropriations resolution. Of note was his claim that the resolution continues a number of earmarks. That claim, both generally and specifically, is not true.

The list of "earmarks," stated as fact in this press release, are all supposedly found in the Ag Chapter of the resolution. I would like to take a minute to address those specific items and explain why this information is wrong.

Our colleague claims that H.J. Res. 20 provides \$350,000 for the World Food Prize. Although this item was funded in the fiscal year 06 bill as part of General Provision 790, H.J. Res. 20, in section 21004, provides that the amount available for Section 790 is zero. So, obviously, that earmark has been removed.

Our colleague claims that \$1.5 million for construction of the entrance to the U.S. National Arboretum is funded in H.J. Res. 20. First of all, this item was never included in the 2006 bill, which is what H.J. Res. 20 is based on. It was, however, included in the 2007 bill under the agricultural research service buildings and facilities account. H.J. Res. 20, in section 20101, provides that the amount available for that account is zero. The entire account, not just the earmark, is removed.

Our colleague claims that H.J. Res. 20 contains more than \$1 million for alternative salmon products, including baby food products. This item was funded under the special research grants program of the Cooperative State Research, Education, and Extension Service. H.J. Res. 20, in section 20102, provides that the amount available for that program is zero so the earmark is removed.

Our colleague claims that H.J. Res. 20 contains \$591,000 for the Montana Sheep Institute. This item was also funded under the special research grants account of the Cooperative Research, Education, and Extension Service, which, as I stated earlier, was eliminated in section 20102 of H.J. Res. 20. Thus the earmark was removed.

Here is a third "earmark" claim under this same account, which was

eliminated. The Senator claims that H.J. Res. 20 contains \$295,000 for wool research, again, under the special research grants account of the Cooperative Research, Education, and Extension Service. I repeat again that H.J. Res. 20, in section 20102, provides that the amount available for that program is zero. Again, and I know I am beginning to sound like a broken record, but the earmarks are removed.

In another account, the Senator claims that \$232,000 remains for the National Wild Turkey Federation. This item was funded under the Federal Administration program of the Extension Service. H.J. Res. 20 provides that all funds for the Federal Administration program are reduced to a level that only protects Federal FTE positions definitely not the National Wild Turkey Federation. H.J. Res. 20, in section 20103, provides that all other funding in that program, which would include funds for the National Wild Turkey Federation, is zero. There are no earmarks.

The Senator claims that \$100,000 is contained in the Agricultural Marketing Service account to establish a farm-raised catfish grading system. However, this item was never included in the 2006 bill, which, again, is what H.J. Res. 20 is based on. It was included in the 2007 bill, which never even passed the Senate floor. There is not, and never was, any funding for this activity in a bill that passed the House or Senate. There are no earmarks in this account.

Finally, the Senator's press release states that \$2,970,000 is continued to maintain a partnership between USDA and the National Fish and Wildlife Foundation. This was funding provided by the natural resources conservation service conservation operations account to a non-Federal entity. H.J. Res. 20, in section 20104, provides that all funds for the conservation operations account were reduced to a level that only protects federal FTE positions. H.J. Res. 20 provides that all other funding in that program, which would include funds for the National Fish and Wildlife Foundation, is zero. Once again, there are no earmarks.

As our colleagues should now realize, not only does H.J. Res. 20 not continue these items, H.J. Res. 20 actually removes the money which would make their funding possible, even if the administration wished to do so. For even those who wish to claim that money is still provided in the resolution which would enable the items to end up getting funded, it is obvious that in these claims, specifically listed in a press release, that is simply not possible. While I do appreciate zeal for finding and making public all earmarks, perhaps a closer reading of H.J. Res. 20 would have prevented these misstatements from occurring.

Mr. CRAPO. Mr. President, I rise today to speak to a global competitiveness amendment to H.J. Res. 20 and to call attention to the challenges facing

U.S. financial markets. The first half of the amendment highlights findings from two recent reports that the U.S. is already losing ground in the key areas of global initial public offerings, IPOs, and over-the-counter, OTC, derivatives. The second half of the amendment expresses the sense of the Senate about what steps should be taken to bolster the competitiveness of this essential sector of the U.S. economy.

IPOs are critical to our economy because when a company goes public, it creates capital—and that means jobs and investment opportunities with great potential payoffs. The risk-taking exemplified by IPOs is in the most important sense the critical fuel of a market economy. OTC derivatives play a critical role in our economy, assisting investors to more precisely match their investments to their risk preferences, and helping companies to manage or hedge their risks. Additionally, these instruments provide liquidity to financial markets and reduce volatility by helping to diversify and distribute risk. At the same time the OTC derivatives industry attracts highly skilled professionals who, by virtue of the demand created by their talents, have the potential to contribute significantly to an area's tax base.

Together, IPOs and OTC derivatives contribute to a robust and dynamic capital market which is a tremendously beneficial force for our economy and an empowerment to our citizens. It is critical to ensuring economic growth, job creation, low costs of capital, innovation, entrepreneurship, and a strong tax base in key areas of the country. The U.S. financial sector acts as a catalyst for all other sectors in the U.S. economy. That is why the decline in global initial public offerings in the United States, and the fact that London already enjoys clear leadership in the fast growing OTC derivatives market, are such worrying trends.

Fortunately, academics, business leaders, and politicians are working together to study this issue. They have identified several specific problems that hinder the competitiveness of the U.S. capital markets and have issued reports outlining possible solutions. Chaired by former White House economic adviser Glenn Hubbard and former Goldman Sachs president John Thornton, the Committee on Capital Markets Regulation was formed in September 2006 and issued its preliminary report in November 2006. Mr. SCHUMER of New York along with New York Mayor Bloomberg released the McKinsey Report on New York Competitiveness in January 2007 outlining regulatory, legal, and accounting changes they say are necessary to maintain the city's status as a leading global financial center.

Both reports add considerably to the understanding of the challenges that American capital markets face and

offer solutions that could help American markets, companies, and workers to better compete.

According to the Committee on Capital Markets Regulation:

A key measure of competitiveness, one particularly relevant to the growth of new jobs, is where new equity is being raised—that is, in which market initial public offerings (IPOs) are being done. The trend in so-called “global” IPOs i.e., IPOs done outside a company’s home country, provides evidence of a decline in the U.S. competitive position. As measured by value of IPOs, the U.S. share declined from 50 percent in 2000 to 5 percent in 2005. Measured by number of IPOs, the decline is from 37 percent in 2000 to 10 percent in 2005.

According to the McKinsey Report on New York Competitiveness:

London already enjoys clear leadership in the fast-growing and innovative over-the-counter (OTC) derivatives market. This is significant because of the trading flow that surrounds derivatives markets and because of the innovation these markets drive, both of which are key competitive factors for financial centers. Dealers and investors increasingly see derivatives and cash markets as interchangeable and are therefore combining trading operations for both products. Indeed, the derivatives markets can be more liquid than the underlying cash markets. Therefore, as London takes the global lead in derivatives, America’s competitiveness in both cash and derivatives flow trading is at risk, as is its position as a center for financial innovation.

The challenge we are facing is that the U.S. capital markets are losing their competitive edge in intensifying global competition. A shrinking proportion of international companies are listing shares on U.S. stock exchanges and the fast-growing OTC derivatives market are growing more rapidly elsewhere.

This amendment welcomes these reports and encourages Congress and the administration to begin to vet and consider their recommendations.

(1) Congress, the President, regulators, industry leaders, and other stakeholders should carefully review the Interim Report of the Committee on Capital Markets Regulation, published in November 2006, and the McKinsey Report on New York Competitiveness, published in January 2007, and take the necessary steps to reclaim the preeminent position of the United States in the financial services industry.

(2) The Federal and State financial regulatory agencies should, to the maximum extent possible, coordinate activities on significant policy matters, so as not to impose regulations that may have adverse unintended consequences on innovativeness with respect to financial products, instruments, and services, or that impose regulatory costs that are disproportionate to their benefits, and, at the same time, ensure that the regulatory framework overseeing the U.S. capital markets continues to promote and protect the interests of investors in those markets.

(3) Given the complexity of the financial services marketplace today, Con-

gress should exercise vigorous oversight over Federal regulatory and statutory requirements affecting the financial services industry and consumers, with the goal of eliminating excessive regulation and problematic implementation of existing laws and regulations.

I urge my colleagues to join me in supporting this amendment.

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

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

MORNING BUSINESS

Mr. CARDIN. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

CONFIRMATION OF JOHN NEGROPONTE

Mr. BYRD. Mr. President, few would argue that these are challenging times for U.S. foreign policy. Faced with threats from a growing radical Islamic ideology, tense situations in North Korea and Iran, an escalating civil war in Iraq, humanitarian crises of biblical proportions in Africa and elsewhere, and countless other challenges, it is clear that we need as perhaps never before the hand of experience guiding our foreign policy.

It is no secret that I have disagreed—deeply disagreed—with many of the foreign policy decisions made by this administration. I said in 2002 that it was a mistake to invade Iraq, and my judgement has never wavered: the President was wrong to start this war, he was wrong to continue this war, and he is wrong to escalate this war.

However, we are in Iraq now. American men and women are caught in the cross-fire of sectarian warfare that has been brewing for centuries. And I believe that the way out is primarily political and diplomatic, not solely through the use of military force. The recommendations of the Iraq Study Group are just the latest reminder that we must engage diplomatically with other nations—not only with our friends and allies, but also with our competitors and even our enemies—to seek new solutions.

That is why the leadership at the State Department is so important, and why I am pleased that last night the Senate voted to confirm the nomination of Ambassador John Negroponte to become Deputy Secretary of State. I had an opportunity to meet with Ambassador Negroponte recently, and I am encouraged by his long track record of service to his country, as a foreign service officer and ambassador in many different regions of the world. In his most recent assignments, he has proven himself capable of performing in the

most challenging of roles, as U.S. Ambassador to Iraq and as the Director of National Intelligence. Prior to that, he served as U.S. Ambassador to the United Nations, where he earned this high praise from another diplomat, former Secretary General Kofi Annan:

He’s an outstanding professional, a great diplomat and a wonderful ambassador.

When I met with Ambassador Negroponte, I conveyed to him my strong belief that we must rely on diplomacy and peaceful negotiation to reach lasting stability in the Middle East. I also emphasized that pursuing some sort of Sunni vs. Shi’a alignment in the Middle East as the balance of power in the region shifts is not in the best interests of the United States or the world. I am encouraged that Ambassador Negroponte seems to agree with me, and I look forward to working with him and other administration officials as we seek a path toward peace.

Ambassador Negroponte has demonstrated the savvy and expertise of a world-class diplomat. Our Nation needs experienced professionals who can rise above the fray of partisan politics guiding our foreign policy, particularly in such turbulent times as these. I look forward to working with Ambassador Negroponte in his new role as Deputy Secretary of State.

CONGRATULATING LAKE FOREST ACADEMY

Mr. DURBIN. Mr. President, I come to the floor today to congratulate an outstanding school on 150 years of educational excellence.

Lake Forest Academy is an independent high school and boarding school in Lake Forest, IL, 30 miles north of Chicago. It was founded by elders of the Presbyterian Church in Chicago and 150 years ago today—on February 13, 1857—it was chartered by the State of Illinois as a college preparatory school for boys.

Classes began at Lake Forest Academy in 1858 with a total of five students. While its enrollment today is considerably larger, Lake Forest Academy remains committed to its founding principle: to educate the whole child.

Dr. Martin Luther King said, “Intelligence plus character that is the goal of true education.” And for 150 years, that has been the goal of Lake Forest Academy. Its educational mission is based on “four pillars:” character, scholarship, citizenship and responsibility.

Some things have changed at Lake Forest Academy, however. Among the most notable changes: in 1974, Lake Forest formally merged with The Young Ladies Seminary at Ferry Hall, becoming a college prep school for young men and young women.

Lake Forest takes pride in the diversity of its students and faculty, and the global perspective of its programs.

As the oldest institution in the city of Lake Forest four years older than

the city itself Lake Forest Academy is an integral part of the fabric of its community and the State of Illinois. I ask my colleagues in the Senate to please join me in congratulating this fine school on a century and a half of educational progress and excellence.

TRIBUTE TO DANNY ORAZINE

Mr. MCCONNELL. Mr. President, I rise today to honor a great Kentuckian, Mr. Danny Orazine, for his 13-year service as county judge-executive to the people of McCracken County.

Mr. Orazine is the epitome of a man dedicated to serving his county residents, all the while ensuring a strong relationship with the city government as well. He is a modest, ethical, and fairminded man who has given much to McCracken County, and I am proud of the work he has done.

On Monday, December 25, 2006, The Paducah Sun newspaper published an article highlighting Mr. Orazine's many years of service. I ask unanimous consent that the full article be printed in the RECORD and that the entire Senate join me in thanking this beloved Kentuckian.

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

[From the Paducah Sun, December 25, 2006]

REFLECTIONS: ORAZINE RETURNS TO SIMPLE LIFE

(By Brian Peach)

Danny Orazine isn't a politician. At least he doesn't think of himself as one. This coming from the man who has spent the past 21 years in McCracken County public office—time that was every bit as challenging as he would have liked.

"Honestly, I don't really like politics," the outgoing judge-executive said in a recent interview. "I'm a simple person."

He's not flashy. Not begging for the spotlight. He'll wear a suit when he needs to, but he'd rather lose the tie whenever possible.

Look no further than his truck for proof of his modesty.

He still drives a 1983 Ford pickup that he bought new. It has about 250,000 miles on it.

"I've got the same house, same wife, same truck," he said with a laugh, adding that a new paint job on the truck has kept it looking good. He'll have to give back his county-issued car, but that's OK. He'll just turn to his trusty pickup a little more often.

He considers himself a strong Democrat, but he's not crazy about partisan politics.

"I normally worked closely with Democratic governors," he said, adding that he still considers his relationship strong with Gov. Ernie Fletcher and his Republican cabinet. The two joked recently at ground-breaking and ribbon-cutting ceremonies, and he said it's because partisan politics don't come into play.

"I'm a simple person," he said.

At one point, he thought of walking away. "In the middle of my first tenure, I was about ready to resign," he said.

But he stayed on, and was re-elected twice, serving 13 years as judge-executive after eight as a county commissioner.

It was sewers that got him into office. They were the big issue back then. After that, he just hung around.

"We just didn't get sewers in the smaller districts," Orazine said, referring in part to the Hendron area 18 years ago.

The sewer agency was finally formed in July 1999 with the merger of separate city and county sewer agencies. He said the goal was to merge the water districts into one as well, but today, "I would never ask the water districts in the county to give up theirs for the Paducah Water Works board."

Paducah Mayor Bill Paxton recently asked Orazine to serve on the city water board, and he accepted.

He'll leave behind a big corner office and lots of responsibilities, but take his love for the community with him. He's been offered a couple of full-time jobs since his defeat, but he said he wants to get away from "the politics stage."

RUNNING CLEAN

On his window sill are pictures—family and friends—as well as a \$20 bill, laminated and labeled: First Campaign Contribution to Danny Orazine from Don Utley, Aug. 21, 1991.

He was elected judge-executive two years later. On his wall are many pictures, including a large one of Paducah native and former U.S. Vice President Alben Barkley, and one of his campaign posters that Orazine said was from 1948.

He has never been offered a bribe, he said. "I used to kid about never being offered a bribe. Guess they didn't think that I had enough clout to get it down. . . . Hopefully they just thought I wouldn't have accepted it."

He said advice from Julian Carroll stuck with him over the years: If you'll only take your paycheck, you'll never have any problems.

"I have adhered to that," Orazine said, pointing out that among his first responsibilities at the end of this year will be turning in his eight-year-old county-issued Ford Taurus.

TIME OF CHANGE

He's leaving office, and it's in large part due to county residents feeling it was time for a change. They picked Van Newberry to replace Orazine in the May primary. He said his was a good, tough run.

Zoning issues and building code enforcement were just a couple of the "monumental ordinances" that he said the fiscal court passed, and that weren't entirely popular with the voters. About six years ago, the fiscal court required that all new homes undergo a five-point inspection. The problem was that some people decided to build homes on their own, and may not have realized that the inspection also checks for earthquake protection, given the proximity to the New Madrid Fault.

"People might cut a plan out of a magazine and come in with it," he said. But most of those plans account for possible seismic activity. "We were stuck with not having a building code or having seismic in it."

The county opted to keep the more stringent codes, and the five-point inspections—which Orazine said have led to a few building delays during the busy construction season. "It took a while to catch up," he said. "Now (in the winter), the building has slowed and they're caught up."

As for the city and county working together on such projects as a comprehensive plan, Orazine never viewed that as a step toward a metro government. Even so, he admitted that at times, "It's hard to tell where the city ends and the county begins."

Many city residents have moved into the county over the past several years, and the city is occasionally annexing county land into the city, often at a developer's request.

"Anything, good or bad, affects both the city and county now," he said. "We have to prioritize what we're going to prioritize, and talk over those things we place as priorities."

The downtown riverfront, though located in the city, will benefit the entire area, and it's something the judge says must naturally include the county, and that includes financial support.

County government, he notes, "is very lean by nature." That's mainly in regard to the budget. Comparatively speaking, Paducah's is about \$28 million, while the county's is about \$20 million.

"If we didn't have the grants and money that the state gives us, it'd be about half the city's," Orazine said of the budget. "That's why we're hesitant about hiring people over here. . . . That's just the nature of the county."

He looked to the city's fire department in saying that the county couldn't afford to pay its firefighters. Grants help keep the five volunteer fire districts operational.

"There's a lot of pride that goes into them," he said. "Probably the biggest factor in the metro-government discussion, moneywise, is I think you're going to have to keep your volunteer firefighters."

"If anybody ever proposed (a paid county fire department), oh my, property taxes would go so high. I wouldn't want to be anywhere near public office when that happens."

That all comes back to the idea of a metro government. He said county residents' pride in fire departments and parks being operated by volunteers adds to the pride when they do look nice, albeit, he said, not as nice as Noble Park.

"The county was just not ready for it," he said of metro government suggestions. But because he worked so closely with the city during his tenure, particularly with Paxton, "I got associated with that, but I never went there and had no plans to. That sure didn't keep me from working with the mayor."

Paxton said Orazine "is one of the most ethical, fair-minded people I have ever known," and it made him easy to work with. "I enjoyed every minute of it," Paxton said. "I think the city and county benefited from not only the closeness of my relationship with Danny, but also (his relationship) with former Mayor Albert Jones, who was extremely close with the judge."

HELPING YOUTH

Another area Orazine looks back on with a smile is everything he has done to help youths.

"I got a special place for juveniles," he said of his desire to help them. "I didn't get into trouble (as a teenager), but it was a wonder I graduated—it took me five years to get through high school."

Now, thanks to his push, the county puts about \$1 million each year toward helping children and teens, in large part through the McCracken Regional Juvenile Detention Center.

Orazine is also a member of the state Office of Juvenile Justice Advisory Board, which he has served on since it was founded in 1998. He also serves on the Juvenile Detention Council Board locally. As his tenure as judge-executive ends, he plans to resign from those boards. That means fewer trips to Frankfort for the state board meetings.

He lasted a term and a half before hiring a county administrator—a position incoming Judge-Executive Van Newberry wants to abolish. Orazine said he was becoming overwhelmed with the large and small projects.

"In the midst of all that, an employee of the courthouse came in" complaining about the texture of the toilet paper—"that it was too rough," he said, still sounding exasperated at having to handle minor tasks when he had more important things to deal with.

NOMINATION OF GEN GEORGE W. CASEY JR.

Mrs. FEINSTEIN. Mr. President, I voted last Thursday in opposition to the nomination of GEN George W. Casey, Jr., to be the 36th Chief of Staff of the U.S. Army.

This decision did not come easily, but after watching the slow failure of our Iraq strategy since the invasion in March 2003, it was time for some accountability.

This is not to say General Casey, alone, should take the blame for the multitude of mistakes in Iraq. In fact, there is no doubt that the buck stops at the President's desk and this is his war.

It is President Bush more than any other individual who is responsible for the dire situation we face in Iraq today.

It was he who ordered the invasion and he who has stubbornly stuck to a strategy that has put success in Iraq increasingly out of reach.

In addition to President Bush, Vice President CHENEY and former Secretary of Defense Donald Rumsfeld were some of the strongest public backers of the campaign to invade Iraq that failed to plan for the chaotic aftermath that we are now mired in today. And it should not be forgotten that it was George Tenet, then the Director of the CIA, who presided over the flawed intelligence analysis that suggested that Iraq had weapons of mass destruction and was in the process of developing a nuclear capability. It was Tenet who told us that this intelligence was a "slam dunk."

Yet, that said, our military strategy over the past several years should not be free from criticism.

General Casey has served as the commander of Multi-national Force—Iraq since July 2004. Over these past 2½ years, I can see little to applaud regarding our military strategy on the ground.

Too many times, in my view, General Casey, and those around him, failed to provide the Congress with accurate assessments of what has been happening in Iraq. For example, it was General Casey who suggested that the situation in Iraq would improve enough following the December 2005 elections that troop reductions could take place in early 2006. He even went so far as to provide specific projections of troop withdrawals, saying in August 2005 that the level of U.S. troops in Iraq could be drawn down to about 100,000 by the spring of 2006.

Earlier, in June 2005, he said, and I quote:

I'm confident that we'll be able to continue to take reductions over the course of this year based on the security situation and the progress of the Iraqi security forces.

Time and time again General Casey came before us in Congress and painted an overly optimistic view of the situation on the ground in Iraq. Just last week, at his confirmation hearing in front of the Senate Armed Services

Committee, General Casey suggested that, rather than a "slow failure," he sees "slow progress" in Iraq.

Since General Casey took over as commander of all coalition forces in Iraq, we have seen the following:

Car bombings have grown from 30 a month when General Casey took command to about 80 today.

Daily insurgent attacks have skyrocketed from 50 to some 200 today.

The training of Iraqi forces, which General Casey touted as the means for an exit of U.S. troops from Iraq, has been slow and inconsistent.

In fact, though General Casey called 2006 the "Year of the Police" in Iraq, we have seen increased infiltration of Iraqi police forces by Shiite militias and growing Iranian influence.

While 320,000 Iraqi troops have been "trained and equipped" according to the Pentagon, our troop level today, 140,000, is just a few thousand less than when General Casey took command in July 2004.

Iraqi security forces have 91 brigades that are taking the "lead" in counterinsurgency operations throughout the country, yet these forces are now responsible for the security of only 2 of Iraq's 18 provinces.

I have no doubt that General Casey is a good man with an impeccable character. Many of the mistakes regarding our Iraq strategy are not the result of his leadership.

But it is time that the Senate insists upon accountability.

It is past time for the Senate to provide oversight by showing that we will not accept anything but unvarnished, forthright candor from our military leaders.

We expect independent views from our military leaders,

and this has simply been too often lacking over these past few years.

General Casey deserves credit for his long, dedicated service to this country. But I did not believe he should to be promoted to Chief of Staff of the Army. Therefore, I regretfully cast my vote against his nomination.

CELEBRATING OREGON'S BLACK HISTORY

Mr. SMITH. Mr. President, each Congress I rise to honor February as Black History Month. Each February since 1926, our Nation has recognized the contributions of Black Americans to the history of our Nation.

This is no accident; February is a significant month in Black American history. Abolitionist Frederick Douglass, President Abraham Lincoln, and scholar and civil rights leader W.E.B. DuBois were born in the month of February. The 15th amendment to the Constitution was ratified 136 years ago this month, preventing race discrimination in the right to vote. The National Association for the Advancement of Colored People was founded in February in New York City. And on February 25, 1870, this body welcomed its first Black

Senator, Hiram R. Revels of Mississippi.

In this important month I want to celebrate some of the contributions made by Black Americans in my home State of Oregon. Since Marcus Lopez, who sailed with Captain Robert Gray in 1788, became the first person of African descent known to set foot in Oregon, a great many Black Americans have helped shape the history of my State. Throughout this month, I will come to the floor to highlight some of their stories.

Reverend Jesse James "J.J." Clow was a beloved minister and a prominent figure in the struggle for civil rights in Portland, OR. In 1936, Reverend Clow began a service of ministry at Portland's Mount Olivet Baptist Church. Mount Olivet was the first African-American baptist church in the State of Oregon and during the 1940s and 1950s was also the largest Black church in the State. It was from this vantage point that Clow lived and preached a social gospel that contributed to the civil rights battles of Portland's WWII challenges and continued through the turbulent 60s.

Clow was born in Hufsmith, TX, 1 of 15 children. Clow finished high school at Tuskegee Institute and received his B.A. from Virginia Union University. His first pulpit was in Virginia, a second in Georgia, before arriving in Portland. His experiences growing up in the South helped prepare him for a lifetime of activism for justice and civil rights.

During the World War II years, Clow served as president of the local chapter of the NAACP. He was also deeply involved in the establishment of a Portland office of the Urban League. Along with these national organizations, Clow and other Portland area Black leaders worked tirelessly to improve housing and employment opportunities for African Americans. These efforts were largely responsible for ridding the city of many traditional economic and social segregation policies, including Oregon's first civil rights ordinance in 1953.

Upon his retirement from Mount Olivet in 1963, Reverend Clow spoke warmly of the progress he had witnessed during his lifetime. He continued to believe that Christianity must be interpreted in terms of how men behave towards one another and not just to comfort them. Until his death, Clow encouraged the community of Portland to more fully embrace democratic ideals in its social, political, and economic sectors.

Reverend Clow is only one example of the Black men and women who changed the course of history in Oregon and in the United States. During the remainder of Black History Month, I will return to the floor to celebrate more Oregonians like Rev. J.J. Clow, whose contributions, while great, have not yet received the attention they deserve.

S. 331 COSPONSORSHIP

Mr. THUNE. Mr. President, Senator KENT CONRAD is an original cosponsor to S. 331, a bill to provide grants from moneys collected from violations of the corporate average fuel economy program to be used to expand infrastructure necessary to increase the availability of alternative fuels.

In my floor statement on January 18, 2007, I referenced Senator CONRAD as a cosponsor but he was omitted from the list of cosponsors of this legislation. I ask that the RECORD be updated to reflect Senator CONRAD's original cosponsorship.

WILLIAM ODOM'S "VICTORY IS
NOT AN OPTION"

Mr. LEAHY. Mr. President, William Odom is one of the finest intelligence officers who have served in our military. Retiring at the rank of lieutenant general, his distinguished Army career culminated in his heading up the U.S. Army's intelligence division and the National Security Agency. He has worked tirelessly to help the country understand and deal with the challenges to its security and defense. I have known the general for decades, and, like many of my colleagues, I deeply value his judgment and insight.

That is why I read his opinion piece from last Sunday's Washington Post, "Victory is Not an Option," with great interest.

General Odom lays out the truths and myths of the Nation's involvement in Iraq. Among the clear truths is that the dream of a real democracy gaining roots in that war-torn country is simply that, a dream. He rightly points out, too, that any Iraqi government is likely to be more anti than pro-American at the end of the day.

As for the myths, he sensibly lays out that it is pure fantasy for anyone to think that our presence is actually preventing the horrible carnage from unfolding or holding Iran back from gaining influence with its neighbor. It is similarly a flight of the imagination to think that our military presence is actually stanching—as opposed to encouraging—al-Qaida's involvement in the country. Finally, it is a myth to think that we must stay in Iraq "to support the troops." In fact, he notes, many of our brave men and women in the country understand the cold realities that unfold there every day, and many of them believe that we should get out of Iraq.

General Odom makes some sensible suggestions for a new policy direction, something beyond the absurd "surge" that is only the same old repast of stay-the-course with a different seasoning. We should get out of Iraq and recognize that our presence there has become a source of instability for the whole Middle East. He smartly suggests that we should work with our international partners to seek order and stability, which will fundamen-

tally alter the balance against the radicals who want to stir up even more strife.

I ask unanimous consent that General Odom's article, "Victory Is Not an Option," now be printed in the RECORD. I urge my colleagues to read this article closely and truly think about what General Odom is saying. The logic is clear and sensible. I think it is incontrovertible.

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

[From the Washington Post, Feb. 11, 2007]

VICTORY IS NOT AN OPTION

(By William E. Odom)

The new National Intelligence Estimate on Iraq starkly delineates the gulf that separates President Bush's illusions from the realities of the war. Victory, as the president sees it, requires a stable liberal democracy in Iraq that is pro-American. The NIE describes a war that has no chance of producing that result. In this critical respect, the NIE, the consensus judgment of all the U.S. intelligence agencies, is a declaration of defeat.

Its gloomy implications—hedged, as intelligence agencies prefer, in rubbery language that cannot soften its impact—put the intelligence community and the American public on the same page. The public awakened to the reality of failure in Iraq last year and turned the Republicans out of control of Congress to wake it up. But a majority of its members are still asleep, or only half-awake to their new writ to end the war soon.

Perhaps this is not surprising. Americans do not warm to defeat or failure, and our politicians are famously reluctant to admit their own responsibility for anything resembling those un-American outcomes. So they beat around the bush, wringing hands and debating "nonbinding resolutions" that oppose the president's plan to increase the number of U.S. troops in Iraq.

For the moment, the collision of the public's clarity of mind, the president's relentless pursuit of defeat and Congress's anxiety has paralyzed us. We may be doomed to two more years of chasing the mirage of democracy in Iraq and possibly widening the war to Iran. But this is not inevitable. A Congress, or a president, prepared to quit the game of "who gets the blame" could begin to alter American strategy in ways that will vastly improve the prospects of a more stable Middle East.

No task is more important to the well-being of the United States. We face great peril in that troubled region, and improving our prospects will be difficult. First of all, it will require, from Congress at least, public acknowledgment that the president's policy is based on illusions, not realities. There never has been any right way to invade and transform Iraq. Most Americans need no further convincing, but two truths ought to put the matter beyond question:

First, the assumption that the United States could create a liberal, constitutional democracy in Iraq defies just about everything known by professional students of the topic. Of the more than 40 democracies created since World War II, fewer than 10 can be considered truly "constitutional"—meaning that their domestic order is protected by a broadly accepted rule of law, and has survived for at least a generation. None is a country with Arabic and Muslim political cultures. None has deep sectarian and ethnic fissures like those in Iraq.

Strangely, American political scientists whose business it is to know these things

have been irresponsibly quiet. In the lead-up to the March 2003 invasion, neoconservative agitators shouted insults at anyone who dared to mention the many findings of academic research on how democracies evolve. They also ignored our own struggles over two centuries to create the democracy Americans enjoy today. Somehow Iraqis are now expected to create a constitutional order in a country with no conditions favoring it.

This is not to say that Arabs cannot become liberal democrats. When they immigrate to the United States, many do so quickly. But it is to say that Arab countries, as well as a large majority of all countries, find creating a stable constitutional democracy beyond their capacities.

Second, to expect any Iraqi leader who can hold his country together to be pro-American, or to share American goals, is to abandon common sense. It took the United States more than a century to get over its hostility toward British occupation. (In 1914, a majority of the public favored supporting Germany against Britain.) Every month of the U.S. occupation, polls have recorded Iraqis' rising animosity toward the United States. Even supporters of an American military presence say that it is acceptable temporarily and only to prevent either of the warring sides in Iraq from winning. Today the Iraqi government survives only because its senior members and their families live within the heavily guarded Green Zone, which houses the U.S. Embassy and military command.

As Congress awakens to these realities—and a few members have bravely pointed them out—will it act on them? Not necessarily. Too many lawmakers have fallen for the myths that are invoked to try to sell the president's new war aims. Let us consider the most pernicious of them.

(1) We must continue the war to prevent the terrible aftermath that will occur if our forces are withdrawn soon. Reflect on the double-think of this formulation. We are now fighting to prevent what our invasion made inevitable! Undoubtedly we will leave a mess—the mess we created, which has become worse each year we have remained. Lawmakers gravely proclaim their opposition to the war, but in the next breath express fear that quitting it will leave a blood bath, a civil war, a terrorist haven, a "failed state," or some other horror. But this "aftermath" is already upon us; a prolonged U.S. occupation cannot prevent what already exists.

(2) We must continue the war to prevent Iran's influence from growing in Iraq. This is another absurd notion. One of the president's initial war aims, the creation of a democracy in Iraq, ensured increased Iranian influence, both in Iraq and the region. Electoral democracy, predictably, would put Shiite groups in power—groups supported by Iran since Saddam Hussein repressed them in 1991. Why are so many members of Congress swallowing the claim that prolonging the war is now supposed to prevent precisely what starting the war inexorably and predictably caused? Fear that Congress will confront this contradiction helps explain the administration and neocon drumbeat we now hear for expanding the war to Iran.

Here we see shades of the Nixon-Kissinger strategy in Vietnam: widen the war into Cambodia and Laos. Only this time, the adverse consequences would be far greater. Iran's ability to hurt U.S. forces in Iraq are not trivial. And the anti-American backlash in the region would be larger, and have more lasting consequences.

(3) We must prevent the emergence of a new haven for al-Qaeda in Iraq. But it was the U.S. invasion that opened Iraq's doors to al-Qaeda. The longer U.S. forces have remained there, the stronger al-Qaeda has become. Yet its strength within the Kurdish

and Shiite areas is trivial. After a U.S. withdrawal, it will probably play a continuing role in helping the Sunni groups against the Shiites and the Kurds. Whether such foreign elements could remain or thrive in Iraq after the resolution of civil war is open to question. Meanwhile, continuing the war will not push al-Qaeda outside Iraq. On the contrary, the American presence is the glue that holds al-Qaeda there now.

(4) We must continue to fight in order to "support the troops." This argument effectively paralyzes almost all members of Congress. Lawmakers proclaim in grave tones a litany of problems in Iraq sufficient to justify a rapid pullout. Then they reject that logical conclusion, insisting we cannot do so because we must support the troops. Has anybody asked the troops?

During their first tours, most may well have favored "staying the course"—whatever that meant to them—but now in their second, third and fourth tours, many are changing their minds. We see evidence of that in the many news stories about unhappy troops being sent back to Iraq. Veterans groups are beginning to make public the case for bringing them home. Soldiers and officers in Iraq are speaking out critically to reporters on the ground.

But the strangest aspect of this rationale for continuing the war is the implication that the troops are somehow responsible for deciding to continue the president's course. That political and moral responsibility belongs to the president, not the troops. Did not President Harry S. Truman make it clear that "the buck stops" in the Oval Office? If the president keeps dodging it, where does it stop? With Congress?

Embracing the four myths gives Congress excuses not to exercise its power of the purse to end the war and open the way for a strategy that might actually bear fruit.

The first and most critical step is to recognize that fighting on now simply prolongs our losses and blocks the way to a new strategy. Getting out of Iraq is the pre-condition for creating new strategic options. Withdrawal will take away the conditions that allow our enemies in the region to enjoy our pain. It will awaken those European states reluctant to collaborate with us in Iraq and the region.

Second, we must recognize that the United States alone cannot stabilize the Middle East.

Third, we must acknowledge that most of our policies are actually destabilizing the region. Spreading democracy, using sticks to try to prevent nuclear proliferation, threatening "regime change," using the hysterical rhetoric of the "global war on terrorism"—all undermine the stability we so desperately need in the Middle East.

Fourth, we must redefine our purpose. It must be a stable region, not primarily a democratic Iraq. We must redirect our military operations so they enhance rather than undermine stability. We can write off the war as a "tactical draw" and make "regional stability" our measure of "victory." That single step would dramatically realign the opposing forces in the region, where most states want stability. Even many in the angry mobs of young Arabs shouting profanities against the United States want predictable order, albeit on better social and economic terms than they now have.

Realigning our diplomacy and military capabilities to achieve order will hugely reduce the numbers of our enemies and gain us new and important allies. This cannot happen, however, until our forces are moving out of Iraq. Why should Iran negotiate to relieve our pain as long as we are increasing its influence in Iraq and beyond? Withdrawal will awaken most leaders in the region to their own need for U.S.-led diplomacy to stabilize their neighborhood.

If Bush truly wanted to rescue something of his historical legacy, he would seize the initiative to implement this kind of strategy. He would eventually be held up as a leader capable of reversing direction by turning an imminent, tragic defeat into strategic recovery.

If he stays on his present course, he will leave Congress the opportunity to earn the credit for such a turnaround. It is already too late to wait for some presidential candidate for 2008 to retrieve the situation. If Congress cannot act, it, too, will live in infamy.

ADDITIONAL STATEMENTS

IN RECOGNITION OF SEHNERT'S BAKERY

• Mr. NELSON of Nebraska. Mr. President, I rise today to congratulate a very special place in my hometown of McCook, NE. It is a place which exemplifies the thousands of family-owned small businesses lining the main streets of every small town in America, businesses which are the driving force in keeping those towns economically viable.

This year marks the 50th anniversary of Sehnert's Bakery in McCook, NE. It was in 1957 when Walt and Jean Sehnert, the grandchildren of immigrants who came to America 110 years ago, bought the bakery as a place to work hard, earn a decent living, and raise a family.

Today, their son Matt Sehnert and his wife Shelly carry on the tradition by providing the people of McCook with some of the most delicious pastries on the planet. Matt and Shelly credit a dedicated and hard-working crew, who also take pride in Sehnert's longstanding tradition.

As many small businesses do in order to survive in a competitive environment, Matt and Shelly have modernized Sehnert's Bakery and expanded it to include a catering service and cafe, where I often meet with constituents during visits home.

My memories of Sehnert's go back to when I was a teenager in McCook and was able to get a job there, working early Saturday mornings. I learned a lot about how to make piecrusts and decorate cakes. I also learned that it is easy to overdose on glazed donuts when you work in a bakery. Walt Sehnert can still recall my first day on the job.

My fellow colleagues, if you ever have the pleasure of visiting my hometown of McCook, NE, I urge you to drop by Sehnert's Bakery and enjoy some of their mouth-watering donuts, or maybe some pies or perhaps one of their famous "Jiffy Burgers," whose recipe remains a closely guarded secret in McCook.

Sehnert's Bakery and Bieroc Café Catering Service is located at 312 Norris Avenue. That is Norris, as in George Norris, who very capably served Nebraska in the U.S. Senate from 1913 to 1943. Yes, McCook has produced two U.S. Senators, as well as three of Nebraska's Governors. Not bad for a town with a population of just 8,000 people;

but of course, that is why the Sehnerts and I are proud to call it home.●

MESSAGE FROM THE HOUSE

At 11:57 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 34. An act to establish a pilot program in certain United States district courts to encourage enhancement or expertise in patent cases among district judges.

H.R. 342. An act to designate the United States courthouse located at 555 Independence Street in Cape Girardeau, Missouri, as the "Rush Hudson Limbaugh, Sr. United States Courthouse".

H.R. 414. An act to designate the facility of the United States Postal Service located at 60 Calle McKinley, West in Mayaguez, Puerto Rico, as the "Miguel Angel Garcia Mendez Post Office Building".

H.R. 798. An act to direct the Administrator of General Services to install a photovoltaic system for the headquarters building of the Department of Energy.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 44. Concurrent resolution honoring and praising the National Association for the Advancement of Colored People on the occasion of its 98th anniversary.

MEASURES REFERRED

The following bills were read the first and the second time by unanimous consent, and referred as indicated:

H.R. 34. An act to establish a pilot program in certain United States district courts to encourage enhancement of expertise in patent cases among district judges; to the Committee on the Judiciary.

H.R. 414. An act to designate the facility of the United States Postal Service located at 60 Calle McKinley, West in Mayaguez, Puerto Rico, as the "Miguel Angel Garcia Mendez Post Office Building"; to the Committee on Homeland Security and Governmental Affairs.

H.R. 798. An act to direct the Administrator of General Services to install a photovoltaic system for the headquarters building of the Department of Energy; to the Committee on Environment and Public Works.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 44. Concurrent resolution honoring and praising the National Association for the Advancement of Colored People on the occasion of its 98th anniversary; to the Committee on the Judiciary.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 574. A bill to express the sense of Congress on Iraq.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-744. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report entitled "2006 Status of the Nation's Highways, Bridges and Transit: Conditions and Performance"; to the Committee on Commerce, Science, and Transportation.

EC-745. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, as amended, the report of the texts and background statements of international agreements, other than treaties (List 2007-12-2007-25); to the Committee on Foreign Relations.

EC-746. A communication from the Director, Defense Security Cooperation Agency, Department of Defense, transmitting, pursuant to law, a report relative to services performed by certain full-time government employees during fiscal year 2006; to the Committee on Foreign Relations.

EC-747. A communication from the Acting Assistant Secretary, Employee Benefits Security Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Statutory Exemption for Cross-Trading of Securities" (RIN1210-AB17) received on February 12, 2007; to the Committee on Health, Education, Labor, and Pensions.

EC-748. A communication from the Federal Register Liaison Officer, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, transmitting, pursuant to law, the report of a rule entitled "Establishment of the Outer Coastal Plain Viticultural Area" (RIN1513-AB13) received on February 8, 2007; to the Committee on the Judiciary.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

Mr. INOUE. Mr. President, for the Committee on Commerce, Science, and Transportation, I report favorably the following nomination lists which were printed in the RECORD on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

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

*Coast Guard nomination of Thomas W. Denucci, 3271, to be Lieutenant.

*Coast Guard nomination of Edward J. Mosely, 9449, to be Lieutenant.

*Coast Guard nomination of Teresa K. Peace, 1300, to be Lieutenant.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. NELSON of Florida:

S. 559. A bill to amend the Help America Vote Act of 2002 to require a voter-verified permanent paper ballot under title III of such Act, and for other purposes; to the Committee on Rules and Administration.

By Mr. SALAZAR (for himself, Mr. CHAMBLISS, Mr. ISAKSON, and Mr. PRYOR):

S. 560. A bill to create a Rural Policing Institute as part of the Federal Law Enforcement Training Center; to the Committee on the Judiciary.

By Mr. BUNNING (for himself, Mr. NELSON of Nebraska, Mr. BROWNBACK, Mr. BURR, Mr. CRAIG, Mr. DEMINT, Mr. DOMENICI, Mr. HATCH, Mrs. HUTCHISON, Mr. INHOFE, Mr. ROBERTS, Mr. SMITH, Mr. VITTER, and Mr. WARNER):

S. 561. A bill to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the expansion of the adoption credit and adoption assistance programs; to the Committee on Finance.

By Ms. COLLINS:

S. 562. A bill to provide for flexibility and improvements in elementary and secondary education, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. COLLINS:

S. 563. A bill to extend the deadline by which State identification documents shall comply with certain minimum standards and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

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

S. 564. A bill to modernize water resources planning, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BINGAMAN (for himself, Mrs. HUTCHISON, Mr. NELSON of Florida, Mr. MARTINEZ, Mrs. CLINTON, Mr. CORNYN, Mr. SALAZAR, and Mrs. BOXER):

S. 565. A bill to expand and enhance post-baccalaureate opportunities at Hispanic-serving institutions, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. NELSON of Nebraska (for himself and Mr. SALAZAR):

S. 566. A bill to amend the Consolidated Farm and Rural Development Act to establish a rural entrepreneur and microenterprise assistance program; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LEVIN (for himself and Mr. MCCAIN) (by request):

S. 567. A bill to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2008, and for other purposes; to the Committee on Armed Services.

By Mr. BROWNBACK:

S. 568. A bill to prohibit deceptive conduct in the rating of video and computer games, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LUGAR:

S. 569. A bill to accelerate efforts to develop vaccines for diseases primarily affecting developing countries and for other purposes; to the Committee on Foreign Relations.

By Mr. WARNER (for himself and Mr. WEBB):

S. 570. A bill to designate additional National Forest System lands in the State of Virginia as wilderness or a wilderness study area, to designate the Kimberling Creek Potential Wilderness Area for eventual incorporation in the Kimberling Creek Wilderness, to establish the Seng Mountain and Bear Creek Scenic Areas, to provide for the development of trail plans for the wilderness areas and scenic areas, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DORGAN (for himself, Mr. GRAHAM, and Mr. BROWN):

S. 571. A bill to withdraw normal trade relations treatment from, and apply certain provisions of title IV of the Trade Act of 1974 to, the products of the People's Republic of China; to the Committee on Finance.

By Mr. KENNEDY (for himself, Mr. SMITH, and Mr. DURBIN):

S. 572. A bill to ensure that Federal student loans are delivered as efficiently as possible in order to provide more grant aid to students; to the Committee on Health, Education, Labor, and Pensions.

By Ms. STABENOW (for herself, Ms. MURKOWSKI, Ms. COLLINS, Ms. SNOWE, Mr. AKAKA, Mr. COCHRAN, and Mr. MENENDEZ):

S. 573. A bill to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the prevention, diagnosis, and treatment of heart disease, stroke, and other cardiovascular diseases in women; to the Committee on Health, Education, Labor, and Pensions.

By Mr. REID:

S. 574. A bill to express the sense of Congress on Iraq; read the first time.

By Mr. DOMENICI (for himself, Mr. DORGAN, Mrs. HUTCHISON, Mr. KYL, and Mrs. MURRAY):

S. 575. A bill to authorize appropriations for border and transportation security personnel and technology, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. DODD (for himself, Mr. LEAHY, Mr. FEINGOLD, and Mr. MENENDEZ):

S. 576. A bill to provide for the effective prosecution of terrorists and guarantee due process rights; to the Committee on Armed Services.

By Mrs. FEINSTEIN (for herself, Ms. SNOWE, Mr. LEVIN, Ms. CANTWELL, Mrs. BOXER, Mr. FEINGOLD, Mr. BINGAMAN, Mr. LIEBERMAN, Mr. LAUTENBERG, and Ms. MIKULSKI):

S. 577. A bill to amend the Commodity Exchange Act to add a provision relating to reporting and recordkeeping for positions involving energy commodities; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. KENNEDY (for himself, Mr. SMITH, Mr. REED, Ms. SNOWE, Mr. HARKIN, Mr. BINGAMAN, Mrs. CLINTON, Ms. MIKULSKI, Mr. DODD, Mr. DURBIN, Mrs. BOXER, Mr. KERRY, Mrs. FEINSTEIN, Mr. SCHUMER, Mr. LEVIN, Mr. AKAKA, Ms. CANTWELL, and Mr. MENENDEZ):

S. 578. A bill to amend title XIX of the Social Security Act to improve requirements under the Medicaid program for items and services furnished in or through an educational program or setting to children, including children with developmental, physical, or mental health needs, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HAGEL (for himself, Mr. FEINGOLD, and Ms. STABENOW):

S. Res. 78. A resolution designating April 2007 as "National Autism Awareness Month" and supporting efforts to increase funding for research into the causes and treatment of autism and to improve training and support for individuals with autism and those who care for individuals with autism; to the Committee on the Judiciary.

By Mr. REID (for himself, Mr. MCCONNELL, Mr. CHAMBLISS, and Mr. ISAKSON):

S. Res. 79. A resolution relative to the death of Representative Charles W. Norwood, Jr., of Georgia; considered and agreed to.

By Mr. REID (for himself and Mr. MCCONNELL):

S. Res. 80. A resolution to authorize testimony, document production, and legal representation in State of Oregon v. Rebecca Michelson, Michele Darr, and Vernon Huffman; considered and agreed to.

By Mr. FEINGOLD:

S. Con. Res. 11. A concurrent resolution providing that any agreement relating to trade and investment that is negotiated by the executive branch with another country comply with certain minimum standards; to the Committee on Finance.

ADDITIONAL COSPONSORS

S. 65

At the request of Mr. INHOFE, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 65, a bill to modify the age-60 standard for certain pilots and for other purposes.

S. 206

At the request of Mrs. FEINSTEIN, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of S. 206, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 381

At the request of Mr. INOUE, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 381, a bill to establish a fact-finding Commission to extend the study of a prior Commission to investigate and determine facts and circumstances surrounding the relocation, internment, and deportation to Axis countries of Latin Americans of Japanese descent from December 1941 through February 1948, and the impact of those actions by the United States, and to recommend appropriate remedies, and for other purposes.

S. 430

At the request of Mr. BOND, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 430, a bill to amend title 10, United States Code, to enhance the national defense through empowerment of the Chief of the National Guard Bureau and the enhancement of the functions of the National Guard Bureau, and for other purposes.

S. 431

At the request of Mr. SCHUMER, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of S. 431, a bill to require convicted sex offenders to register online identifiers, and for other purposes.

S. 464

At the request of Mr. ROCKEFELLER, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 464, a bill to amend title XVIII and XIX of the Social Security Act to improve the requirements

regarding advance directives in order to ensure that an individual's health care decisions are complied with, and for other purposes.

S. 466

At the request of Mr. ROCKEFELLER, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 466, a bill to amend title XVIII of the Social Security Act to provide for coverage of an end-of-life planning consultation as part of an initial preventive physical examination under the Medicare program.

S. 487

At the request of Mr. LEVIN, the names of the Senator from Ohio (Mr. BROWN) and the Senator from Georgia (Mr. ISAKSON) were added as cosponsors of S. 487, a bill to amend the National Organ Transplant Act to clarify that kidney paired donations shall not be considered to involve the transfer of a human organ for valuable consideration.

S. 494

At the request of Mr. LUGAR, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 494, a bill to endorse further enlargement of the North Atlantic Treaty Organization (NATO) and to facilitate the timely admission of new members to NATO, and for other purposes.

S. 497

At the request of Mrs. BOXER, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 497, a bill to repeal a prohibition on the use of certain funds for tunneling in certain areas with respect to the Los Angeles to San Fernando Valley Metro Rail project, California.

S. 535

At the request of Mr. DODD, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 535, a bill to establish an Unsolved Crimes Section in the Civil Rights Division of the Department of Justice, and an Unsolved Civil Rights Crime Investigative Office in the Civil Rights Unit of the Federal Bureau of Investigation, and for other purposes.

S. 558

At the request of Mr. SALAZAR, his name was added as a cosponsor of S. 558, a bill to provide parity between health insurance coverage of mental health benefits and benefits for medical and surgical services.

S. CON. RES. 10

At the request of Mrs. CLINTON, the names of the Senator from Connecticut (Mr. DODD), the Senator from Ohio (Mr. VOINOVICH) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. Con. Res. 10, a concurrent resolution honoring and praising the National Association for the Advancement of Colored People on the occasion of its 98th anniversary.

S. RES. 30

At the request of Mr. BIDEN, the names of the Senator from Connecticut

(Mr. LIEBERMAN), the Senator from Maine (Ms. SNOWE), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from New Mexico (Mr. BINGAMAN) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. Res. 30, a resolution expressing the sense of the Senate regarding the need for the United States to address global climate change through the negotiation of fair and effective international commitments.

S. RES. 65

At the request of Mr. BIDEN, the names of the Senator from California (Mrs. FEINSTEIN) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. Res. 65, a resolution condemning the murder of Turkish-Armenian journalist and human rights advocate Hrant Dink and urging the people of Turkey to honor his legacy of tolerance.

AMENDMENT NO. 243

At the request of Mr. CORKER, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of amendment No. 243 intended to be proposed to H.J. Res. 20, a joint resolution making further continuing appropriations for the fiscal year 2007, and for other purposes.

AMENDMENT NO. 246

At the request of Mr. MARTINEZ, the name of the Senator from Florida (Mr. NELSON) was withdrawn as a cosponsor of amendment No. 246 intended to be proposed to H.J. Res. 20, a joint resolution making further continuing appropriations for the fiscal year 2007, and for other purposes.

AMENDMENT NO. 247

At the request of Mr. MARTINEZ, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of amendment No. 247 intended to be proposed to H.J. Res. 20, a joint resolution making further continuing appropriations for the fiscal year 2007, and for other purposes.

AMENDMENT NO. 259

At the request of Mr. NELSON of Florida, his name was added as a cosponsor of amendment No. 259 intended to be proposed to H.J. Res. 20, a joint resolution making further continuing appropriations for the fiscal year 2007, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NELSON of Florida:

S. 559. A bill to amend the Help America Vote Act of 2002 to require a voter-verified permanent paper ballot under title III of such Act, and for other purposes; to the Committee on Rules and Administration.

Mr. NELSON of Florida. Mr. President, I rise today to introduce the Voting Integrity and Verification Act, VIVA, of 2007. The time has come to ensure that the vote of each American is counted and counted as they intended. VIVA will get us closer to that goal by mandating the use of voter-

verified paper ballots in any election with Federal candidates.

It was President Johnson who helped Black Americans win the right to vote, who said, "The vote is the most powerful instrument ever devised by man . . ." Indeed, it is the ability of a nation, like ours, to hold free and fair elections, which guarantees our government is based on consent of the governed; and, majority rule with minority rights.

It is the guarantee of a ballot that cools the impassioned hearts of many in the electorate, even when a majority of citizens disagree with their government over a war, court decision, or action by lawmakers or the executive branch.

For any democracy to long withstand these external and internal conflicts, it is vital that the governed have unwavering faith that their votes will be counted. Ever since the 2000 Presidential recount in Florida and, more recently, the disputed congressional election in Sarasota, an increasingly high number of Americans have come to lack confidence in the way our States record, tally, and verify votes.

If this Congress doesn't act to restore voter confidence, I fear our democracy—in the words of philosopher and educator Robert Maynard Hutchins—could suffer "a slow extinction from apathy, indifference and undernourishment."

VIVA authorizes \$300 million in Federal funding to assist in the implementation of the requirements in this bill. This bill establishes mandatory security requirements for voting systems used in Federal elections. It also will provide for routine, random audits of paper ballots and make it illegal for a chief State election administration official to take an active part in a political campaign.

With another Presidential election on the horizon, we need to fix this—and fix it now. Let us never have another election after which citizens are left to doubt its legitimacy.

By Mr. SALAZAR (for himself, Mr. CHAMBLISS, Mr. ISAKSON, and Mr. PRYOR):

S. 560. A bill to create a Rural Policing Institute as part of the Federal Law Enforcement Training Center; to the Committee on the Judiciary.

Mr. SALAZAR. Mr. President, I have often referred to our rural communities as "the forgotten America." Indeed, rural America is the backbone of our country—but is too often neglected by policymakers and politicians who have lost touch with people in the heartland. Nowhere is this neglect felt more acutely than in small-town law enforcement agencies—which have been confronted with decreased funding, increased homeland security responsibilities, and the great toll of a meth epidemic that is devastating rural America.

Many people do not realize that most American law enforcement agencies

serve rural communities or small towns. Indeed, of the nearly 17,000 police agencies in the United States, 90 percent serve a population of under 25,000 and operate with fewer than 50 sworn officers.

I am well aware of the difficulties small town law enforcement agencies face day-in, day-out. When I was the attorney general of Colorado, I had the honor to work with some of America's finest law enforcement officials—many of them from rural Colorado. Men like Jerry Martin, the Dolores County Sheriff, who have consistently been able to do more with less. But the pressure they face is great.

The growing demands on rural law enforcement, and shrinking budgets, have hit training programs particularly hard. Many rural law enforcement agencies simply do not have the budget to provide officers with adequate training. Furthermore, even those agencies that can come up with the money simply can't afford to take their police officers off the beat long enough to get additional training.

That is where the Rural Policing Institute comes in. FLETC does a fantastic job training Federal, State, and local law enforcement officials. But FLETC does not have enough resources dedicated specifically toward training rural law enforcement officials. So the Rural Policing Institute would: evaluate the needs of rural and tribal law enforcement agencies; develop training programs designed to address the needs of rural law enforcement agencies, with a focus on combating meth, domestic violence, and school violence; export those training programs to rural and tribal law enforcement agencies; and conduct outreach to ensure that the training programs reach rural law enforcement agencies.

As Colorado's attorney general, I learned that a small investment in law enforcement training can pay great dividends. This legislation would do just that—by ensuring that our rural and small town law enforcement officers have the training they need to protect their communities.

I am proud of my roots in rural southern Colorado. Communities like mine are the heart of our Nation—and the men and women who protect them deserve the best possible training.

I thank Senators CHAMBLISS, ISAKSON, and PRYOR for cosponsoring this legislation.

By Mr. BUNNING (for himself, Mr. NELSON of Nebraska, Mr. BROWNBACK, Mr. BURR, Mr. CRAIG, Mr. DEMINT, Mr. DOMENICI, Mr. HATCH, Mrs. HUTCHISON, Mr. INHOFE, Mr. ROBERTS, Mr. SMITH, Mr. VITTER, and Mr. WARNER):

S. 561. A bill to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the expansion of the adoption credit and adoption assistance programs; to the Committee on Finance.

Mr. BUNNING. Mr. President, I rise today in support of the American family and the need to extend important tax relief provisions to help make adoption more affordable. The high cost of adoptions causes many couples to dismiss adoption as too expensive. By helping to ease this financial burden, we can encourage the development of more stable families and provide a brighter future for thousands of children.

These important goals prompted us to act in 2001, when we passed important adoption incentives in the form of tax credits. However, these provisions are set to expire or "sunset" after December 31, 2010.

Our entire society benefits when children are placed with loving, permanent families. That is why today I am introducing the Adoption Tax Relief Guarantee Act with Senator BEN NELSON.

The Adoption Tax Relief Guarantee Act will permanently extend the 2001 adoption incentives allowing those Americans who adopt a child to continue to receive a credit in the amount of their qualified expenses and guarantees the maximum \$10,000 credit for those who adopt children with special needs. This legislation will help middle class families break the financial barriers and successfully adopt a child, especially those children with special needs who are in particular need of a loving home.

I am pleased that Senators from both sides of the aisle have cosponsored this legislation, and that it has received endorsement from the National Council for Adoption and RESOLVE: the National Infertility Association. The adoption tax credit and assistance programs have already helped countless children and families by making adoption more affordable. We owe it to future generations of children in need to make these provisions permanent.

I ask unanimous consent that the text of the Adoption Tax Relief Guarantee Act, 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. 561

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 Adoption Tax Relief Guarantee Act".

SEC. 2. REPEAL OF APPLICABILITY OF SUNSET OF THE ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001 WITH RESPECT TO ADOPTION CREDIT AND ADOPTION ASSISTANCE PROGRAMS.

Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by adding at the end the following new subsection:

"(c) EXCEPTION.—Subsection (a) shall not apply to the amendments made by section 202 (relating to expansion of adoption credit and adoption assistance programs)."

By Ms. COLLINS:

S. 562. A bill to provide for flexibility and improvements in elementary and

secondary education, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Ms. COLLINS. Mr. President, I rise today to introduce the No Child Left Behind Flexibility and Improvements Act. I am pleased to be joined in this effort by my colleague from Maine, Senator SNOWE. Our legislation would give greater local control and flexibility to Maine and other States in their efforts to implement the No Child Left Behind Act, NCLB, and provides common sense reforms in keeping with the worthy goals of NCLB.

Since NCLB was enacted in 2002, I have had the opportunity to meet with numerous Maine educators to discuss their concerns with the law. In response to their concerns, in March 2004, Senator SNOWE and I commissioned the Maine NCLB Task Force to examine the implementation issues facing Maine under both NCLB and the Maine Learning Results. Our task force included members from every county in the State and had superintendents, teachers, principals, school board members, parents, business leaders, former State legislators, special education experts, assessment specialists, officials from the Maine Department of Education, a former Maine Commissioner of Education, and the Dean from the University of Maine's College of Education and Human Development.

After a year of study, the Task Force presented us with its final report outlining recommendations for possible statutory and regulatory changes to the Act. These recommendations form the basis of the legislation that we are introducing today.

First, our legislation would provide new flexibility for teachers of multiple subjects at the secondary school level to help them meet the "highly qualified teacher" requirements. Unfortunately, the current regulations place undue burdens on teachers at small and rural schools who often teach multiple subjects due to staffing needs, and on special education teachers who work with students on a variety of subjects throughout the day. Under the bill, provided these teachers are highly qualified for one subject they teach, they will be provided additional time and less burdensome avenues to satisfy the remaining requirements.

Second, our legislation would provide greater flexibility to States in the ways that they demonstrate student progress in meeting State education standards. Specifically, it would permit States to use a cohort growth model, which tracks the progress of the same group of students over time. It would also permit the use of an "indexing" model, where progress is measured based on the number of students whose scores improve from, for example, a "below-basic" to a "basic" level, and not simply on the number of students who cross the "proficient" line.

Third, our legislation would provide schools with better notice regarding possible performance issues, allowing

schools a chance to identify and work with a particular group of students before being identified. It would expand the existing "safe-harbor" provisions to allow more schools to qualify for this important protection. The changes made in our bill are in keeping with what assessment experts and teachers know—that significant gains in academic achievement tend to occur gradually and over time.

Fourth, our legislation would allow the members of a special education student's IEP team to determine the best assessment for that individual student, and would permit the student's performance on that assessment to count for all NCLB purposes.

One reason this change is so important for Maine is that we have small student populations and Maine has chosen a very small subgroup size—only 20 students. I was very concerned to hear reports that in some schools, special education students fear that they are being blamed for their school not making adequate yearly progress. While the statute explicitly prohibits the disaggregation of student data if it would jeopardize student privacy, I am concerned to hear that this is not working out in practice.

This legislative change is also based on principles of fairness and common sense. Many times, it simply does not make sense to require a special needs student to take a grade-level assessment that everyone knows he or she is not ready to take. Many special education students are referred for special education services precisely because they cannot meet grade-level expectations. Allowing the IEP team to determine the best test for each special student will bring an important improvement to the Act.

Fifth, the legislation addresses my concern about the statute's current requirement that all schools reach 100 percent proficiency by 2013-2014. Our bill would require the Secretary of Education to review progress by the States toward meeting this goal every 3 years, and would allow her to modify the timeline as necessary.

Our legislation is a comprehensive effort to provide greater flexibility and commonsense modifications to address the key NCLB challenges facing Maine, and other States. I look forward to working with my colleagues on these issues during the upcoming NCLB reauthorization process.

By Ms. COLLINS:

S. 563. A bill to extend the deadline by which State identification documents shall comply with certain minimum standards and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Ms. COLLINS. Mr. President, I rise today to introduce legislation to address the growing concern among States regarding the Real ID Act of 2005, which requires States to meet minimum security standards before citizens can use drivers' licenses for

Federal purposes. As the deadline for compliance with Real ID rapidly approaches, States are beginning to send a very clear message that they are deeply concerned that they will not be able to meet these standards. The bill I introduce today recognizes those concerns by giving everyone more time to devise a way to make drivers' licenses more secure without unduly burdening State governments and without threatening privacy and civil liberties.

To begin, some background may be useful. The 9/11 Commission, finding that all but one of the 9/11 hijackers had acquired some form of U.S. identification, recommended that the Federal Government should set standards for the issuance of drivers' licenses. Taking up that recommendation I worked with a bipartisan group of Senators, especially Senator LIEBERMAN, to craft a provision in the 2004 Intelligence Reform and Terrorism Prevention Act that would accomplish this goal. This provision called for the creation of a committee composed of experts from the Federal Government, from State governments, and from other interested parties such as privacy and civil liberties advocates and information technology groups. This committee was charged with developing a means of providing secure identification that protected privacy and civil liberties and respected the role of States in issuing these documents.

The committee diligently began meeting, but before it could complete its work, the House of Representatives attached the Real ID Act of 2005 to an emergency war supplemental bill, thus halting this productive effort. Unlike our intelligence reform bill, the Real ID Act of 2005 did not include States and other interested parties in the rulemaking process and instead instructed the Department of Homeland Security to simply write its own regulations. Nearly 2 years later, we still have not seen these regulations in spite of a looming May 2008 deadline for States to be in compliance with the Real ID Act.

As States begin work this year on their 2008 budgets, they still have no idea what the regulations will require of them. They do know, from a study released in 2006 by the National Governors Association, that the cost to States to implement Real ID could total more than \$11 billion over the first 5 years. As a result, many States—my home State of Maine included—have passed resolutions that have sent the message to Washington that they cannot and will not implement Real ID by the May 2008 deadline.

My bill has two primary objectives: 1. It gives us the time and flexibility we need to come up with an effective system to provide secure drivers' licenses; and 2. it gets the experts from the States and from the technology industry and from the privacy and civil liberties advocates back at the table and gives them a chance to make these regulations work.

There are three main provisions in this bill: First, the bill provides that States will not have to be Real ID compliant until 2 years after the final regulations are promulgated. This means that no matter how long it takes the Department of Homeland Security to finish these regulations, States will have a full 2 years to implement them. Most likely that will mean an extension from 2008 to 2010.

Second, the bill gives the Secretary of Homeland Security more flexibility to waive certain requirements of Real ID if an aspect of the program proves technically difficult to implement. Under the current law, the Secretary of Homeland Security has the discretion to waive the requirements for Real ID on a State-by-State basis if the State cannot comply for justifiable reasons. Because it is possible that some of the technological advances necessary for Real ID may not be in place when compliance is required, the bill will provide the Secretary specific authority to waive compliance with specific requirements if these technological systems are not up and running—relieving the States from the burden of seeking exemptions from Real ID for technological reasons not within their control.

Third, it reconstitutes the committee that we created in 2004 and that was making good progress in its discussions. The committee would be required to look at the regulations published by the Department of Homeland Security and to make suggestions for modifications to meet the concerns of States, privacy advocates, and the other interested parties. The committee would report these suggestions to the Department of Homeland Security and to Congress. The Department of Homeland Security would either have to make these modifications or explain why it chose not to do so. In addition, the committee could recommend to Congress statutory changes that would mitigate concerns that could not be addressed by modifications to the regulations.

This bill gives us the time and the information that Congress and the Department of Homeland Security need to better implement the recommendations of the 9/11 Commission in order to make our drivers' licenses secure so that they cannot be used again as a part of a plot to attack our country. This bill does this in a way that does not rewind the clock three years but instead keeps us moving forward to a more secure America.

I look forward to working with my colleagues on both sides of the aisle to address Real ID and to put us back on track in protecting our privacy, protecting our liberty, and protecting our country.

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

S. 564. A bill to modernize water resources planning, and for other purposes; to the Committee on Environment and Public Works.

Mr. FEINGOLD. Mr. President, today I introduce the Water Resources Planning and Modernization Act of 2007. I am pleased to be joined in introducing this legislation by the senior Senator from Arizona, Mr. MCCAIN. We have worked together for some time to modernize the U.S. Army Corps of Engineers and I thank Senator MCCAIN for his continued commitment to this issue.

I was pleased that the Senate made significant progress last Congress and included many key reforms in the Senate-passed Water Resources Development Act. I again thank my colleagues who cosponsored a successful independent peer review amendment: the Senator from Delaware, Mr. CARPER; the Senator from Connecticut, Mr. LIEBERMAN; the former Senator from Vermont, Mr. Jeffords; and the Senators from Maine, Ms. COLLINS and Ms. SNOWE. I also want to acknowledge the Senator from California, Mrs. BOXER, for her support for this amendment. In addition, I appreciate the efforts to include reform provisions in the underlying bill by the then-Environment and Public Works Committee Chairs and Ranking Members: the former Senator from Vermont, Mr. Jeffords; the Senator from Montana, Mr. BAUCUS; the Senator from Oklahoma, Mr. INHOFE; and the Senator from Missouri, Mr. BOND. After six years of efforts on this issue, we made significant progress. However, negotiations between the House and Senate stalled and no conference report was agreed to.

By introducing this bill today, I am renewing my efforts to ensure that the Corps of Engineers' water resources planning is brought into the 21st century. As we all know, Hurricane Katrina produced one of the most tragic and costly natural disasters in our Nation's history. Water resources projects authorized by Congress and planned by the Corps of Engineers contributed to the loss of vital coastal wetlands (which can provide natural buffers from storm surge), intensified the storm surge into New Orleans, and encouraged development in flood-prone areas.

The flawed project planning, however, did not end there. Floodwalls and levees that the Corps built to protect New Orleans failed catastrophically during Hurricane Katrina. It is now well recognized and indeed, the Corps has acknowledged—that flawed engineering and construction led to those failures and the flooding of much of New Orleans.

Over the past decade, dozens of governmental and scientific studies have documented other flaws in Corps of Engineers' project planning. Most recently, the Government Accountability Office (GAO) testified that recent Corps studies "did not provide a reasonable basis for decision-making" because they were "were fraught with errors, mistakes, and miscalculations, and used invalid assumptions and outdated data." The GAO found that the

recurring problems at the agency were "systemic in nature and therefore prevalent throughout the Corps' Civil Works portfolio."

We can, and must, do better.

Congress should not authorize additional Army Corps projects until it has considered and passed the reforms included in the Water Resources Planning and Modernization Act. From ensuring large projects are sound to using natural resources to protect our communities, modernizing water resources policy is a national priority.

The Water Resources Planning and Modernization Act of 2007 represents a sensible effort to increase our environmental stewardship and significantly reduce the government waste inherent in poorly designed or low priority U.S. Army Corps of Engineers projects. It represents a way to both protect the environment and save taxpayer dollars. With support from Taxpayers for Common Sense Action, National Taxpayers Union, Council for Citizens Against Government Waste, American Rivers, Association of State Wetland Managers, Defenders of Wildlife, Earthjustice, Environmental Defense, Friends of the Earth, National Wildlife Federation, Republicans for Environmental Protection, Sierra Club, Surfrider Foundation, and the World Wildlife Fund, the bill has the backing of a committed and diverse coalition.

The Water Resources Planning and Modernization Act of 2007 can be broadly divided into five parts: ensuring sound projects and responsible spending, valuing our natural resources, focusing our resources, identifying vulnerabilities, and updating the Army Corps of Engineer's planning guidelines.

To ensure that Corps water resources projects are sound, the bill requires independent review of those projects estimated to cost over \$40 million, those requested by a Governor of an affected state, those which the head of a federal agency has determined may lead to a significant adverse impact, or those that the Secretary of the Army has found to be controversial. As crafted in the bill, independent review should not increase the length of time required for project planning but would protect the public—both those in the vicinity of massive projects and those whose tax dollars are funding projects. The Director of Independent Review can also require independent review of the technical designs and construction of flood damage reduction projects to ensure public safety and welfare. The independent review provision is identical to that supported by a majority of my colleagues last Congress and included in the Senate-passed WRDA.

We must do a better job of valuing our natural resources, such as wetlands, that provide important services. These resources can help buffer communities from storms, filter contaminants out of our water, support vibrant economies, and provide vital fish and wildlife habitat. Recognizing the role

of these natural systems, the Water Resources Planning and Modernization Act of 2007 brings the Corps' 1986 mitigation standards into line with their regulatory program by requiring Corps water resources projects to meet the same mitigation standard that is required of all private citizens and other entities under the Clean Water Act. Where States have adopted stronger mitigation standards, the Corps must meet those standards. I feel very strongly that the Federal government should be able to live up to this requirement. Unfortunately, all too often, the Corps has not completed required mitigation. This legislation will make sure that mitigation is completed, that the true costs of mitigation are accounted for in Corps projects, and that the public is able to track the progress of mitigation projects.

Our current prioritization process is not serving the public good. To address this problem, the bill reinvigorates the Water Resources Council, originally established in 1965, and charges it with providing Congress a prioritized list of authorized water resource projects within one year of enactment and then every two years following. The prioritized list would also be printed in the Federal Register for the public to see. The Water Resources Council described in the bill, comprised of cabinet-level officials, would bring together varied perspectives to shape a list of national needs. In short, the prioritization process would be improved to make sure Congress has the tools to more wisely invest limited resources while also increasing public transparency in decision making—both needed and reasonable improvements to the status quo.

Taking stock of our vulnerabilities to natural disasters must also be a priority. For this reason, the bill also directs the Water Resources Council to identify and report to Congress on the nation's vulnerability to flood and related storm damage, including the risk to human life and property, and relative risks to different regions of the country. The Water Resources Council would also recommend improvements to the nation's various flood damage reduction programs to better address those risks. Many of these improvements were discussed in a government report following the 1993 floods so the building blocks are available; we just need to update the assessment. Then, of course, we must actually take action based on the assessment. To help speed such action, the legislation specifies that the Administration will submit a response to Congress, including legislative proposals to implement the recommendations, on the Water Resources Council report no later than 90 days after the report has been made public. We cannot afford to have this report, which will outline improvements to our flood damage reduction programs, languish like others before it.

The process by which the Army Corps of Engineers analyzes water projects

should undergo periodic revision. Unfortunately, the Corps' principles and guidelines, which bind the planning process, have not been updated since 1983. This is why the bill requires that the Water Resources Council work in coordination with the National Academy of Sciences to propose periodic revisions to the Corps' planning principles and guidelines, regulations, and circulars. Updating the project planning process should involve consideration of a variety of issues, including the use of modern economic analysis and the same discount rates as used by all other Federal agencies. Simple steps such as these will lead to more precise estimates of project costs and benefits, a first step to considering whether a project should move forward.

Modernizing all aspects of our water resources policy will help restore credibility to a Federal agency historically rocked by scandal and currently plagued by public skepticism. Congress has long used the Army Corps of Engineers to facilitate favored pork-barrel projects, while periodically expressing a desire to change its ways. Back in 1836, a House Ways and Means Committee report referred to Congress ensuring that the Corps sought "actual reform, in the further prosecution of public works." Over 150 years later, the need for actual reform is stronger than ever.

My office has strong working relationships with the Detroit, Rock Island, and St. Paul District Offices that service Wisconsin, and I do not want this bill to be misconstrued as reflecting on the work of those district offices. What I do want is the fiscal and management cloud over the entire Army Corps to dissipate so that the Corps can better contribute to our environment and our economy—without wasting taxpayer dollars or endangering public safety.

I wish the changes we are proposing today were not needed, but unfortunately that is not the case. In fact, if there were ever a need for the bill, it is now. We must make sure that future Corps projects produce predicted benefits, are in furtherance of national priorities, and do not have negative environmental impacts. This bill gives the Corps the tools it needs to do a better job and focuses the attention of Congress on national needs, which is what the American taxpayers and the environment deserve.

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. 564

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 "Water Resources Planning and Modernization Act of 2007".

SEC. 2. DEFINITIONS.

In this Act:

(1) COUNCIL.—The term "Council" means the Water Resources Council established under section 101 of the Water Resources Planning Act (42 U.S.C. 1962a).

(2) SECRETARY.—The term "Secretary" means the Secretary of the Army.

SEC. 3. NATIONAL WATER RESOURCES PLANNING AND MODERNIZATION POLICY.

It is the policy of the United States that all water resources projects carried out by the Corps of Engineers shall—

(1) reflect national priorities for flood damage reduction, navigation, and ecosystem restoration; and

(2) seek to avoid the unwise use of floodplains, minimize vulnerabilities in any case in which a floodplain must be used, protect and restore the extent and functions of natural systems, and mitigate any unavoidable damage to natural systems.

SEC. 4. MEETING THE NATION'S WATER RESOURCE PRIORITIES.

(a) REPORT ON THE NATION'S FLOOD RISKS.—Not later than 18 months after the date of enactment of this Act, the Council shall submit to the President and Congress a report describing the vulnerability of the United States to damage from flooding and related storm damage, including the risk to human life, the risk to property, and the comparative risks faced by different regions of the country. The report shall assess the extent to which the Nation's programs relating to flooding are addressing flood risk reduction priorities and the extent to which those programs may unintentionally be encouraging development and economic activity in floodprone areas, and shall provide recommendations for improving those programs in reducing and responding to flood risks. Not later than 90 days after the report required by this subsection is published in the Federal Register, the Administration shall submit to Congress a report that responds to the recommendations of the Council and includes proposals to implement recommendations of the Council.

(b) PRIORITIZATION OF WATER RESOURCES PROJECTS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Council shall submit to Congress an initial report containing a prioritized list of each water resources project of the Corps of Engineers that is not being carried out under a continuing authorities program, categorized by project type and recommendations with respect to a process to compare all water resources projects across project type. The Council shall submit to Congress a prioritized list of water resources projects of the Corps of Engineers every 2 years following submission of the initial report. In preparing the prioritization of projects, the Council shall endeavor to balance stability in the rankings from year to year with recognizing newly authorized projects. Each report prepared under this paragraph shall provide documentation and description of any criteria used in addition to those set forth in paragraph (2) for comparing water resources projects and the assumptions upon which those criteria are based.

(2) PROJECT PRIORITIZATION CRITERIA.—In preparing a report under paragraph (1), the Council shall prioritize each water resource project of the Corps of Engineers based on the extent to which the project meets at least the following criteria:

(A) For flood damage reduction projects, the extent to which such a project—

(i) addresses the most critical flood damage reduction needs of the United States as identified by the Council;

(ii) does not encourage new development or intensified economic activity in flood prone areas and avoids adverse environmental impacts; and

(iii) provides significantly increased benefits to the United States through the protection of human life, property, economic activity, or ecosystem services.

(B) For navigation projects, the extent to which such a project—

(i) produces a net economic benefit to the United States based on a high level of certainty that any projected trends upon which the project is based will be realized;

(ii) addresses priority navigation needs of the United States identified through comprehensive, regional port planning; and

(iii) minimizes adverse environmental impacts.

(C) For environmental restoration projects, the extent to which such a project—

(i) restores the natural hydrologic processes and spatial extent of an aquatic habitat;

(ii) is self-sustaining; and

(iii) is cost-effective or produces economic benefits.

(3) SENSE OF CONGRESS.—It is the sense of Congress that to promote effective prioritization of water resources projects, no project should be authorized for construction unless a final Chief's report recommending construction has been submitted to Congress, and annual appropriations for the Corps of Engineers' Continuing Authorities Programs should be distributed by the Corps of Engineers to those projects with the highest degree of design merit and the greatest degree of need, consistent with the applicable criteria established under paragraph (2).

(c) MODERNIZING WATER RESOURCES PLANNING GUIDELINES.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, and every 5 years thereafter, the Council, in coordination with the National Academy of Sciences, shall propose revisions to the planning principles and guidelines, regulations, and circulars of the Corps of Engineers to improve the process by which the Corps of Engineers analyzes and evaluates water projects.

(2) PUBLIC PARTICIPATION.—The Council shall solicit public and expert comment and testimony regarding proposed revisions and shall subject proposed revisions to public notice and comment.

(3) REVISIONS.—Revisions proposed by the Council shall improve water resources project planning through, among other things—

(A) focusing Federal dollars on the highest water resources priorities of the United States;

(B) requiring the use of modern economic principles and analytical techniques, credible schedules for project construction, and current discount rates as used by all other Federal agencies;

(C) discouraging any project that induces new development or intensified economic activity in flood prone areas, and eliminating biases and disincentives to providing projects to low-income communities, including fully accounting for the prevention of loss of life as required by section 904 of the Water Resources Development Act of 1986 (33 U.S.C. 2281);

(D) eliminating biases and disincentives that discourage the use of nonstructural approaches to water resources development and management, and fully accounting for the flood protection and other values of healthy natural systems;

(E) utilizing a comprehensive, regional approach to port planning;

(F) promoting environmental restoration projects that reestablish natural processes;

(G) analyzing and incorporating lessons learned from recent studies of Corps of Engineers programs and recent disasters such as

Hurricane Katrina and the Great Midwest Flood of 1993; and

(H) ensuring the effective implementation of the National Water Resources Planning and Modernization Policy established by this Act.

(d) REVISION OF PLANNING GUIDELINES.—Not later than 180 days after submission of the proposed revisions required by subsection (b), the Secretary shall implement the recommendations of the Council by incorporating the proposed revisions into the planning principles and guidelines, regulations, and circulars of the Corps of Engineers. These revisions shall be subject to public notice and comment pursuant to subchapter II of chapter 5, and chapter 7, of title 5, United States Code (commonly known as the "Administrative Procedure Act"). Effective beginning on the date on which the Secretary carries out the first revision under this paragraph, the Corps of Engineers shall not be subject to—

(1) subsections (a) and (b) of section 80 of the Water Resources Development Act of 1974 (42 U.S.C. 1962d-17); and

(2) any provision of the guidelines entitled "Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies" and dated 1983, to the extent that such a provision conflicts with a guideline revised by the Secretary.

(e) AVAILABILITY.—Each report prepared under this section shall be published in the Federal Register and submitted to the Committees on Environment and Public Works and Appropriations of the Senate and the Committees on Transportation and Infrastructure and Appropriations of the House of Representatives.

(f) WATER RESOURCES COUNCIL.—Section 101 of the Water Resources Planning Act (42 U.S.C. 1962a) is amended in the first sentence by inserting "the Secretary of Homeland Security, the Chairperson of the Council on Environmental Quality," after "Secretary of Transportation,".

(g) FUNDING.—In carrying out this section, the Council shall use funds made available for the general operating expenses of the Corps of Engineers.

SEC. 5. INDEPENDENT PEER REVIEW.

(a) DEFINITIONS.—In this section:

(1) CONSTRUCTION ACTIVITIES.—The term "construction activities" means development of detailed engineering and design specifications during the preconstruction engineering and design phase and the engineering and design phase of a water resources project carried out by the Corps of Engineers, and other activities carried out on a water resources project prior to completion of the construction and to turning the project over to the local cost-share partner.

(2) PROJECT STUDY.—The term "project study" means a feasibility report, reevaluation report, or environmental impact statement prepared by the Corps of Engineers.

(b) DIRECTOR OF INDEPENDENT PEER REVIEW.—The Secretary shall appoint in the Office of the Secretary a Director of Independent Review. The Director shall be selected from among individuals who are distinguished experts in engineering, hydrology, biology, economics, or another discipline related to water resources management. The Secretary shall ensure, to the maximum extent practicable, that the Director does not have a financial, professional, or other conflict of interest with projects subject to review. The Director of Independent Review shall carry out the duties set forth in this section and such other duties as the Secretary deems appropriate.

(c) SOUND PROJECT PLANNING.—

(1) PROJECTS SUBJECT TO PLANNING REVIEW.—The Secretary shall ensure that each

project study for a water resources project shall be reviewed by an independent panel of experts established under this subsection if—

(A) the project has an estimated total cost of more than \$40,000,000, including mitigation costs;

(B) the Governor of a State in which the water resources project is located in whole or in part, or the Governor of a State within the drainage basin in which a water resources project is located and that would be directly affected economically or environmentally as a result of the project, requests in writing to the Secretary the establishment of an independent panel of experts for the project;

(C) the head of a Federal agency with authority to review the project determines that the project is likely to have a significant adverse impact on public safety, or on environmental, fish and wildlife, historical, cultural, or other resources under the jurisdiction of the agency, and requests in writing to the Secretary the establishment of an independent panel of experts for the project; or

(D) the Secretary determines on his or her own initiative, or shall determine within 30 days of receipt of a written request for a controversy determination by any party, that the project is controversial because—

(i) there is a significant dispute regarding the size, nature, potential safety risks, or effects of the project; or

(ii) there is a significant dispute regarding the economic, or environmental costs or benefits of the project.

(2) PROJECT PLANNING REVIEW PANELS.—

(A) PROJECT PLANNING REVIEW PANEL MEMBERSHIP.—For each water resources project subject to review under this subsection, the Director of Independent Review shall establish a panel of independent experts that shall be composed of not less than 5 nor more than 9 independent experts (including at least 1 engineer, 1 hydrologist, 1 biologist, and 1 economist) who represent a range of areas of expertise. The Director of Independent Review shall apply the National Academy of Science's policy for selecting committee members to ensure that members have no conflict with the project being reviewed, and shall consult with the National Academy of Sciences in developing lists of individuals to serve on panels of experts under this subsection. An individual serving on a panel under this subsection shall be compensated at a rate of pay to be determined by the Secretary, and shall be allowed travel expenses.

(B) DUTIES OF PROJECT PLANNING REVIEW PANELS.—An independent panel of experts established under this subsection shall review the project study, receive from the public written and oral comments concerning the project study, and submit a written report to the Secretary that shall contain the panel's conclusions and recommendations regarding project study issues identified as significant by the panel, including issues such as—

(i) economic and environmental assumptions and projections;

(ii) project evaluation data;

(iii) economic or environmental analyses;

(iv) engineering analyses;

(v) formulation of alternative plans;

(vi) methods for integrating risk and uncertainty;

(vii) models used in evaluation of economic or environmental impacts of proposed projects; and

(viii) any related biological opinions.

(C) PROJECT PLANNING REVIEW RECORD.—

(i) IN GENERAL.—After receiving a report from an independent panel of experts established under this subsection, the Secretary shall take into consideration any recommendations contained in the report and

shall immediately make the report available to the public on the Internet.

(ii) **RECOMMENDATIONS.**—The Secretary shall prepare a written explanation of any recommendations of the independent panel of experts established under this subsection not adopted by the Secretary. Recommendations and findings of the independent panel of experts rejected without good cause shown, as determined by judicial review, shall be given equal deference as the recommendations and findings of the Secretary during a judicial proceeding relating to the water resources project.

(iii) **SUBMISSION TO CONGRESS AND PUBLIC AVAILABILITY.**—The report of the independent panel of experts established under this subsection and the written explanation of the Secretary required by clause (ii) shall be included with the report of the Chief of Engineers to Congress, shall be published in the Federal Register, and shall be made available to the public on the Internet.

(D) **DEADLINES FOR PROJECT PLANNING REVIEWS.**—

(i) **IN GENERAL.**—Independent review of a project study shall be completed prior to the completion of any Chief of Engineers report for a specific water resources project.

(ii) **DEADLINE FOR PROJECT PLANNING REVIEW PANEL STUDIES.**—An independent panel of experts established under this subsection shall complete its review of the project study and submit to the Secretary a report not later than 180 days after the date of establishment of the panel, or not later than 90 days after the close of the public comment period on a draft project study that includes a preferred alternative, whichever is later. The Secretary may extend these deadlines for good cause.

(iii) **FAILURE TO COMPLETE REVIEW AND REPORT.**—If an independent panel of experts established under this subsection does not submit to the Secretary a report by the deadline established by clause (ii), the Chief of Engineers may continue project planning without delay.

(iv) **DURATION OF PANELS.**—An independent panel of experts established under this subsection shall terminate on the date of submission of the report by the panel. Panels may be established as early in the planning process as deemed appropriate by the Director of Independent Review, but shall be appointed no later than 90 days before the release for public comment of a draft study subject to review under subsection (c)(1)(A), and not later than 30 days after a determination that review is necessary under subsection (c)(1)(B), (c)(1)(C), or (c)(1)(D).

(E) **EFFECT ON EXISTING GUIDANCE.**—The project planning review required by this subsection shall be deemed to satisfy any external review required by Engineering Circular 1105-2-408 (31 May 2005) on Peer Review of Decision Documents.

(d) **SAFETY ASSURANCE.**—

(1) **PROJECTS SUBJECT TO SAFETY ASSURANCE REVIEW.**—The Secretary shall ensure that the construction activities for any flood damage reduction project shall be reviewed by an independent panel of experts established under this subsection if the Director of Independent Review makes a determination that an independent review is necessary to ensure public health, safety, and welfare on any project—

(A) for which the reliability of performance under emergency conditions is critical;

(B) that uses innovative materials or techniques;

(C) for which the project design is lacking in redundancy, or that has a unique construction sequencing or a short or overlapping design construction schedule; or

(D) other than a project described in subparagraphs (A) through (C), as the Director

of Independent Review determines to be appropriate.

(2) **SAFETY ASSURANCE REVIEW PANELS.**—At the appropriate point in the development of detailed engineering and design specifications for each water resources project subject to review under this subsection, the Director of Independent Review shall establish an independent panel of experts to review and report to the Secretary on the adequacy of construction activities for the project. An independent panel of experts under this subsection shall be composed of not less than 5 nor more than 9 independent experts selected from among individuals who are distinguished experts in engineering, hydrology, or other pertinent disciplines. The Director of Independent Review shall apply the National Academy of Science's policy for selecting committee members to ensure that panel members have no conflict with the project being reviewed. An individual serving on a panel of experts under this subsection shall be compensated at a rate of pay to be determined by the Secretary, and shall be allowed travel expenses.

(3) **DEADLINES FOR SAFETY ASSURANCE REVIEWS.**—An independent panel of experts established under this subsection shall submit a written report to the Secretary on the adequacy of the construction activities prior to the initiation of physical construction and periodically thereafter until construction activities are completed on a publicly available schedule determined by the Director of Independent Review for the purposes of assuring the public safety. The Director of Independent Review shall ensure that these reviews be carried out in a way to protect the public health, safety, and welfare, while not causing unnecessary delays in construction activities.

(4) **SAFETY ASSURANCE REVIEW RECORD.**—After receiving a written report from an independent panel of experts established under this subsection, the Secretary shall—

(A) take into consideration recommendations contained in the report, provide a written explanation of recommendations not adopted, and immediately make the report and explanation available to the public on the Internet; and

(B) submit the report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(e) **EXPENSES.**—

(1) **IN GENERAL.**—The costs of an independent panel of experts established under subsection (c) or (d) shall be a Federal expense and shall not exceed—

(A) \$250,000, if the total cost of the project in current year dollars is less than \$50,000,000; and

(B) 0.5 percent of the total cost of the project in current year dollars, if the total cost is \$50,000,000 or more.

(2) **WAIVER.**—The Secretary, at the written request of the Director of Independent Review, may waive the cost limitations under paragraph (1) if the Secretary determines appropriate.

(f) **REPORT.**—Not later than 5 years after the date of enactment of this Act, the Secretary shall submit to Congress a report describing the implementation of this section.

(g) **SAVINGS CLAUSE.**—Nothing in this section shall be construed to affect any authority of the Secretary to cause or conduct a peer review of the engineering, scientific, or technical basis of any water resources project in existence on the date of enactment of this Act.

SEC. 6. MITIGATION.

(a) **MITIGATION.**—Section 906(d) of the Water Resources Development Act of 1986 (33 U.S.C. 2283(d)) is amended—

(1) in paragraph (1), by striking “to the Congress” and inserting “to Congress, and shall not choose a project alternative in any final record of decision, environmental impact statement, or environmental assessment,” and by inserting in the second sentence “and other habitat types” after “bottomland hardwood forests”; and

(2) by adding at the end the following:

“(3) **MITIGATION REQUIREMENTS.**—

“(A) **MITIGATION.**—To mitigate losses to flood damage reduction capabilities and fish and wildlife resulting from a water resources project, the Secretary shall ensure that mitigation for each water resources project complies fully with the mitigation standards and policies established by each State in which the project is located. Under no circumstances shall the mitigation required for a water resources project be less than would be required of a private party or other entity under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344).

“(B) **MITIGATION PLAN.**—The specific mitigation plan for a water resources project required under paragraph (1) shall include, at a minimum—

“(i) a detailed plan to monitor mitigation implementation and ecological success, including the designation of the entities that will be responsible for monitoring;

“(ii) specific ecological success criteria by which the mitigation will be evaluated and determined to be successful, prepared in consultation with the Director of the United States Fish and Wildlife Service or the Director of the National Marine Fisheries Service, as appropriate, and each State in which the project is located;

“(iii) a detailed description of the land and interests in land to be acquired for mitigation, and the basis for a determination that land and interests are available for acquisition;

“(iv) sufficient detail regarding the chosen mitigation sites, and types and amount of restoration activities to be conducted, to permit a thorough evaluation of the likelihood of the ecological success and aquatic and terrestrial resource functions and habitat values that will result from the plan; and

“(v) a contingency plan for taking corrective actions if monitoring demonstrates that mitigation efforts are not achieving ecological success as described in the ecological success criteria.

“(4) **DETERMINATION OF MITIGATION SUCCESS.**—

“(A) **IN GENERAL.**—Mitigation under this subsection shall be considered to be successful at the time at which monitoring demonstrates that the mitigation has met the ecological success criteria established in the mitigation plan.

“(B) **EVALUATION AND REPORTING.**—The Secretary shall consult annually with the Director of the United States Fish and Wildlife Service and the Director of the National Marine Fisheries Service, as appropriate, and each State in which the project is located, on each water resources project requiring mitigation to determine whether mitigation monitoring for that project demonstrates that the project is achieving, or has achieved, ecological success. Not later than 60 days after the date of completion of the annual consultation, the Director of the United States Fish and Wildlife Service or the Director of the National Marine Fisheries Service, as appropriate, shall, and each State in which the project is located may, submit to the Secretary a report that describes—

“(i) the ecological success of the mitigation as of the date of the report;

“(ii) the likelihood that the mitigation will achieve ecological success, as defined in the mitigation plan;

“(iii) the projected timeline for achieving that success; and

“(iv) any recommendations for improving the likelihood of success.

The Secretary shall respond in writing to the substance and recommendations contained in such reports not later than 30 days after the date of receipt. Mitigation monitoring shall continue until it has been demonstrated that the mitigation has met the ecological success criteria.”

(b) MITIGATION TRACKING SYSTEM.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish a recordkeeping system to track, for each water resources project constructed, operated, or maintained by the Secretary and for each permit issued under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344)—

(A) the quantity and type of wetland and other habitat types affected by the project, project operation, or permitted activity;

(B) the quantity and type of mitigation required for the project, project operation, or permitted activity;

(C) the quantity and type of mitigation that has been completed for the project, project operation, or permitted activity; and

(D) the status of monitoring for the mitigation carried out for the project, project operation, or permitted activity.

(2) REQUIRED INFORMATION AND ORGANIZATION.—The recordkeeping system shall—

(A) include information on impacts and mitigation described in paragraph (1) that occur after December 31, 1969; and

(B) be organized by watershed, project, permit application, and zip code.

(3) AVAILABILITY OF INFORMATION.—The Secretary shall make information contained in the recordkeeping system available to the public on the Internet.

SEC. 7. PROJECT ADMINISTRATION.

(a) CHIEF'S REPORTS.—The Chief of Engineers shall not submit a Chief's report to Congress recommending construction of a water resources project until that Chief's report has been reviewed and approved by the Secretary of the Army.

(b) PROJECT TRACKING.—The Secretary shall assign a unique tracking number to each water resources project, to be used by each Federal agency throughout the life of the project.

(c) REPORT REPOSITORY.—The Secretary shall maintain at the Library of Congress a copy of each final feasibility study, final environmental impact statement, final reevaluation report, record of decision, and report to Congress prepared by the Corps of Engineers. These documents shall be made available to the public for review, and electronic copies of those documents shall be permanently available, through the Internet website of the Corps of Engineers.

By Mr. BINGAMAN (for himself, Mrs. HUTCHISON, Mr. NELSON of Florida, Mr. MARTINEZ, Mrs. CLINTON, Mr. CORNYN, Mr. SALAZAR, and Mrs. BOXER):

S. 565. A bill to expand and enhance postbaccalaureate opportunities at Hispanic-serving institutions, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. BINGAMAN. Mr. President, I rise today to introduce the next generation of Hispanic Serving Institutions legislation. This legislation is critical if we, as a nation, are going to continue to compete in a global economy. Education is the key to building a strong

and dynamic economy, and therefore, it is our obligation to ensure quality educational opportunities for all Americans. That is why I am introducing, along with my colleague, Senator HUTCHISON, the Next Generation Hispanic Serving Institutions Act of 2007. This legislation is supported by the Hispanic Associations of Colleges and Universities, and the Hispanic Education Coalition, a coalition of 25 organizations dedicated to improving educational opportunities for more than 40 million Hispanics living in the United States. I ask unanimous consent that their letters of support appear in the text following this statement. Senators BILL NELSON, MARTINEZ, CLINTON, CORNYN, SALAZAR, BOXER, and FEINSTEIN have joined in this effort as co-sponsors.

According to Census Bureau data, the Hispanic population in the United States grew by 25.7 million between 1970 and 2000, and continues to grow at a very brisk pace. The most recent Census data puts the Hispanic population at over 40 million, representing approximately 14 percent of the U.S. population and making it the Nation's largest minority group. Estimates project that the Hispanic population will grow by 25 million between 2000 and 2020. By the year 2050, 1 in 4 Americans will be of Hispanic origin.

Currently, Hispanics make up about 13 percent of the U.S. labor force. While the overall labor force is projected to slow down over the next decades as an increasing number of workers reach retirement age, the Hispanic labor force is expected to continue growing at a fast pace. It will expand by nearly 10 million workers between now and 2020, through a combination of immigration and native-born youth reaching working age.

Our Nation's economic and social success rests, in large part, on the level of skills and knowledge attained by our Hispanic population.

I was one of the authors and lead supporters of the original Hispanic-Serving Institutions proposal when it was enacted as part of the Higher Education Act in 1992 in order to increase educational opportunities for Hispanic students. Since then, Hispanic-Serving Institutions (HSIs) have made significant strides in increasing the number of Hispanic students enrolling in and graduating from college. Although Hispanic-serving institutions account for only 5 percent of all institutions of higher education in the United States, HSIs enroll over half (51 percent) of all Hispanics pursuing higher education degrees in the 50 States, the District of Columbia, and Puerto Rico.

While Hispanic high school graduates go on to college at higher rates than they did even ten years ago, Hispanics still lag behind their non-Hispanic peers in postsecondary school enrollment. In 2000, only 21.7 percent of all Hispanics ages 18 through 24 were enrolled in postsecondary degree-granting institutions in the United States.

We must take HSIs to the next level. While the percentage of Hispanics attending college has increased significantly over the past few years, Hispanics only earned 6 percent of all bachelor's degrees awarded, 4 percent of all master's degrees, and only 3 percent of all doctorates. But the pace of bachelor's degrees or higher earned by Hispanics is accelerating rapidly, according to the Department of Education. Therefore, we must keep pace. We must increase the capacity of our institutions of higher education to serve the increasing number of Hispanic students.

The Next Generation HSI bill does just that. Simply, this legislation will improve educational opportunities for Hispanic students by establishing a competitive grant program to expand post-baccalaureate degree opportunities at HSIs.

Current law only provides support for two-year and four-year Hispanic Serving Institutions. This legislation will support graduate fellowships and support services for graduate students, facilities improvement, faculty development, technology and distance education, and collaborative arrangements with other institutions. This legislation will build capacity and establish a long overdue graduate program for HSIs.

Hispanic students now account for nearly 17 percent of the total kindergarten through grade 12 student population. Estimates project that this student population will grow from 11 million in 2005 to 16 million in 2020. We must provide our institutions of higher education with the resources and supports to build capacity and serve the increasing Hispanic student population. We must be ready for the next generation of students to meet the demands of a competitive workforce and to fully participate in the global economy. I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

HACU,

San Antonio, TX, February 8, 2007.

Hon. JEFF BINGAMAN,
U.S. Senate, Washington, DC.

DEAR SENATOR BINGAMAN: On behalf of the Hispanic Association of Colleges and Universities (HACU) and its 450 member institutions, I want to express my sincerest appreciation for your efforts in re-introducing the "Next Generation Hispanic-Serving Institutions Act." You have long been a champion of Hispanic higher education issues and we appreciate all that you do.

This landmark piece of legislation, first introduced in the 108th Congress with bipartisan support, will help to eradicate the chronic shortage of Hispanic professionals lacking advanced degrees. As we both know, the number of Hispanics earning post-baccalaureate degrees at HSIs between the years of 1991 and 2000 increased by 136 percent, thus showing the demand and need to increase graduate program capacity at these institutions. Of the more than 270 HSIs serving half

of the 1.8 million Hispanics enrolled in higher education programs, only 44 have graduate programs in place. This failure to provide adequate graduate opportunity is a travesty to the Hispanic community and should be addressed.

The eagerly anticipated re-introduction of The Next Generation Hispanic-Serving Institutions Act in the 110th Congress will be a central focus of HACU's 2007 Legislative Agenda. As the only nationally recognized voice for our country's fast-growing community of HSIs, HACU fully recognizes the critical importance of this proposal to dramatically expand post-baccalaureate degree opportunities for the country's youngest and largest ethnic population.

Your past success at winning support for HSIs in Title V of the Higher Education Act and your new efforts to build upon that success with the inclusion of a new graduate education component are extraordinary testimony to your leadership in opening the doors to college and career success for this and future generations of our youth.

Please call upon our offices for any assistance in support of your important work, which is so critical to building a better future for our Hispanic communities and for our country.

Respectfully,

ANTONIO R. FLORES,
President and CEO.

HISPANIC EDUCATION COALITION,
February 8, 2007.

Hon. JEFF BINGAMAN,
*U.S. Senate,
Washington, DC.*

DEAR SENATOR BINGAMAN: On behalf of the Hispanic Education Coalition and its twenty-five member organizations, we express our strong support for your re-introduction of the "Next Generation Hispanic-Serving Institutions Act." You have long been a champion of Hispanic higher education, and we appreciate all that you do to secure equal educational opportunities for Latinos.

The Next Generation Hispanic-Serving Institutions Act will help to eradicate the chronic shortage of Hispanic professionals with advanced degrees. The number of Hispanics earning post-baccalaureate degrees at HSIs between the years of 1991 and 2000 increased by 136 percent, demonstrating a high demand and need to increase graduate program capacity at these institutions. Out of 262 HACU member HSIs that serve over 50% of the 1.6 million Hispanics enrolled in higher education programs, only 44 currently have graduate programs in place. The Next Generation Hispanic-Serving Institutions Act will help to remedy this deficit.

The Hispanic Education Coalition and its member organizations commend your leadership and will work with you to secure final passage of this important legislation.

Sincerely,

PETER ZAMORA,
*Acting Regional Counsel,
MALDEF.*

ROGER ROSENTHAL,
*Executive Director,
Migrant Legal Action Program.*

S. 565

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 "Next Generation Hispanic-Serving Institutions Act".

SEC. 2. POSTBACCALAUREATE OPPORTUNITIES FOR HISPANIC AMERICANS.

(a) ESTABLISHMENT OF PROGRAM.—Title V of the Higher Education Act of 1965 (20 U.S.C. 1101 et seq.) is amended—

(1) by redesignating part B as part C;

(2) by redesignating sections 511 through 518 as sections 521 through 528, respectively; and

(3) by inserting after section 505 (20 U.S.C. 1101d) the following new part:

"PART B—PROMOTING POSTBACCALAUREATE OPPORTUNITIES FOR HISPANIC AMERICANS

"SEC. 511. FINDINGS AND PURPOSES.

"(a) FINDINGS.—Congress finds the following:

"(1) According to the United States Census, by the year 2050 one in four Americans will be of Hispanic origin.

"(2) Despite the dramatic increase in the Hispanic population in the United States, the National Center for Education Statistics reported that in 1999, Hispanics accounted for only 4 percent of the master's degrees, 3 percent of the doctor's degrees, and 5 percent of first-professional degrees awarded in the United States.

"(3) Although Hispanics constitute 10 percent of the college enrollment in the United States, they comprise only 3 percent of instructional faculty in colleges and universities.

"(4) The future capacity for research and advanced study in the United States will require increasing the number of Hispanics pursuing postbaccalaureate studies.

"(5) Hispanic-serving institutions are leading the Nation in increasing the number of Hispanics attaining graduate and professional degrees.

"(6) Among Hispanics who received master's degrees in 1999–2000, 25 percent earned them at Hispanic-serving institutions.

"(7) Between 1991 and 2000, the number of Hispanic students earning master's degrees at Hispanic-serving institutions grew 136 percent, the number receiving doctor's degrees grew by 85 percent, and the number earning first-professional degrees grew by 47 percent.

"(8) It is in the national interest to expand the capacity of Hispanic-serving institutions to offer graduate and professional degree programs.

"(b) PURPOSES.—The purposes of this part are—

"(1) to expand postbaccalaureate educational opportunities for, and improve the academic attainment of, Hispanic students; and

"(2) to expand and enhance the postbaccalaureate academic offerings, and program quality, that are educating the majority of Hispanic college students and helping large numbers of Hispanic students and other low-income individuals complete postsecondary degrees.

"SEC. 512. PROGRAM AUTHORITY AND ELIGIBILITY.

"(a) PROGRAM AUTHORIZED.—Subject to the availability of funds appropriated to carry out this part, the Secretary shall award competitive grants to Hispanic-serving institutions that offer postbaccalaureate certifications or degrees.

"(b) ELIGIBILITY.—In this part, an 'eligible institution' means an institution of higher education that—

"(1) is an eligible institution under section 502; and

"(2) offers a postbaccalaureate certificate or degree granting program.

"SEC. 513. AUTHORIZED ACTIVITIES.

"Grants awarded under this part shall be used for 1 or more of the following activities:

"(1) Purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes.

"(2) Construction, maintenance, renovation, and improvement in classroom, library, laboratory, and other instructional facilities,

including purchase or rental of telecommunications technology equipment or services.

"(3) Purchase of library books, periodicals, technical and other scientific journals, microfilm, microfiche, and other educational materials, including telecommunications program materials.

"(4) Support for needy postbaccalaureate students including outreach, academic support services, mentoring, scholarships, fellowships, and other financial assistance to permit the enrollment of such students in postbaccalaureate certificate and degree granting programs.

"(5) Support of faculty exchanges, faculty development, faculty research, curriculum development, and academic instruction.

"(6) Creating or improving facilities for Internet or other distance learning academic instruction capabilities, including purchase or rental of telecommunications technology equipment or services.

"(7) Collaboration with other institutions of higher education to expand postbaccalaureate certificate and degree offerings.

"(8) Other activities proposed in the application submitted pursuant to section 514 that—

"(A) contribute to carrying out the purposes of this part; and

"(B) are approved by the Secretary as part of the review and acceptance of such application.

"SEC. 514. APPLICATION AND DURATION.

"(a) APPLICATION.—Any eligible institution may apply for a grant under this part by submitting an application to the Secretary at such time and in such manner as determined by the Secretary. Such application shall demonstrate how the grant funds will be used to improve postbaccalaureate education opportunities for Hispanic and low-income students and will lead to greater financial independence.

"(b) DURATION.—Grants under this part shall be awarded for a period not to exceed 5 years.

"(c) LIMITATION.—The Secretary shall not award more than 1 grant under this part in any fiscal year to any Hispanic-serving institution."

(b) COOPERATIVE ARRANGEMENTS.—Section 524(a) of the Higher Education Act of 1965 (as redesignated by subsection (a)(2)) is amended by inserting "and section 513" after "section 503".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 528(a) of the Higher Education Act of 1965 (as redesignated by subsection (a)(2)) is amended to read as follows:

"(a) AUTHORIZATIONS.—

"(1) PART A.—There are authorized to be appropriated to carry out part A of this title \$175,000,000 for fiscal year 2008 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(2) PART B.—There are authorized to be appropriated to carry out part B of this title \$125,000,000 for fiscal year 2008 and such sums as may be necessary for each of the 4 succeeding fiscal years."

By Mr. LEVIN (for himself and Mr. MCCAIN) (by request):

S. 567. A bill to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2008, and for other purposes; to the Committee on Armed Services.

Mr. LEVIN. Mr. President, Senator MCCAIN and I are today introducing, by request, the administration's proposed

National Defense Authorization Act for Fiscal Year 2008. As is the case with any bill that is introduced by request, we introduce this bill for the purpose of placing the administration's proposals before Congress and the public without expressing our own views on the substance of these proposals. As chairman and ranking member of the Armed Services Committee, we look forward to giving the administration's requested legislation our most careful review and thoughtful consideration.

By Mr. LUGAR:

S. 569. A bill to accelerate efforts to develop vaccines for diseases primarily affecting developing countries and for other purposes; to the Committee on Foreign Relations.

Mr. LUGAR. Mr. President, I rise to introduce the Vaccines for the Future Act of 2007.

This legislation seeks to accelerate the development of vaccines for HIV/AIDS, malaria, tuberculosis and other diseases that are major killers of people living in developing countries. HIV/AIDS, malaria, and tuberculosis are devastating sub-Saharan Africa where, combined, they claim as many as 5 million lives a year. Yet there are no vaccines for these diseases.

Vaccines are one of the most effective public health measures of the 20th century. With U.S. leadership, the global community has eradicated smallpox, and we are close to eradicating polio. Vaccines for diseases such as measles and tetanus have dramatically reduced childhood mortality worldwide. These public health victories benefit every country.

Vaccines for diseases such as AIDS, tuberculosis, malaria, and for other, less well-known diseases would save millions of lives. Partnerships between governments, private foundations, and businesses have made significant strides toward the development of vaccines, but much more needs to be done.

One of the biggest challenges is that drug companies do not have a strong financial incentive to invest in the development of vaccines for these diseases because there is no reliable market for them. In other words, vaccine manufacturers are reluctant to commit the hundreds of millions of dollars necessary to create a new vaccine with no obvious way to recoup their investment. What is needed is the promise of market demand to encourage industry to develop the vaccines for these diseases.

Five countries—Britain, Italy, Norway, Russia, and Canada—along with the Bill and Melinda Gates Foundation, have developed such a market solution. On February 9, 2007, in Rome, they pledged \$1.5 billion for an initiative called an Advance Market Commitment, AMC, aimed at encouraging pharmaceutical companies to develop vaccines for diseases caused by the pneumococcus bacterium, such as pneumonia and meningitis. These diseases claim the lives of an estimated 1

million children per year, most of whom live in the developing world. Through this AMC, these countries and the Gates Foundation have pledged to purchase pneumococcal vaccines that will work in poor countries.

Although a vaccine for pneumococcal disease exists in the United States and other developed countries, this version is not effective against the strains prevalent in developing countries. By committing to purchase large quantities of a successful vaccine beforehand, the Advance Market Commitment aims to bridge the gap between the vaccine makers' research costs and the future sales needed to cover the costs of their investment. Experts are hopeful that this initiative could accelerate by a decade the widespread use of a pneumococcal vaccine specific to the developing world and could prevent the deaths of an estimated 5.4 million children by 2030.

In 2005, the United States, at the G8 Summit in Gleneagles, Scotland, agreed to encourage the development of vaccines for diseases affecting the developing world and endorsed the Advance Market Commitment concept. I believe that, with continued strong U.S. leadership, we can save many more lives in this new century. Because of the promise that vaccines hold, I am introducing the "Vaccines for the Future Act of 2007." My bill would authorize the United States to contribute to the Advance Market Commitment for pneumococcal vaccines. Equally important, it would require the administration to develop a comprehensive strategy and make a commitment to speed development, testing, and distribution of life-saving vaccines for other diseases, including AIDS, malaria, and tuberculosis, through innovative financial incentives like the AMC.

I am hopeful that my fellow Senators will join me in supporting this legislation.

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

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

S. 569

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 "Vaccines for the Future Act of 2007".

SEC. 2. DEFINITIONS.

In this Act:

(1) AIDS.—The term "AIDS" has the meaning given the term in section 104A(g) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b-2).

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on Foreign Affairs of the House of Representatives.

(3) DEVELOPING COUNTRY.—The term "developing country" means a country that the

World Bank determines to be a country with a lower middle income or less.

(4) HIV/AIDS.—The term "HIV/AIDS" has the meaning given the term in section 104A(g) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b-2).

(5) GAVI ALLIANCE.—The term "GAVI Alliance" means the public-private partnership launched in 2000 for the purpose of saving the lives of children and protecting the health of all people through the widespread use of vaccines.

(6) NEGLECTED DISEASE.—The term "neglected disease" means—

(A) HIV/AIDS;

(B) malaria;

(C) tuberculosis; or

(D) any infectious disease that, according to the World Health Organization, afflicts over 1,000,000 people and causes more than 250,000 deaths each year in developing countries.

(7) WORLD BANK.—The term "World Bank" means the International Bank for Reconstruction and Development.

SEC. 3. FINDINGS.

Congress makes the following findings:

(1) Immunization is an inexpensive and effective public health intervention that has had a profound life-saving impact around the world.

(2) During the 20th century, global immunization efforts have successfully led to the eradication of smallpox and the elimination of polio from the Western Hemisphere, Europe, and most of Asia. Vaccines for diseases such as measles and tetanus have dramatically reduced childhood mortality worldwide, and vaccines for diseases such as influenza, pneumonia, and hepatitis help prevent sickness and death of adults as well as children.

(3) According to the World Health Organization, combined, AIDS, tuberculosis, and malaria kill more than 5,000,000 people a year, most of whom are in the developing world, yet there are no vaccines for these diseases.

(4) Other, less well-known neglected diseases, such as pneumococcal disease, lymphatic filariasis, leptospirosis, leprosy, and onchocerciasis, result in severe health consequences for individuals afflicted with them, such as anemia, blindness, malnutrition and impaired childhood growth and development. In addition, these diseases result in lost productivity in developing countries costing in the billions of dollars.

(5) Infants, children, and adolescents are among the populations hardest hit by AIDS, malaria, and many other neglected diseases. Nearly 11,000,000 children under age 5 die each year due to these diseases, primarily in developing countries. Existing and future vaccines that target children could prevent more than 2,500,000 of these illnesses and deaths.

(6) The devastating impact of neglected diseases in developing countries threatens the political and economic stability of these countries and constitutes a threat to United States economic and security interests.

(7) Of more than \$100,000,000,000 spent on health research and development across the world, only \$6,000,000,000 is spent each year on diseases that are specific to developing countries, most of which is from public and philanthropic sources.

(8) Despite the devastating impact these and other diseases have on developing countries, it is estimated that only 10 percent of the world's research and development on health is targeted on diseases affecting 90 percent of the world's population.

(9) Because the developing country market is small and unpredictable, there is an insufficient private sector investment in research

for vaccines for neglected diseases that disproportionately affect populations in developing countries.

(10) Creating a broad range of economic incentives to increase private sector research on neglected diseases is critical to the development of vaccines for neglected diseases.

(11) In recognition of the need for more economic incentives to encourage private sector investment in vaccines for neglected diseases, an international group of health, technical, and economic experts has developed a framework for an advance market commitment pilot program for pneumococcal vaccines. Pneumococcal disease, a cause of pneumonia and meningitis, kills 1,600,000 people every year, an estimated 1,000,000 of whom are children under age 5. This pilot program will seek to stimulate investments to develop and produce pneumococcal vaccines that could prevent between 500,000 and 700,000 deaths by the year 2020.

(12) On February 9, 2007, 5 countries, Britain, Canada, Italy, Norway, and Russia, together with the Bill and Melinda Gates Foundation, pledged, under a plan called an Advance Market Commitment, to purchase pneumococcal vaccines now under development. Together, these countries and the Bill and Melinda Gates Foundation have committed \$1,500,000,000 for this program. Experts believe that this initiative could accelerate by a decade the widespread use of such a vaccine in the developing world and could prevent the deaths of an estimated 5,400,000 children by 2030.

SEC. 4. SENSE OF CONGRESS ON SUPPORT FOR NEGLECTED DISEASES.

It is the sense of Congress that—

(1) the President should continue to encourage efforts to support the Global HIV Vaccine Enterprise, a virtual consortium of scientists and organizations committed to accelerating the development of an effective HIV vaccine;

(2) the United States should work with the Global Fund to Fight AIDS, Tuberculosis and Malaria, the Joint United Nations Programme on HIV/AIDS (“UNAIDS”), the World Health Organization, the International AIDS Vaccine Initiative, the GAVI Alliance, and the World Bank to ensure that all countries heavily affected by the HIV/AIDS pandemic have national AIDS vaccine plans;

(3) the United States should support and encourage the carrying out of the agreements of the Group of 8 made at the 2005 Summit at Gleneagles, Scotland, to increase direct investment and create market incentives, including through public-private partnerships and advance market commitments, to complement public research in the development of vaccines, microbicides, and drugs for HIV/AIDS, malaria, tuberculosis, and other neglected diseases;

(4) the United States should support the development of effective vaccines for infants, children, and adolescents as early as is medically and ethically appropriate, in order to avoid significant delays in the availability of pediatric vaccines at the cost of thousands of lives;

(5) the United States should continue supporting the work of the GAVI Alliance and the Global Fund for Children’s Vaccines as appropriate and effective vehicles to purchase and distribute vaccines for neglected diseases at an affordable price once such vaccines are discovered in order to distribute them to the developing world;

(6) the United States should work with others in the international community to address the multiple obstacles to the development of vaccines for neglected diseases including scientific barriers, insufficient economic incentives, protracted regulatory procedures, lack of delivery systems for prod-

ucts once developed, liability risks, and intellectual property rights; and

(7) the United States should contribute to the pilot Advance Market Commitment for pneumococcal vaccines launched in Rome on February 9, 2007, which could prevent some 500,000 to 700,000 child deaths by the year 2020 and an estimated 5,400,000 child deaths by 2030.

SEC. 5. PUBLIC-PRIVATE PARTNERSHIPS.

(a) FINDINGS.—Congress makes the following findings:

(1) Partnerships between governments and the private sector (including foundations, universities, corporations, community-based organizations, and other nongovernmental organizations) are playing a critical role in the area of global health, particularly in the fight against neglected diseases, including HIV/AIDS, tuberculosis, and malaria.

(2) These public-private partnerships improve the delivery of health services in developing countries and accelerate research and development of vaccines and other preventive medical technologies essential to combating infectious diseases that disproportionately kill people in developing countries.

(3) These public-private partnerships maximize the unique capabilities of each sector while combining financial and other resources, scientific knowledge, and expertise toward common goals which cannot be achieved by either sector alone.

(4) Public-private partnerships such as the International AIDS Vaccine Initiative, PATH’s Malaria Vaccine Initiative, and the Global TB Drug Facility are playing cutting edge roles in the efforts to develop vaccines for these diseases.

(5) Public-private partnerships serve as incentives to the research and development of vaccines for neglected diseases by providing biotechnology companies, which often have no experience in developing countries, with technical assistance and on the ground support for clinical trials of the vaccine through the various stages of development.

(6) Sustaining existing public-private partnerships and building new ones where needed are essential to the success of the efforts by the United States and others in the international community to find a cure for these and other neglected diseases.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the sustainment and promotion of public-private partnerships must be a central element of the strategy pursued by the United States to create effective incentives for the development of vaccines and other preventive medical technologies for neglected diseases debilitating the developing world; and

(2) the United States Government should take steps to address the obstacles to the development of these technologies by increasing investment in research and development and establishing market and other incentives.

SEC. 6. COMPREHENSIVE STRATEGY FOR ACCELERATING THE DEVELOPMENT OF VACCINES FOR NEGLECTED DISEASES.

(a) REQUIREMENT FOR STRATEGY.—The President shall establish a comprehensive strategy to accelerate efforts to develop vaccines and microbicides for neglected diseases such as HIV/AIDS, malaria, and tuberculosis. Such strategy shall—

(1) expand public-private partnerships and seek to leverage resources from other countries and the private sector;

(2) include the negotiation of advance market commitments and other initiatives to create economic incentives for the research, development, and manufacturing of vaccines

and microbicides for HIV/AIDS, tuberculosis, malaria, and other neglected diseases;

(3) address intellectual property issues surrounding the development of vaccines and microbicides for neglected diseases;

(4) maximize United States capabilities to support clinical trials of vaccines and microbicides in developing countries;

(5) address the issue of regulatory approval of such vaccines and microbicides, whether through the Commissioner of the Food and Drug Administration, or the World Health Organization, or another entity; and

(6) expand the purchase and delivery of existing vaccines.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the President shall submit to the appropriate congressional committees a report setting forth the strategy described in subsection (a) and the steps to implement such strategy.

SEC. 7. ADVANCE MARKET COMMITMENTS.

(a) PURPOSE.—The purpose of this section is to improve global health by creating a competitive market for future vaccines through advance market commitments.

(b) AUTHORITY TO NEGOTIATE.—

(1) IN GENERAL.—The Secretary of the Treasury shall enter into negotiations with the appropriate officials of the World Bank, the International Development Association, and the GAVI Alliance, the member nations of such entities, and other interested parties for the purpose of establishing advance market commitments to purchase vaccines and microbicides to combat neglected diseases.

(2) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report on the status of the negotiations to create advance market commitments under this section. This report may be submitted as part of the report submitted under section 6(b).

(c) REQUIREMENTS.—The Secretary of the Treasury shall work with the entities referred to in subsection (b) to ensure that there is an international framework for the establishment and implementation of advance market commitments and that such commitments include—

(1) legally binding contracts for product purchase that include a fair market price for a guaranteed number of treatments to ensure that the market incentive is sufficient;

(2) clearly defined and transparent rules of competition for qualified developers and suppliers of the product;

(3) clearly defined requirements for eligible vaccines to ensure that they are safe and effective;

(4) dispute settlement mechanisms; and

(5) sufficient flexibility to enable the contracts to be adjusted in accord with new information related to projected market size and other factors while still maintaining the purchase commitment at a fair price.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2009 through 2014 to fund an advance market commitment pilot program for pneumococcal vaccines.

(2) AVAILABILITY.—Amounts appropriated pursuant to this subsection shall remain available until expended without fiscal year limitation.

By Mr. WARNER (for himself and Mr. WEBB):

S. 570. A bill to designate additional National Forest System lands in the State of Virginia as wilderness or a wilderness study area, to designate the Kimberling Creek Potential Wilderness Area for eventual incorporation in the

Kimberling Creek Wilderness, to establish the Seng Mountain and Bear Creek Scenic Areas, to provide for the development of trail plans for the wilderness areas and scenic areas, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. WARNER. Mr. President, I rise today to introduce the Virginia Ridge and Valley Act of 2007. This bill seeks to add six new wilderness areas, expand six existing wilderness areas, and create two new national scenic areas in the Jefferson National Forest. Today, Congressman RICK BOUCHER will join me by introducing companion legislation in the United States House of Representatives.

Throughout my nearly three decades in the United States Senate, I have strived to preserve Virginia's natural resources through the designation of wilderness areas and, today, I am proud to say that Virginia boasts just over 100,000 acres of designated wilderness lands. However, there is still much work to be done. If enacted, the Virginia Ridge and Valley Act of 2007 will substantially increase this figure by expanding our opportunities for uninterrupted enjoyment in the forest with the addition of nearly 43,000 acres of new wilderness and wilderness study lands and almost 12,000 acres of national scenic areas.

Virginia is blessed with great natural beauty and diversity. From the coves and inlets of the Chesapeake Bay, to the exquisite peaks of the Shenandoah Mountains, residents and visitors alike can enjoy a bountiful array of natural treasures. As demand for development in Virginia continues to increase, it is imperative that Congress act expeditiously to protect these wild lands. Through wilderness and national scenic area designations, we can ensure that these areas retain their natural character and influences.

As an avid outdoorsman, I enjoy opportunities for recreation like most Americans. Therefore, I want to stress the many joyful outdoor activities that will be enhanced by the wilderness designation in these areas, including: hunting, fishing, hiking, camping, canoeing, and horseback riding, to name a few. By designating these lands as wilderness and scenic areas, we ensure that Virginians will be able to enjoy these activities in an unspoiled playground for generations to come.

I am pleased that my colleague from Virginia, Senator JIM WEBB, has agreed to co-sponsor this important legislation, and I urge the rest of my colleagues to join me in support of this bill. I thank you for this opportunity to speak on behalf of the Virginia Ridge and Valley Act of 2007.

By Mr. KENNEDY (for himself,
Mr. SMITH, and Mr. DURBIN):

S. 572. A bill to ensure that Federal student loans are delivered as efficiently as possible in order to provide more grant aid to students; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, more than 40 years ago, Congress recognized the importance of a college education in opening the door to the American dream. We agreed then that no qualified student should be denied the opportunity to go to college because of the cost. Guided by that principle, we enacted the Higher Education Act of 1965.

Times have changed since then. College education has become even more critical to success in the global economy. Yet, Congress has shamefully lost sight of this fundamental principle, especially in recent years.

Today, 400,000 qualified students a year don't attend a four-year college because they can't afford it. The cost of college has more than tripled over the last twenty years, and vast numbers of families can't keep up. Twenty years ago, the maximum Pell Grant—the lifeline to college for low-income and first-generation students—covered more than half the cost of attendance at a typical four-year public college. Today, it only covers 32 percent.

Yet each year, the federal government wastes billions of taxpayer dollars on subsidies to private lenders to do a job that could be done much more efficiently without these middlemen.

At a time when students and families are pinching pennies more than ever to pay for college, we can't let this situation continue. We should use scarce tax dollars to help students, not banks.

The system we created 40 years ago involved federally-guaranteed student loans made by private lenders, and it's now known as the Federal Family Education Loan Program, or FFEL. At that time, Congress wasn't sure lenders would be willing to loan money to students with no credit history, so we created a system with guarantees against default. Four decades later, student default rates are near an all-time low and private lenders hold over \$100 billion in federal student loan volume. Federal guarantees and subsidies have made student loans the second most profitable business for banks, after credit cards. The stock price of the biggest lender, Sallie Mae, has skyrocketed from \$3 to more than \$40 in the last decade.

In 1994, Congress finally recognized that we could give students a better deal and save billions of dollars by cutting out the middleman. We created the Direct Loan program, in which loans are issued directly to students, from the United States Treasury. The loans are serviced and collected under contracts with private companies, but there is no middleman making the loans.

The Direct Loan program is much less expensive for taxpayers, because it provides loan capital at a lower rate than banks, and avoids billions of dollars in unnecessary subsidies to lenders.

If we had gone to a system of 100 percent Direct Loans in 1994, the government would have saved over \$30 billion

since the program was created. Unfortunately, because of the lobbying of the private lenders, the FFEL program continues, and the Direct Loan program has never been allowed to compete on a level playing field.

As a result, we continue to waste taxpayer money by paying an unnecessary middleman, we shield lenders from risk, and we continue to guarantee them a very profitable return.

It's time to encourage serious competition in the college loan marketplace, and let students reap the benefits.

Today, Senator GORDON SMITH (R-OR), Congressmen GEORGE MILLER (D-CA) and TOM PETRI (R-WI) and I are proposing a bipartisan plan to do that. Our bill will increase student financial aid by squeezing billions of dollars in corporate welfare out of the student loan program.

Our bill, The Student Aid Reward Act, will provide colleges and universities with grant aid to increase scholarships for their students. It is completely paid for by increased efficiency in delivering student loans. The bill encourages colleges to use the direct loans, which are cheaper for both the government and taxpayers, and allows them to keep half the savings to increase need-based aid. The Congressional Budget Office estimates that our plan will generate \$13 billion in savings over the next 10 years from schools switching to the more efficient program. The bill would provide at least \$10 billion for additional college scholarship aid at no additional cost to taxpayers.

According to President Bush's 2008 education budget, student loans made through the more expensive FFEL program in 2007 cost \$3 more for every \$100 in loans than the same loans made directly from the Treasury. Yet, colleges and students have no incentive under current law to use the more efficient program.

Our Student Aid Reward Act encourages colleges to choose the less expensive of the government's student loan programs.

It requires the Secretary of Education to determine every year which loan program is more efficient. Schools are rewarded with additional scholarship funds for using the more efficient of the two programs. Competition will encourage both programs to improve the efficiency of their operations. Schools, students, and taxpayers will all benefit.

Estimates based on the most recent Bush Administration budget indicate that under our plan, each college will receive an incentive payment equal to one and a half percent of the total amount borrowed by students at the college.

In Massachusetts: students at Boston College will receive almost \$1.4 million in additional financial aid. Students at UMASS Amherst will receive \$1.3 million more. Students at Springfield College will receive over \$700,000 more.

Students at Emerson College would receive nearly half a million dollars more.

For students nationwide, college will be more affordable for millions of young men and women at no additional taxpayer cost.

Title IV of the Higher Education Act today is called "Student Assistance"—not "Lender Assistance." The federal student aid system was created to help students and families afford college. But in recent years, it has been corrupted into a system that lines the pockets of the banks. It's time to throw the private money lenders out of the temple of higher education. Scarce Federal education dollars should go to deserving students, not greedy private lenders.

Mr. President, I ask unanimous consent that the text of the Student Aid Reward Act of 2007 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. 572

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Student Aid Reward Act of 2007".

SEC. 2. STUDENT AID REWARD PROGRAM.

Part G of title IV of the Higher Education Act of 1965 (20 U.S.C. 1088 et seq.) is amended by inserting after section 489 the following:

"SEC. 489A. STUDENT AID REWARD PROGRAM.

"(a) PROGRAM AUTHORIZED.—The Secretary shall carry out a Student Aid Reward Program to encourage institutions of higher education to participate in the student loan program under this title that is most cost-effective for taxpayers.

"(b) PROGRAM REQUIREMENTS.—In carrying out the Student Aid Reward Program, the Secretary shall—

"(1) provide to each institution of higher education participating in the student loan program under this title that is most cost-effective for taxpayers, a Student Aid Reward Payment, in an amount determined in accordance with subsection (c), to encourage the institution to participate in that student loan program;

"(2) require each institution of higher education receiving a payment under this section to provide student loans under such student loan program for a period of 5 years after the date the first payment is made under this section;

"(3) where appropriate, require that funds paid to institutions of higher education under this section be used to award students a supplement to such students' Federal Pell Grants under subpart 1 of part A;

"(4) permit such funds to also be used to award need-based grants to lower- and middle-income graduate students; and

"(5) encourage all institutions of higher education to participate in the Student Aid Reward Program under this section.

"(c) AMOUNT.—The amount of a Student Aid Reward Payment under this section shall be not less than 50 percent of the savings to the Federal Government generated by the institution of higher education's participation in the student loan program under this title that is most cost-effective for taxpayers instead of the institution's participation in the student loan program that is not most cost-effective for taxpayers.

"(d) TRIGGER TO ENSURE COST NEUTRALITY.—

"(1) LIMIT TO ENSURE COST NEUTRALITY.—Notwithstanding subsection (c), the Secretary shall not distribute Student Aid Reward Payments under the Student Aid Reward Program that, in the aggregate, exceed the Federal savings resulting from the implementation of the Student Aid Reward Program.

"(2) FEDERAL SAVINGS.—In calculating Federal savings, as used in paragraph (1), the Secretary shall determine Federal savings on loans made to students at institutions of higher education that participate in the student loan program under this title that is most cost-effective for taxpayers and that, on the date of enactment of this section, participated in the student loan program that is not most cost-effective for taxpayers, resulting from the difference of—

"(A) the Federal cost of loan volume made under the student loan program under this title that is most cost-effective for taxpayers; and

"(B) the Federal cost of an equivalent type and amount of loan volume made, insured, or guaranteed under the student loan program under this title that is not most cost-effective for taxpayers.

"(3) DISTRIBUTION RULES.—If the Federal savings determined under paragraph (2) is not sufficient to distribute full Student Aid Reward Payments under the Student Aid Reward Program, the Secretary shall—

"(A) first make Student Aid Reward Payments to those institutions of higher education that participated in the student loan program under this title that is not most cost-effective for taxpayers on the date of enactment of this section; and

"(B) with any remaining Federal savings after making Student Aid Reward Payments under subparagraph (A), make Student Aid Reward Payments to the institutions of higher education eligible for a Student Aid Reward Payment and not described in subparagraph (A) on a pro-rata basis.

"(4) DISTRIBUTION TO STUDENTS.—Any institution of higher education that receives a Student Aid Reward Payment under this section—

"(A) shall distribute, where appropriate, part or all of such payment among the students of such institution who are Federal Pell Grant recipients by awarding such students a supplemental grant; and

"(B) may distribute part of such payment as a supplemental grant to graduate students in financial need.

"(5) ESTIMATES, ADJUSTMENTS, AND CARRY OVER.—

"(A) ESTIMATES AND ADJUSTMENTS.—The Secretary shall make Student Aid Reward Payments to institutions of higher education on the basis of estimates, using the best data available at the beginning of an academic or fiscal year. If the Secretary determines thereafter that loan program costs for that academic or fiscal year were different than such estimate, the Secretary shall adjust by reducing or increasing subsequent Student Aid Reward Payments paid to such institutions of higher education to reflect such difference.

"(B) CARRY OVER.—Any institution of higher education that receives a reduced Student Aid Reward Payment under paragraph (3)(B), shall remain eligible for the unpaid portion of such institution's financial reward payment, as well as any additional financial reward payments for which the institution is otherwise eligible, in subsequent academic or fiscal years.

"(e) DEFINITIONS.—In this section:

"(1) The term 'student loan program under this title that is most cost-effective for taxpayers' means the loan program under part B

or D of this title that has the lowest overall cost to the Federal Government (including administrative costs) for the loans authorized by such parts.

"(2) The term 'student loan program under this title that is not most cost-effective for taxpayers' means the loan program under part B or D of this title that does not have the lowest overall cost to the Federal Government (including administrative costs) for the loans authorized by such parts."

By Ms. STABENOW (for herself, Ms. MURKOWSKI, Ms. COLLINS, Ms. SNOWE, Mr. AKAKA, Mr. COCHRAN, and Mr. MENENDEZ):

S. 573. A bill to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the prevention, diagnosis, and treatment of heart disease, stroke, and other cardiovascular diseases in women; to the Committee on Health, Education, Labor, and Pensions.

Ms. MURKOWSKI. Mr. President, February is American Heart Month, and heart disease remains the Nation's leading cause of death.

Many women believe that heart disease is a man's disease and, unfortunately, do not review it as a serious health threat. However, every year, since 1984, cardiovascular disease claims the lives of more women than men. In fact, cardiovascular disease death rates have declined significantly in men since 1979, while the death rate for women hasn't experienced the same rate of decline. The numbers are disturbing: cardiovascular diseases claim the lives of more than 460,000 women per year; that's nearly a death a minute among females and nearly 12 times as many lives as claimed by breast cancer. One in three females has some form of cardiovascular disease. And one in four females dies from heart disease.

That is why I am pleased to join my colleague from Michigan, Senator STABENOW, to introduce important legislation, the HEART for Women Act, or Heart Disease Education, Analysis and Research, and Treatment for Women Act. This important bill improves the prevention, diagnosis and treatment of heart disease and stroke in women.

In my State of Alaska—taken together—heart disease, stroke and other cardiovascular diseases are also the leading cause of death, totaling nearly 800 deaths each year. Women in Alaska have higher death rates from stroke than do women nationally. Mortality among Native Alaskan women is dramatically on the rise, whereas, it is actually declining among Caucasian women in the Lower 48.

Despite being the number one killer, many women and their health care providers do not know that the biggest health care threat to women is heart disease. In fact, a recent survey found that 43 percent of women still don't know that heart disease is the number one killer of women.

Perhaps even more troubling, is the lack of awareness among health care providers. According to American

Heart Association figures, less than one in five physicians recognize that more women suffer from heart disease than men. Among primary care physicians, only 8 percent of primary care physicians—and even more astounding—only 17 percent of cardiologists recognize that more women die of heart disease than men. Additionally, studies show that women are less likely to receive aggressive treatment because heart disease often manifests itself differently in women than men.

This is why the HEART Act is so important. Our bill takes a three-pronged approach to reducing the heart disease death rate for women, through; 1. education; 2. research; and, 3. screening.

First, the bill would authorize the Department of Health and Human Services to educate healthcare professionals and older women about unique aspects of care in the prevention, diagnosis and treatment of women with heart disease and stroke.

Second, the bill would require disclosure of gender-specific health information that is already being reported to the Federal Government. Many agencies already collect information based on gender, but do not disseminate or analyze the gender differences. This bill would release that information so that it could be studied, and important health trends in women could be detected.

Lastly, the bill would authorize the expansion of the Centers for Disease Control and Prevention's WISEWOMAN program (the Well-Integrated Screening and Evaluation for Women Across the Nation program). The WISEWOMAN program provides free heart disease and stroke screening to low-income uninsured women, but the program is currently limited to just 14 States.

My State of Alaska is fortunate to have two WISEWOMAN program sites. These programs screen for high blood pressure, cholesterol and glucose in Native Alaskan women and provide invaluable counseling on diet and exercise. One program in Alaska alone has successfully screened 1,437 Alaskan Native women and has provided them with a culturally appropriate intervention program that has produced life-saving results.

Mr. President, heart disease, stroke and other cardiovascular diseases cost Americans more than any other disease—an estimated \$430 billion in 2007, including more than \$280 billion in direct medical costs. To put that number in perspective, that's about the same as the projected Federal deficit for 2007. We, as a nation, can control those costs—prevention through early detection is the most cost-effective way to combat this disease.

Tomorrow, as we celebrate Valentine's Day and see images of hearts just about everywhere, let us not forget that the heart is much more than a symbol—it is a vital organ that can't be taken for granted. Coronary disease can be effectively treated and some-

times even prevented—it does not have to be the number one cause of death in women. And, that is why I encourage my colleagues to support the HEART for Women Act.

By Mr. REID:

S. 574. A bill to express the sense of Congress on Iraq; read the first time.

Mr. REID. 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. 574

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

SECTION 1. SENSE OF CONGRESS ON IRAQ.

It is the sense of Congress that—

(1) Congress and the American people will continue to support and protect the members of the United States Armed Forces who are serving or who have served bravely and honorably in Iraq; and

(2) Congress disapproves of the decision of President George W. Bush announced on January 10, 2007, to deploy more than 20,000 additional United States combat troops to Iraq.

SEC. 2. FREQUENCY OF REPORTS ON CERTAIN ASPECTS OF POLICY AND OPERATIONS.

The United States Policy in Iraq Act (section 1227 of Public Law 109-163; 119 Stat. 3465; 50 U.S.C. 1541 note) is amended by adding at the end the following new subsection:

“(d) FREQUENCY OF REPORTS ON CERTAIN ASPECTS OF UNITED STATES POLICY AND MILITARY OPERATIONS IN IRAQ.—Not later than 30 days after the date of the enactment of this subsection, and every 30 days thereafter until all United States combat brigades have redeployed from Iraq, the President shall submit to Congress a report on the matters set forth in paragraphs (1)(A), (1)(B), and (2) of subsection (c). To the maximum extent practicable each report shall be unclassified, with a classified annex if necessary.”

By Mr. DOMENICI (for himself, Mr. DORGAN, Mrs. HUTCHISON, Mr. KYL, and Mrs. MURRAY)

S. 575. A bill to authorize appropriations for border and transportation security personnel and technology, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. DOMENICI. Mr. President, I rise today with Senator DORGAN to introduce a bill of critical importance to the security of our borders: the Border Infrastructure and Technology Modernization Act.

It was two decades ago when an American border last underwent a comprehensive infrastructure overhaul. That was when Senator Dennis DeConcini of Arizona and I put forth a \$357 million effort to modernize the southwest border. A great deal has changed since 1986, and more importantly, since September 11, 2001. Congress has acted to improve security at airports and seaports, but we have not yet addressed our busiest ports, located on our land borders. This is where our infrastructure is its weakest, and we must act to prevent terrorists from exploiting this weakness. It is critical that we give our northern and southern borders the

resources they need to address their vulnerabilities.

In 2001, the General Services Administration completed a comprehensive assessment of infrastructure needs on the southwestern and northern borders of the United States. This assessment found that overhauling both borders would cost \$784 million.

Since the publication of that assessment, many of the needs identified remain outstanding, and new needs have arisen as facilitating commerce has become more complicated in the face of new security concerns.

Congress must address these needs. We must give the Department of Homeland Security the tools it needs to secure our borders. The Border Infrastructure and Technology Modernization Act creates a number of those tools.

The bill requires the General Service Administration (GSA) to identify port of entry infrastructure and technology improvement projects that would enhance homeland security. The GSA would work with the Department of Homeland Security to prioritize and implement these projects based on need.

The Secretary of Homeland Security would have to prepare a Land Border Security Plan to assess the vulnerabilities at each port of entry on the northern border and the southern border. This plan will require the cooperation of Federal, State and local entities involved at our borders to ensure that the individuals with first hand knowledge of our border needs are consulted about the plan.

My bill would also modernize homeland security along the United States' borders by implementing a program to test and evaluate new technologies.

Because equipment and technology alone will not solve the security problems on our border, these test sites will also house facilities so personnel who must use these technologies can train under realistic conditions.

I believe that these measures are an important part of addressing this nation's homeland security needs, and I am pleased to introduce the bill with Senator DORGAN.

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. 575

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 “Border Infrastructure and Technology Modernization Act of 2007”.

SEC. 2. DEFINITIONS.

In this Act:

(1) COMMISSIONER.—The term “Commissioner” means the Commissioner responsible for United States Customs and Border Protection of the Department of Homeland Security.

(2) MAQUILADORA.—The term “maquiladora” means an entity located in

Mexico that assembles and produces goods from imported parts for export to the United States.

(3) **NORTHERN BORDER.**—The term “northern border” means the international border between the United States and Canada.

(4) **SOUTHERN BORDER.**—The term “southern border” means the international border between the United States and Mexico.

(5) **UNDER SECRETARY.**—The term “Under Secretary” means the Under Secretary for Border and Transportation Security of the Department of Homeland Security.

SEC. 3. HIRING AND TRAINING OF BORDER AND TRANSPORTATION SECURITY PERSONNEL.

(a) **INSPECTORS AND AGENTS.**—

(1) **INCREASE IN INSPECTORS AND AGENTS.**—During each of fiscal years 2008 through 2012, the Under Secretary shall—

(A) increase the number of full-time agents and associated support staff in the Bureau of Immigration and Customs Enforcement of the Department of Homeland Security by the equivalent of at least 100 more than the number of such employees in the Bureau as of the end of the preceding fiscal year; and

(B) increase the number of full-time inspectors and associated support staff in the Bureau of Customs and Border Protection by the equivalent of at least 200 more than the number of such employees in the Bureau as of the end of the preceding fiscal year.

(2) **WAIVER OF FTE LIMITATION.**—The Under Secretary is authorized to waive any limitation on the number of full-time equivalent personnel assigned to the Department of Homeland Security to fulfill the requirements of paragraph (1).

(b) **TRAINING.**—The Under Secretary shall provide appropriate training for agents, inspectors, and associated support staff of the Department of Homeland Security on an ongoing basis to utilize new technologies and to ensure that the proficiency levels of such personnel are acceptable to protect the borders of the United States.

SEC. 4. PORT OF ENTRY INFRASTRUCTURE ASSESSMENT STUDY.

(a) **REQUIREMENT TO UPDATE.**—Not later than January 31 of each year, the Administrator of General Services shall update the Port of Entry Infrastructure Assessment Study prepared by the United States Customs Service, the Immigration and Naturalization Service, and the General Services Administration in accordance with the matter relating to the ports of entry infrastructure assessment that is set out in the joint explanatory statement in the conference report accompanying H.R. 2490 of the 106th Congress, 1st session (House of Representatives Rep. No. 106-319, on page 67) and submit such updated study to Congress.

(b) **CONSULTATION.**—In preparing the updated studies required in subsection (a), the Administrator of General Services shall consult with the Director of the Office of Management and Budget, the Under Secretary, and the Commissioner.

(c) **CONTENT.**—Each updated study required in subsection (a) shall—

(1) identify port of entry infrastructure and technology improvement projects that would enhance border security and facilitate the flow of legitimate commerce if implemented;

(2) include the projects identified in the National Land Border Security Plan required by section 5; and

(3) prioritize the projects described in paragraphs (1) and (2) based on the ability of a project to—

(A) fulfill immediate security requirements; and

(B) facilitate trade across the borders of the United States.

(d) **PROJECT IMPLEMENTATION.**—The Commissioner shall implement the infrastruc-

ture and technology improvement projects described in subsection (c) in the order of priority assigned to each project under paragraph (3) of such subsection.

(e) **DIVERGENCE FROM PRIORITIES.**—The Commissioner may diverge from the priority order if the Commissioner determines that significantly changed circumstances, such as immediate security needs or changes in infrastructure in Mexico or Canada, compellingly alter the need for a project in the United States.

SEC. 5. NATIONAL LAND BORDER SECURITY PLAN.

(a) **REQUIREMENT FOR PLAN.**—Not later than January 31 of each year, the Under Secretary shall prepare a National Land Border Security Plan and submit such plan to Congress.

(b) **CONSULTATION.**—In preparing the plan required in subsection (a), the Under Secretary shall consult with the Under Secretary for Information Analysis and Infrastructure Protection and the Federal, State, and local law enforcement agencies and private entities that are involved in international trade across the northern border or the southern border.

(c) **VULNERABILITY ASSESSMENT.**—

(1) **IN GENERAL.**—The plan required in subsection (a) shall include a vulnerability assessment of each port of entry located on the northern border or the southern border.

(2) **PORT SECURITY COORDINATORS.**—The Under Secretary may establish 1 or more port security coordinators at each port of entry located on the northern border or the southern border—

(A) to assist in conducting a vulnerability assessment at such port; and

(B) to provide other assistance with the preparation of the plan required in subsection (a).

SEC. 6. EXPANSION OF COMMERCE SECURITY PROGRAMS.

(a) **CUSTOMS-TRADE PARTNERSHIP AGAINST TERRORISM.**—

(1) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this Act, the Commissioner, in consultation with the Under Secretary, shall develop a plan to expand the size and scope (including personnel needs) of the Customs-Trade Partnership Against Terrorism programs along the northern border and southern border, including—

(A) the Business Anti-Smuggling Coalition;

(B) the Carrier Initiative Program;

(C) the Americas Counter Smuggling Initiative;

(D) the Container Security Initiative;

(E) the Free and Secure Trade Initiative; and

(F) other Industry Partnership Programs administered by the Commissioner.

(2) **SOUTHERN BORDER DEMONSTRATION PROGRAM.**—Not later than 180 days after the date of the enactment of this Act, the Commissioner shall establish a demonstration program along the southern border for the purpose of implementing at least one Customs-Trade Partnership Against Terrorism program along that border. The Customs-Trade Partnership Against Terrorism program selected for the demonstration program shall have been successfully implemented along the northern border as of the date of the enactment of this Act.

(b) **MAQUILADORA DEMONSTRATION PROGRAM.**—Not later than 180 days after the date of the enactment of this Act, the Commissioner shall establish a demonstration program to develop a cooperative trade security system to improve supply chain security.

SEC. 7. PORT OF ENTRY TECHNOLOGY DEMONSTRATION PROGRAM.

(a) **ESTABLISHMENT.**—The Under Secretary shall carry out a technology demonstration

program to test and evaluate new port of entry technologies, refine port of entry technologies and operational concepts, and train personnel under realistic conditions.

(b) **TECHNOLOGY AND FACILITIES.**—

(1) **TECHNOLOGY TESTED.**—Under the demonstration program, the Under Secretary shall test technologies that enhance port of entry operations, including those related to inspections, communications, port tracking, identification of persons and cargo, sensory devices, personal detection, decision support, and the detection and identification of weapons of mass destruction.

(2) **FACILITIES DEVELOPED.**—At a demonstration site selected pursuant to subsection (c)(2), the Under Secretary shall develop facilities to provide appropriate training to law enforcement personnel who have responsibility for border security, including cross-training among agencies, advanced law enforcement training, and equipment orientation.

(c) **DEMONSTRATION SITES.**—

(1) **NUMBER.**—The Under Secretary shall carry out the demonstration program at not less than 3 sites and not more than 5 sites.

(2) **SELECTION CRITERIA.**—To ensure that at least 1 of the facilities selected as a port of entry demonstration site for the demonstration program has the most up-to-date design, contains sufficient space to conduct the demonstration program, has a traffic volume low enough to easily incorporate new technologies without interrupting normal processing activity, and can efficiently carry out demonstration and port of entry operations, at least 1 port of entry selected as a demonstration site shall—

(A) have been established not more than 15 years before the date of the enactment of this Act;

(B) consist of not less than 65 acres, with the possibility of expansion onto not less than 25 adjacent acres; and

(C) have serviced an average of not more than 50,000 vehicles per month in the 12 full months preceding the date of the enactment of this Act.

(d) **RELATIONSHIP WITH OTHER AGENCIES.**—The Under Secretary shall permit personnel from an appropriate Federal or State agency to utilize a demonstration site described in subsection (c) to test technologies that enhance port of entry operations, including those related to inspections, communications, port tracking, identification of persons and cargo, sensory devices, personal detection, decision support, and the detection and identification of weapons of mass destruction.

(e) **REPORT.**—

(1) **REQUIREMENT.**—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Under Secretary shall submit to Congress a report on the activities carried out at each demonstration site under the technology demonstration program established under this section.

(2) **CONTENT.**—The report shall include an assessment by the Under Secretary of the feasibility of incorporating any demonstrated technology for use throughout the Bureau of Customs and Border Protection.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—In addition to any funds otherwise available, there are authorized to be appropriated—

(1) to carry out the provisions of section 3, such sums as may be necessary for the fiscal years 2008 through 2012;

(2) to carry out the provisions of section 4—

(A) to carry out subsection (a) of such section, such sums as may be necessary for the fiscal years 2008 through 2012; and

(B) to carry out subsection (d) of such section—

(i) \$100,000,000 for each of the fiscal years 2008 through 2012; and

(ii) such sums as may be necessary in any succeeding fiscal year;

(3) to carry out the provisions of section 6—

(A) to carry out subsection (a) of such section—

(i) \$30,000,000 for fiscal year 2008, of which \$5,000,000 shall be made available to fund the demonstration project established in paragraph (2) of such subsection; and

(ii) such sums as may be necessary for the fiscal years 2009 through 2012; and

(B) to carry out subsection (b) of such section—

(i) \$5,000,000 for fiscal year 2008; and

(ii) such sums as may be necessary for the fiscal years 2009 through 2012; and

(4) to carry out the provisions of section 7, provided that not more than \$10,000,000 may be expended for technology demonstration program activities at any 1 port of entry demonstration site in any fiscal year—

(A) \$50,000,000 for fiscal year 2008; and

(B) such sums as may be necessary for each of the fiscal years 2009 through 2012.

(b) INTERNATIONAL AGREEMENTS.—Funds authorized in this Act may be used for the implementation of projects described in the Declaration on Embracing Technology and Cooperation to Promote the Secure and Efficient Flow of People and Commerce across our Shared Border between the United States and Mexico, agreed to March 22, 2002, Monterrey, Mexico (commonly known as the Border Partnership Action Plan) or the Smart Border Declaration between the United States and Canada, agreed to December 12, 2001, Ottawa, Canada that are consistent with the provisions of this Act.

By Mr. DODD (for himself, Mr. LEAHY, Mr. FEINGOLD, and Mr. MENENDEZ):

S. 576. A bill to provide for the effective prosecution of terrorists and guarantee due process rights; to the Committee on Armed Services.

Mr. DODD. Mr. President, I rise today to introduce the Restoring the Constitution Act of 2007—a bill to provide for the effective prosecution of terrorists and guarantee due process rights. I am pleased to be joined by Senators LEAHY, FEINGOLD, and MENENDEZ as original sponsors. This bill would make significant important changes to the Military Commissions Act of 2006 which became law last October.

I have served in this body for more than a quarter-century, but I remember few days darker than September 28, 2006, the day the Senate passed President Bush's Military Commissions Act. Let me be honest with you, I believe this body gave in to fear that day. I believe we looked for refuge in the rule of men, when we should have trusted in the rule of law.

Restoring the Constitution Act of 2007 is more than mere tinkering with provisions of the Military Commissions Act. This legislation, which is similar to the bill that I introduced in the last Congress, makes major and important changes to that law in order to ensure we have the essential legal tools to achieve a lasting American victory without violating American values.

What does this proposed legislation do?

It restores the writ of habeas corpus for individuals held in U.S. custody.

It narrows the definition of unlawful enemy combatant to individuals who directly participate in hostilities against the United States in a zone of active combat, who are not lawful combatants.

It requires that the United States live up to its Geneva Convention obligations by deleting a prohibition in the law that bars detainees from invoking Geneva Conventions as a source of rights at trial.

It permits the accused to retain qualified civilian attorneys to represent them at trial.

It prevents the use of evidence in court gained through the unreliable and immoral practices of torture and coercion.

It charges the military judge with the responsibility for ensuring that the jury is appropriately informed as to the sources, methods and activities associated with developing out of court statements proposed to be introduced at trial, or alternatively that the statement is not introduced.

It empowers military judges to exclude hearsay evidence they deem to be unreliable.

It authorizes the U.S. Court of Appeals for the Armed Forces to review decisions by the military commissions.

It limits the authority of the President to interpret the meaning and application of the Geneva Conventions and makes that authority subject to congressional and judicial oversight.

It clarifies the definition of war crimes in statute to include certain violations of the Geneva Conventions.

Finally, it provides for expedited judicial review of the Military Commissions Act of 2006 to determine the constitutionality of its provisions.

To be clear—I absolutely believe that under very clearly proscribed circumstances military commissions can be a useful instrument for bringing our enemies to justice. But those who ask us to choose between national security and moral authority are offering us a false choice, and a dangerous one. Our Nation has been defeating tyrants and would-be tyrants for more than two centuries. And in all that struggle, we've never sold our principles—because if we did, we would be walking in the footsteps of those we most despise.

In times of peril, throwing away due process has been a constant temptation—but that is why we honor so highly those who resisted it. At Nuremberg, America rejected the certainty of execution for the uncertainty of a trial, and gave birth to a half-century of moral authority. Today I am asking my colleagues to reclaim that tradition, to put the principles of the Constitution above the passion of the moment. That reclamation can begin today—if we remedy President Bush's repugnant law. We can do it—and keep America Secure at the same time.

Freedom from torture. The right to counsel. Habeas corpus. To be honest,

it still amazes me that we have to come to the floor of the Senate to debate these protections at all. What would James Madison have said if you told him that someday in the future, a Senator from Connecticut would be forced to publicly defend habeas corpus, the defendant's right to a day in court, the foundation of Our legal system dating back to the 13 century? What have we come to that such long-settled, long-honored rights have been called into question?

But here we are. And now it is upon us to renew them. I'd like to talk in detail about several key components of my legislation. The Military Commissions Act eliminated habeas corpus. Habeas corpus allows a person held by the government to question the legality of his detention. In my view, to deny this right not only undermines the rule of law, but damages the very fabric of America. It is not who we are, and it is not who we aspire to be. My bill reopens the doors to the Court house by restoring the writ of habeas corpus for individuals held in U.S. custody.

By approving the Military Commissions Act, Congress abdicated its constitutionally-mandated authority and responsibility to safeguard this principle and serve as a co-equal check on the executive branch. This law confers an unprecedented level of power on the president, allowing him the sole right to designate any individual as an "unlawful enemy combatant" if he or she engaged in hostilities or supported hostilities against the United States. In my view and in the view of many legal experts, this definition of "unlawful enemy combatant" is unmanageably vague. As we have all seen, "unlawful enemy combatants" are subject to arrest and indefinite detention, in many cases without ever being charged with a crime, let alone being found guilty. My bill would curtail potential abuse of the unlawful enemy combatant designation by narrowing the definition of unlawful enemy combatant to individuals who directly participate in hostilities against the United States in "a zone of active combat", and who are not lawful combatants. This correction is desperately needed to restore America's standing in the world and to right injustices that have recently been documented by international human rights organizations.

According to the Pentagon, last October, only 70 out of the 435 detainees housed at U.S. prison camps were expected to face a military trial, leaving hundreds of others to be held indefinitely. And while the Pentagon acknowledges that at least 110 of these detainees were labeled "ready to release," for some reason they have been kept under lock and key. Then there are stories such as the one about Asif Iqbal, a British humanitarian aid volunteer who, according to a January 10, 2007 Associated Press story, was mistakenly captured in Afghanistan and subjected to isolation, painful positioning, screeching music, strobe

lights, sleep deprivation, and extreme temperatures. After three months, of enduring such treatment, Iqbal was released in 2004 without any charges brought against him.

Such sordid episodes have gravely undermined our apparent commitment to the Geneva Conventions and damaged our status both at home and in the global community. By failing to reaffirm our obligations under these vital treaties, the Military Commissions Act has only further eroded America's moral authority and perhaps ceded our nation's status as the leading proponent of international law and human rights. For this reason, the legislation I am offering today will reaffirm our obligations under the Geneva Conventions in several key ways. First, it would allow detainees to invoke the Geneva Conventions as a source of rights in their trials, overturning a ban put in place by the Military Commissions Act. Second, this legislation will limit the authority of the President to interpret and redefine the meaning and application of the Geneva Conventions by subjecting this authority to Congressional and judicial oversight. Lastly, my bill would statutorily define certain violations of the Geneva Conventions as war crimes. These provisions are all vitally important in allowing the United States to effectively wage the war on terror. The war that we are currently waging requires increasing international cooperation, but the President's plan puts us on a path of increasing isolation from even our staunchest allies.

Furthermore, this path is undermining our government's commitments to fundamental tenets of the American legal system. One of these tenets entails the right of the accused not only to confront his/her accuser but also to retain an attorney to represent him/her at trial. This is a basic right afforded to even the most egregious criminals under domestic law. And yet, under the administration's plan, this measure is being abandoned. In response, my bill sets standards for legal representation and allows for civilian legal counsel in military commission proceedings.

Even more importantly, my bill improves on these proceedings by prohibiting the use in court of any evidence that was gained through the unreliable and immoral practices of coercion. Incredibly, the Military Commissions Act lacks this blanket ban on evidence gained through torture. This is critically important for two very different reasons. Torture has been proven to be ineffective in interrogations, yielding highly unreliable information because a detainee, hoping to end the pain, will simply say whatever he believes an interrogator wants to hear. Second, torture allows foreign militaries to mistreat future American prisoners of war and use U.S. actions as an excuse. No one has said it with more authority than our colleague, Senator JOHN MCCAIN.

As he stated last year, "the intelligence we collect must be reliable and

acquired humanely, under clear standards understood by all our fighting men and women . . . the cruel actions of a few to darken the reputation of our country in the eyes of millions."

To address these concerns, my bill restores to military judges the responsibility of ensuring that information introduced at trial has not been obtained through methods defined as cruel, inhuman, or degrading treatment by the Detainee Treatment Act of 2005. Sadly, the Military Commissions Act shows disrespect for and mistrust of the highly trained professionals on our military's bench by stripping them of autonomy and authority. The legislation I am proposing today empowers military judges to exclude hearsay evidence they deem to be unreliable. In addition, this bill will grant military judges discretion in the event that classified evidence has a bearing on the innocence of an individual but is excluded due to national security concerns and declassified alternatives are insufficient. America's military judges have been fully trained and prepared to handle classified information. The Bush administration's failure to recognize this fact is an insult to the men and women of our military's bench and an affront to our military's justice system.

Unlike the current administration, I trust our courts to be able to handle the delicate legal and national security issues inherent in the cases involving so-called unlawful enemy combatants. This legislation therefore provides for appeals of the military commissions' decisions to be heard by the U.S. Court of Appeals for the Armed Forces. In my view, the right to an appeal is one of the most fundamental rights granted to anyone in our justice system. We grant appeals to people accused of some of the most heinous crimes imaginable. We do this because we know that courts are not infallible. They can err in their decisions, and in order for these mistakes to be rectified and to avoid punishing innocent men and women, appeals must be allowed.

All of these provisions are important. But perhaps none is more urgent than the final measure in my bill, which requires expedited judicial review of the Military Commissions Act of 2006 to determine the constitutionality of its provisions. I believe that the United States Congress made a crucial mistake—that is why we must ensure that each provision of the Administration's Military Commissions Act is quickly reviewed by our Nation's courts. I believe that upon such review, those best qualified to make these judgments—members of our esteemed judiciary—will see to it that the most egregious provisions of this act will be overturned.

All 100 members of this body have been given the gravest of responsibilities. The people of this country have entrusted us with this Nation's security; and they have entrusted us with this Nation's principles. But those who

argue that our principles stand in the way of our security are sadly, sorely mistaken: They are the source of our strength.

Five months ago, we departed from that source. But it is not too late to turn back. It is not too late to redeem our error. I implore my colleagues to join me.

Mr. FEINGOLD. Mr. President, I am pleased to cosponsor the Restoring the Constitution Act of 2007, which was introduced today by Senator DODD. It amends the deeply flawed Military Commissions Act of 2006 to restore basic due process rights and to ensure that no person is subject to indefinite detention without charge based on the sole discretion of the President.

Let me be clear: I welcome efforts to bring terrorists to justice. This administration has for too long been distracted by the war in Iraq from the fight against al Qaeda. We need a renewed focus on the terrorist networks that present the greatest threat to this country.

Last year, the President agreed to consult with Congress on the makeup of military commissions only because he was essentially ordered to do so by the Supreme Court in the Hamdan decision. Congress should have taken that opportunity to pass legislation that would allow these trials to proceed in accordance with our laws and our values. That is what separates America from our enemies. These trials, conducted appropriately, would have had the potential to demonstrate to the world that our democratic, constitutional system of government is not a hindrance but a source of strength in fighting those who attacked us.

Instead, we passed the Military Commissions Act, legislation that violates the basic principles and values of our constitutional system of government. It allows the government to seize individuals on American soil and detain them indefinitely with no opportunity for them to challenge their detention in court. And the new law would permit an individual to be convicted on the basis of coerced testimony and even allow someone convicted under these rules to be put to death.

The checks and balances of our system of government and the fundamental fairness of the American people and legal system are among our greatest strengths in the fight against terrorism. I was deeply disappointed that Congress enacted the Military Commissions Act. The day that bill became law was a stain on our Nation's history.

It is time to undo the harm caused by that legislation.

The Restoring the Constitution Act amends the Military Commissions Act to remedy its most serious flaws, and I am pleased to support it.

First of all, this legislation would restore the great writ of habeas corpus, to ensure that detainees at Guantanamo Bay and elsewhere—people who have been held for years but have not

been tried or even charged with any crime—have the ability to challenge their detention in court. Senator DODD's bill would repeal the habeas stripping provisions of both the Military Commissions Act and the Detainee Treatment Act.

Habeas corpus is a fundamental recognition that in America, the government does not have the power to detain people indefinitely and arbitrarily. And that in America, the courts must have the power to review the legality of executive detention decisions.

Habeas corpus is a longstanding vital part of our American tradition, and is enshrined in the U.S. Constitution.

As a group of retired judges wrote to Congress last year, habeas corpus "safeguards the most hallowed judicial role in our constitutional democracy—ensuring that no man is imprisoned unlawfully."

The Military Commissions Act fundamentally altered that historical equation. Faced with an executive branch that has detained hundreds of people without trial for years now, it eliminated the right of habeas corpus.

Under the Military Commissions Act, some individuals, at the designation of the executive branch alone, could be picked up, even in the United States, and held indefinitely without trial, without due process, without any access whatsoever to the courts. They would not be able to call upon the laws of our great nation to challenge their detention because they would have been put outside the reach of the law.

That is unacceptable, and it almost surely violates our Constitution. But that determination will take years of protracted litigation. Under the Dodd bill, we would not have to wait. We would restore the right to habeas corpus now. We can provide a lawful system of military commissions so that those who have committed war crimes can be brought to justice, without denying one of the most basic rights guaranteed by the Constitution to those held in custody by our government.

Some have suggested that terrorists who take up arms against this country should not be allowed to challenge their detention in court. But that argument is circular—the writ of habeas allows those who might be mistakenly detained to challenge their detention in court, before a neutral decision-maker. The alternative is to allow people to be detained indefinitely with no ability to argue that they are not, in fact, enemy combatants. Unless it can be said with absolute certainty that every person detained as an enemy combatant was correctly detained—and there is ample evidence to suggest that is not the case—then we should make sure that people can't simply be locked up forever, without court review, based on someone slapping a "terrorist" label on them.

We must return to the great writ. We must be true to our Nation's proud traditions and principles by restoring the

writ of habeas corpus, by making clear that we do not permit our government to pick people up off the street, even in U.S. cities, and detain them indefinitely without court review. That is not what America is about.

But the Restoring the Constitution Act does far more than restore habeas corpus. It also addresses who can be subject to trial by military commission.

The Military Commissions Act was justified as necessary to allow our government to prosecute Khalid Sheikh Mohammed and other dangerous men transferred to Guantanamo Bay in 2006. Yet if you look at the fine print of that legislation, it becomes clear that it is much, much broader than that. It would permit trial by military commission not just for those accused of planning the September 11 attacks, but also individuals, including legal permanent residents of this country, who are alleged to have "purposefully and materially supported hostilities" against the United States or its allies.

This is extremely broad. And by including hostilities not only against the United States but also against its allies, the Military Commissions Act allows the U.S. to hold and try by military commission individuals who have never engaged, directly or indirectly, in any action against the United States.

Not only that, but the Military Commissions Act would also define as an unlawful enemy combatant subject to trial by military commission, anyone who "has been determined to be an unlawful enemy combatant by a Combatant Status Review Tribunal or another competent tribunal established under the authority of the President or the Secretary of Defense." This essentially grants a blank check to the executive branch to decide entirely on its own who can be tried by military commission.

Senator DODD's bill makes clear that the President cannot unilaterally decide who is eligible for trial by military commission. Under the Dodd bill, in order to be tried by military commission, an individual must have directly participated in hostilities against the United States in a zone of active combat, or have been involved in the September 11 attacks, and cannot be a lawful enemy combatant.

Senator DODD's bill also addresses the structure and process of the military commissions themselves. It ensures that these military commission procedures hew closely to the long-established military system of justice, as recommended by countless witnesses at congressional hearings last summer.

Some examples of the ways in which the Dodd bill improves the military commission procedures include: It prevents the use of evidence in court gained through torture or coercion. It ensures that any evidence seized within the United States without a search warrant cannot be introduced as evidence. It empowers military judges to

exclude hearsay evidence they deem to be unreliable. It authorizes the existing U.S. Court of Appeals for the Armed Forces to review decisions by military commissions, rather than the newly created "Court of Military Commission Review," whose members would be appointed by the Secretary of Defense. And it provides for expedited judicial review of the Military Commissions Act to determine the constitutionality of its provisions before anyone is tried by military commission, so that we will not face even more delays in the future.

Many of these provisions were included in the bill passed by the Senate Armed Services Committee in September 2006, but then stripped out or altered in backroom negotiations with the Administration. The bill also improves changes to the War Crimes Act and emphasizes the importance of compliance with the Geneva Conventions.

In sum, Senator DODD's legislation addresses many of the most troubling and legally suspect provisions of the Military Commissions Act. Congress would be wise to make these changes now, rather than wait around while the Military Commissions Act is subject to further legal challenge, and another 4 or 5 years are squandered while cases work their way through the courts again.

In closing let me quote John Ashcroft. According to the New York Times, at a private meeting of high-level officials in 2003 about the military commission structure, then-Attorney General Ashcroft said: "Timothy McVeigh was one of the worst killers in U.S. history. But at least we had fair procedures for him." How sad that Congress passed legislation about which the same cannot be said. We can and must undo this mistake.

By Mrs. FEINSTEIN (for herself,
Ms. SNOWE, Mr. LEVIN, Ms.
CANTWELL, Mrs. BOXER, Mr.
FEINGOLD, Mr. BINGAMAN, Mr.
LIEBERMAN, Mr. LAUTENBERG,
and Ms. MIKULSKI):

S. 577. A bill to amend the Commodity Exchange Act to add a provision relating to reporting and record-keeping for positions involving energy commodities; to the Committee on Agriculture, Nutrition, and Forestry.

Mrs. FEINSTEIN. Mr. President, I rise today with Senators SNOWE, LEVIN, CANTWELL, BOXER, FEINGOLD, BINGAMAN, LIEBERMAN, LAUTENBERG, and MIKULSKI to introduce a bill to provide necessary Federal oversight of our energy markets.

Just as is currently required for trades performed on the New York Mercantile Exchange (NYMEX), this bill would require record keeping and create an audit trail for all electronic over-the-counter energy trades.

Generally, in energy markets, the term "over-the-counter trading" refers to the trading of an energy commodity directly between two parties that does not take place on a regulated exchange.

Six years after the California energy crisis, this bill is long overdue. As global oil and gas prices increase and as we work to reduce global greenhouse gas emissions, the American public needs reliable, transparent energy markets that are not subject to manipulation by traders.

Specifically, the bill would: require traders who perform trades on electronic trading facilities such as the Intercontinental Exchange (ICE) to keep records and report large positions carried by their market participants in energy commodities for five years or longer. These are the same requirements that apply to traders that do business on NYMEX; require traders to provide such records to the Commodity Futures Trading Commission (CFTC) or the Justice Department upon request. Again, these are the same requirements for NYMEX traders; and require persons in the United States who trade U.S. energy commodities delivered in the U.S. on foreign futures exchanges to keep similar records and report large trades.

The Western Energy Crisis in 2000–2001 provided a wake-up call about the extent to which energy traders can impact demand and drive up prices.

California and the entire West Coast faced rolling blackouts and skyrocketing electricity costs, while companies like Enron, Duke, Williams, AES and Reliant enjoyed record revenues and profits.

In California, the cost of electricity was \$8 billion in 1999, \$27 billion in 2000, \$27.5 billion in 2001, and \$12 billion in 2002 after the crisis abated. Demand did not increase by more than 150 percent between 1999 and 2000. But prices did.

Why? Because companies like Enron manipulated the market in order to drive the price of electricity up.

As a result, Californians have been left with a \$40 billion bill. This is an unacceptable burden.

One of the main causes of the crisis is a loophole in current law that allows for energy commodities—such as natural gas, electricity, oil, and gasoline—to be traded on over-the-counter markets with no Federal oversight.

While over-the-counter trades of all other commodities—pork bellies, soybeans, wheat and rice, for example—are regulated by the Federal Government, energy trades are not.

Our country currently faces natural gas prices that have been extremely volatile, and oil prices that have gone through the roof.

With gas prices reaching well above \$2 per gallon across the country, and over \$2.50 in my State of California, our constituents deserve to know why those prices are so high.

The New York Times has reported that manipulation of electronic energy trades has pushed these prices higher and higher.

Testifying at the Enron trial, the former Chief Executive Officer of Enron North America and Enron Energy Services, David Delainey was

asked: “Is volatility a good thing for a speculative trader?”

His response: “Yes.”

When asked to explain his answer, he said: The higher the volatility that you have, the better—the higher the potential profit you can make from an open position you might have in the marketplace . . . if the price change is only a couple cents either way, you can't make a whole lot of money in trading.

And if you have, you know, 50, 60 cents, dollar moves in price you're going to make a lot more money for—for every position you might have . . .

Unfortunately, Enron's demise did not sound the death knell for unregulated over-the-counter energy trades. Instead, these trades now take place on the Intercontinental Exchange (ICE).

Over-the-counter trades performed on ICE are exempt from Federal oversight. In other words, the CFTC cannot require traders on ICE to keep records or report trades in energy commodities. As a result, the CFTC does not have a complete picture of what occurs in the energy markets.

The CFTC has recently asked ICE to provide information for certain electronically traded energy contracts. ICE has agreed to comply. I welcome these positive developments, but nonetheless believe that this legislation is necessary to remove any doubt as to the CFTC's authority to mandate these reports and to ensure these requirements are not administratively removed at some later date.

In this request, the CFTC has only asked ICE to report those trades that are performed using NYMEX-established prices. NYMEX does not establish prices for electricity, so none of the electricity trades will be reported. This means that under current circumstances, the CFTC still will not be getting a full picture of the energy market from ICE's reports.

Our bill will require reporting of all electronic over-the-counter energy trades and will provide legislative certainty that these trades will be reported.

We learned the hard way that if there is no oversight of these markets, they are subject to manipulation.

It is high time to fix this problem. Our bill will do just this.

That is why I urge my colleagues to support this bill. The legislation will simply provide the CFTC with the data it needs to ensure that manipulation and fraud are not taking place on our energy markets.

So who would be against this proposal?

The traders who are making millions of dollars off of volatility in these markets. And some of these traders are people who learned their skills at Enron—like star-Enron trader John Arnold who made \$75 to \$100 million in 2005 at Centaurus Energy, a hedge fund investing in energy commodities.

The other beneficiaries of high oil and natural gas prices are the energy companies themselves. Oil major Chev-

ron made almost \$13.4 billion in the first 9 months of 2006—a 34 percent rise in profits over the same 9 months in 2005.

The number 3 U.S. oil company, ConocoPhillips, reported a 25 percent surge in profits in the first 9 months of 2006, boosted by sharply higher crude oil prices. Net income in the first 9 months of 2006 rose to \$12.35 billion from \$9.85 billion in the same time period of 2005.

And ExxonMobil made more money in 2006 than any company in history. All of these record profits are due to the fact that oil prices are so high.

So while consumers are paying more than \$2 a gallon at the pump, traders and oil companies are making out like bandits.

I hope that we have enough consensus this year to pass this legislation in order to shine some light on our energy markets and determine if speculation, manipulation, or hoarding is occurring in the oil, gas, and electricity markets.

I would like to thank the following organizations for their support of this bill: Agricultural Retailers Association, Air Transport Association of America, American Public Gas Association, American Public Power Association, Consumer Federation of America, Consumers Union, Industrial Energy Consumers of America, National Association of Wheat Growers, National Barley Growers Association, New England Fuel Initiative, Pacific Northwest Oil Heat Council, Petroleum Transportation and Storage Association, Petroleum Marketers Association of America, PG&E Corporation, Sempra, and Southern California Edison.

I urge my colleagues to join me in supporting this legislation and I ask unanimous consent that the text of the legislation 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. 577

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 “Oil and Gas Traders Oversight Act of 2007”.

SEC. 2. REPORTING AND RECORDKEEPING FOR POSITIONS INVOLVING ENERGY COMMODITIES.

(a) IN GENERAL.—Section 2(h) of the Commodity Exchange Act (7 U.S.C. 2(h)) is amended by adding at the end the following:

“(7) REPORTING AND RECORDKEEPING FOR POSITIONS INVOLVING ENERGY COMMODITIES.—

“(A) DEFINITIONS.—In this paragraph:

“(i) DOMESTIC TERMINAL.—The term ‘domestic terminal’ means a technology, software, or other means of providing electronic access within the United States to a contract, agreement, or transaction traded on a foreign board of trade.

“(ii) ENERGY COMMODITY.—The term ‘energy commodity’ means a commodity or the derivatives of a commodity that is used primarily as a source of energy, including—

“(I) coal;

“(II) crude oil;

“(III) gasoline;
 “(IV) heating oil;
 “(V) diesel fuel;
 “(VI) electricity;
 “(VII) propane; and
 “(VIII) natural gas.

“(iii) REPORTABLE CONTRACT.—The term ‘reportable contract’ means—

“(I) a contract, agreement, or transaction involving an energy commodity, executed on an electronic trading facility, or

“(II) a contract, agreement, or transaction for future delivery involving an energy commodity for which the underlying energy commodity has a physical delivery point within the United States and that is executed through a domestic terminal.

“(B) RECORD KEEPING.—The Commission, by rule, shall require any person holding, maintaining, or controlling any position in any reportable contract under this section—

“(i) to maintain such records as directed by the Commission for a period of 5 years, or longer, if directed by the Commission; and

“(ii) to provide such records upon request to the Commission or the Department of Justice.

“(C) REPORTING OF POSITIONS INVOLVING ENERGY COMMODITIES.—The Commission shall prescribe rules requiring such regular or continuous reporting of positions in a reportable contract in accordance with such requirements regarding size limits for reportable positions and the form, timing, and manner of filing such reports under this paragraph, as the Commission shall determine.

“(D) OTHER RULES NOT AFFECTED.—

“(i) IN GENERAL.—Except as provided in clause (ii), this paragraph does not prohibit or impair the adoption by any board of trade licensed, designated, or registered by the Commission of any bylaw, rule, regulation, or resolution requiring reports of positions in any agreement, contract, or transaction made in connection with a contract of sale for future delivery of an energy commodity (including such a contract of sale), including any bylaw, rule, regulation, or resolution pertaining to filing or recordkeeping, which may be held by any person subject to the rules of the board of trade.

“(ii) EXCEPTION.—Any bylaw, rule, regulation, or resolution established by a board of trade described in clause (i) shall not be inconsistent with any requirement prescribed by the Commission under this paragraph.

“(E) CONTRACT, AGREEMENT, OR TRANSACTION FOR FUTURE DELIVERY.—Notwithstanding sections 4(b) and 4a, the Commission shall subject a contract, agreement, or transaction for future delivery in an energy commodity to the requirements established by this paragraph.”.

(b) CONFORMING AMENDMENTS.—Section 4a(e) of the Commodity Exchange Act (7 U.S.C. 6a(e)) is amended—

(1) in the first sentence—

(A) by inserting “or by an electronic trading facility operating in reliance on section 2(h)(3)” after “registered by the Commission”; and

(B) by inserting “electronic trading facility,” before “or such board of trade”; and

(2) in the second sentence, by inserting “or by an electronic trading facility operating in reliance on section 2(h)(3)” after “registered by the Commission”.

By Mr. KENNEDY (for himself, Mr. SMITH, Mr. REED, Ms. SNOWE, Mr. HARKIN, Mr. BINGAMAN, Mrs. CLINTON, Ms. MIKULSKI, Mr. DODD, Mr. DURBIN, Mrs. BOXER, Mr. KERRY, Mrs. FEINSTEIN, Mr. SCHUMER, Mr. LEVIN, Mr. AKAKA, Ms. CANTWELL, and Mr. MENENDEZ):

S. 578. A bill to amend title XIX of the Social Security Act to improve requirements under the Medicaid program for items and services furnished in or through an educational program or setting to children, including children with developmental, physical, or mental health needs, and for other purposes; to the Committee on Finance.

Mr. KENNEDY. Mr. President, it's a privilege to join my Senate and House colleagues in introducing the “Protecting Children's Health in Schools Act of 2006.” This bill will ensure that the Nation's 7 million school children with disabilities will have continued access to health care in school.

In 1975, the Nation made a commitment to guarantee children with disabilities equal access to education. For these children to learn and thrive in schools, the integration of education with health care is of paramount importance. Coordination with Medicaid makes an immense difference to schools in meeting the needs of these children.

This year, however, the Bush Administration has declared its intent to end Medicaid reimbursements to schools for the support services they need in order to provide medical and health-related services to disabled children. The Administration is saying “NO” to any further financial help to Medicaid-covered disabled children who need specialized transportation to obtain their health services at school. It is saying “NO” to any legitimate reimbursement to the school for costs incurred for administrative duties related to Medicaid services.

It's bad enough that Congress and the Administration have not kept the commitment to “glide-path” funding of IDEA needs in 2004. Now the Administration proposes to deny funding to schools under the Federal program that supports the health needs of disabled children. It makes no sense to make it so difficult for disabled children to achieve in school—both under IDEA and the No Child Left Behind.

At stake is an estimated \$3.6 billion in Medicaid funds over the next five years. Such funding is essential to help identify disabled children and connect them to services that can meet their special health and learning needs during the school day.

This decision by the Administration follows years of resisting Medicaid reimbursements to schools that provide these services, without clear guidance on how schools should appropriately seek reimbursement.

The “Protecting Children's Health in Schools Act” recognizes the importance of schools as a site of delivery of health care. It ensures that children with disabilities can continue to obtain health services during the school day. The bill also provides for clear and consistent guidelines to be established, so that schools can be held accountable and seek appropriate reimbursement.

The legislation has the support of over 60 groups, including parents,

teachers, principals, school boards, and health care providers—people who work with children with disabilities every day and know what is needed to facilitate their growth, development, and long-term success.

I urge all of our colleagues to join us in supporting these children across the Nation, by providing the realistic support their schools need in order to meet these basic health care requirements of their students.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 78—DESIGNATING APRIL 2007 AS “NATIONAL AUTISM AWARENESS MONTH” AND SUPPORTING EFFORTS TO INCREASE FUNDING FOR RESEARCH INTO THE CAUSES AND TREATMENT OF AUTISM AND TO IMPROVE TRAINING AND SUPPORT FOR INDIVIDUALS WITH AUTISM AND THOSE WHO CARE FOR INDIVIDUALS WITH AUTISM

Mr. HAGEL (for himself, Mr. FEINGOLD, and Ms. STABENOW) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 78

Whereas autism is a developmental disorder that is typically diagnosed during the first 3 years of life, robbing individuals of their ability to communicate and interact with others;

Whereas autism affects an estimated 1 in every 150 children in the United States;

Whereas autism is 4 times more likely to occur in boys than in girls;

Whereas autism can affect anyone, regardless of race, ethnicity, or other factors;

Whereas it costs approximately \$80,000 per year to treat an individual with autism in a medical center specializing in developmental disabilities;

Whereas the cost of special education programs for school-aged children with autism is often more than \$30,000 per individual per year;

Whereas the cost nationally of caring for persons affected by autism is estimated at upwards of \$90,000,000,000 per year;

Whereas despite the fact that autism is one of the most common developmental disorders, many professionals in the medical and educational fields are still unaware of the best methods to diagnose and treat the disorder; and

Whereas designating April 2007 as “National Autism Awareness Month” will increase public awareness of the need to support individuals with autism and the family members and medical professionals who care for individuals with autism: Now, therefore, be it

Resolved, That the Senate—

(1) designates April 2007 as “National Autism Awareness Month”;

(2) recognizes and commends the parents and relatives of children with autism for their sacrifice and dedication in providing for the special needs of children with autism and for absorbing significant financial costs for specialized education and support services;

(3) supports the goal of increasing Federal funding for aggressive research to learn the root causes of autism, identify the best

methods of early intervention and treatment, expand programs for individuals with autism across their lifespans, and promote understanding of the special needs of people with autism;

(4) stresses the need to begin early intervention services soon after a child has been diagnosed with autism, noting that early intervention strategies are the primary therapeutic options for young people with autism, and that early intervention significantly improves the outcome for people with autism and can reduce the level of funding and services needed to treat people with autism later in life;

(5) supports the Federal Government's more than 30-year-old commitment to provide States with 40 percent of the costs needed to educate children with disabilities under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.);

(6) recognizes the shortage of appropriately trained teachers who have the skills and support necessary to teach, assist, and respond to special needs students, including those with autism, in our school systems; and

(7) recognizes the importance of worker training programs that are tailored to the needs of developmentally disabled persons, including those with autism, and notes that people with autism can be, and are, productive members of the workforce if they are given appropriate support, training, and early intervention services.

SENATE RESOLUTION 79—RELATIVE TO THE DEATH OF REPRESENTATIVE CHARLES W. NORWOOD, JR., OF GEORGIA

Mr. REID (for himself, Mr. MCCONNELL, Mr. CHAMBLISS, and Mr. ISAKSON) submitted the following resolution; which was considered and agreed to:

S. RES. 79

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Charles W. Norwood, Jr., late a Representative from the State of Georgia.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns or recesses today, it stand adjourned or recessed as a further mark of respect to the memory of the deceased Representative.

SENATE RESOLUTION 80—TO AUTHORIZE TESTIMONY, DOCUMENT PRODUCTION, AND LEGAL REPRESENTATION IN STATE OF OREGON V. REBECCA MICHELSON, MICHELE DARR, AND VERNON HUFFMAN

Mr. REID (for himself and Mr. MCCONNELL) submitted the following resolution; which was considered and agreed to:

S. RES. 80

Whereas, in the cases of *State of Oregon v. Rebecca Michelson* (2101093-1), *Michele Darr* (2101093-2), and *Vernon Huffman* (2101093-3), pending in Multnomah County Circuit Court in Portland, Oregon, testimony and documents have been requested from Kellie Lute, an employee in the office of Senator Gordon Smith;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any

subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That Kellie Lute and any other employees or Senator Smith's office from whom testimony or the production of documents may be required are authorized to testify and produce documents in the cases of *State of Oregon v. Rebecca Michelson*, *Michele Darr*, and *Vernon Huffman*, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Kellie Lute and other employees of Senator Smith's staff in the actions referenced in section one of this resolution.

SENATE CONCURRENT RESOLUTION 11—PROVIDING THAT ANY AGREEMENT RELATING TO TRADE AND INVESTMENT THAT IS NEGOTIATED BY THE EXECUTIVE BRANCH WITH ANOTHER COUNTRY COMPLY WITH CERTAIN MINIMUM STANDARDS

Mr. FEINGOLD submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. CON. RES. 11

Whereas there is general consensus among the people of the United States and the global community that, with respect to international trade and investment rules—

(1) global environmental, labor, health, food security, and other public interest standards must be strengthened to prevent a global "race to the bottom";

(2) domestic environmental, labor, health, food security, and other public interest standards and policies must not be undermined, including those based on the use of the precautionary principle (the internationally recognized legal principle that holds that, when there is scientific uncertainty regarding the potential adverse effects of an action, a product, or a technology, a government should act in a way that minimizes the risk of harm to human health and the environment);

(3) provision and regulation of public services such as education, health care, transportation, energy, water, and other utilities are basic functions of democratic government and must not be undermined;

(4) raising standards in developing countries requires additional assistance and respect for diversity of policies and priorities;

(5) countries must be allowed to design and implement policies to sustain family farms and achieve food security;

(6) healthy national economies are essential to a healthy global economy, and the right of governments to pursue policies to maintain and create jobs must be upheld;

(7) the right of State and local and comparable regional governments of all countries to create and enforce diverse policies must be safeguarded from imposed downward harmonization; and

(8) rules for the global economy must be developed and implemented democratically and with transparency and accountability;

Whereas many international trade and investment agreements in existence and currently being negotiated do not serve these interests; and

Whereas many international trade and investment agreements in existence have caused substantial harm to the health and well-being of communities in the United States and within countries that are trading partners of the United States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That any agreement relating to trade and investment that is negotiated by the executive branch with another country should comply with the following:

(1) REQUIREMENTS APPLYING TO ALL COUNTRIES.—

(A) INVESTOR AND INVESTMENT POLICY.—If the agreement includes any provision relating to foreign investment, the agreement may not permit a foreign investor to challenge or seek compensation because of a measure of a government at the national, State, or local level that protects the public interest, including a measure that protects public health, safety, and welfare, the environment, and worker protections, unless a foreign investor demonstrates that the measure was enacted or applied primarily for the purpose of discriminating against a foreign investor or foreign investment.

(B) SERVICES.—The agreement, to the extent applicable, shall comply with the following:

(i) IN GENERAL.—The agreement may not provide for disciplinary action against a government measure relating to—

(I) a public service, including public services for which the government is not the sole provider;

(II) a service that requires extensive regulation;

(III) an essential human service; and

(IV) a service that has an essentially social component.

(ii) SERVICES DESCRIBED.—A service described in clause (i) includes a public benefit program, health care, health insurance, public health, child care, education and training, the distribution of a controlled substance or product (including alcohol, tobacco, and firearms), research and development on a natural or social science, a utility (including an energy utility, water, waste disposal, and sanitation), national security, maritime, air, surface, and other transportation services, a postal service, energy extraction and any related service, and a correctional service.

(iii) REVISION OF COMMITMENTS.—The agreement shall permit a country that has made a commitment in an area described in clause (i) to revise that commitment for the purposes of public interest regulation without any financial or other trade-related penalty.

(iv) SUBSIDIES AND GOVERNMENT PROCUREMENT.—The agreement shall ensure that any rule governing a subsidy or government procurement fully protects the ability of a government to support and purchase a service in a way that promotes economic development, social justice and equity, public health, environmental quality, human rights, and the rights of workers.

(v) REGULATION OF FOREIGN INVESTORS.—The agreement shall guarantee that all governments that are parties to the agreement may regulate foreign investors in services and other service providers in order to protect public health and safety, consumers, the environment, and workers' rights, without requiring the governments to establish their regulations to be the least burdensome option for foreign service providers.

(C) ENVIRONMENTAL, LABOR, AND OTHER PUBLIC INTEREST STANDARDS.—The agreement—

(i) may not supersede the rights and obligations of parties under multilateral environmental, labor, and human rights agreements;

(ii) shall, to the extent applicable, include commitments—

(I) to adhere to specified workers' rights and environmental standards;

(II) to enforce existing domestic labor and environmental provisions; and

(III) to abide by the core labor standards of the International Labor Organization; and

(iii) shall subject the commitments described in clause (ii) to binding enforcement on the same terms as commercial provisions.

(D) FOOD SAFETY.—The agreement may not—

(i) require international harmonization of food safety standards in a manner that undermines the level of human health protection provided under the laws of a country; or

(ii) restrict the ability of governments to enact policies to guarantee the right of consumers to know where and how food is produced.

(E) AGRICULTURE AND FOOD SECURITY.—The agreement may not, with respect to food and other agricultural commodities—

(i) contain provisions that prevent countries from—

(I) establishing domestic and global reserves;

(II) managing supply;

(III) enforcing antidumping provisions;

(IV) ensuring fair market prices; or

(V) vigorously enforcing antitrust laws, in order to guarantee competitive markets for family farmers; or

(ii) prevent countries from developing the necessary sanitary and phytosanitary standards to prevent the introduction of pathogens or other potentially invasive species that may adversely affect agriculture, human health, or the environment.

(F) GOVERNMENTAL AUTHORITY.—The agreement may not contain provisions that bind national, State, local, or comparable regional governments to limiting regulatory, taxation, spending, or procurement authority—

(i) without sufficient transparency as described in paragraph (4), including an opportunity for public review and comment; and

(ii) without the explicit, informed consent of the national, State, local, or comparable regional legislative body concerned.

(G) ACCESS TO MEDICINES AND SEEDS.—

(i) MEDICINES.—The agreement may not contain provisions that prevent countries from taking measures to protect public health by ensuring access to medicines.

(ii) SEEDS.—The agreement may not constrain the rights of farmers to save, use, exchange, or sell farm-saved seeds and other publicly available seed varieties.

(2) REQUIREMENTS APPLYING TO ONLY THE UNITED STATES.—

(A) TEMPORARY ENTRY OF WORKERS.—The agreement may not—

(i) make a new commitment on the temporary entry of workers, because such policies should be determined by the Congress, after consideration by the congressional committees with jurisdiction over immigration, to avoid an array of inconsistent policies; or

(ii) include any policy that fails to—

(I) include labor market tests that ensure that the employment of temporary workers will not adversely affect other similarly employed workers;

(II) involve labor unions in the labor certification process implemented under the immigration program for temporary workers granted nonimmigrant status under section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(H)(i)(b)), including the filing by an employer of an appli-

cation under section 212(n)(1) of that Act (8 U.S.C. 1182(n)(1)); or

(III) guarantee the same workplace protections for temporary workers that are available to all workers.

(B) POLICIES TO SUPPORT UNITED STATES WORKERS AND SMALL, MINORITY, AND WOMEN-OWNED BUSINESSES.—The agreement shall preserve the right of Federal, State, and local governments to maintain or establish policies to support United States workers and small, minority, or women-owned businesses, including policies with respect to government procurement, loans, and subsidies.

(C) UNITED STATES TRADE LAWS.—The agreement may not—

(i) contain a provision that modifies or amends, or requires a modification of or an amendment to, any law of the United States regarding safeguards from unfair foreign trade practices, including any law providing for—

(I) the imposition of countervailing or antidumping duties;

(II) protection from unfair methods of competition or unfair acts in the importation of articles;

(III) relief from injury caused by import competition;

(IV) relief from unfair trade practices; or

(V) the imposition of import restrictions to protect national security; or

(ii) weaken the existing terms of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, or the Agreement on Subsidies and Countervailing Measures, of the World Trade Organization, including through the domestic implementation of rulings of dispute settlement bodies.

(D) FOOD SAFETY.—The agreement may not—

(i) restrict the ability of the United States to ensure that food products entering the United States are rigorously inspected to establish that they meet all food safety standards in the United States, including inspection standards; or

(ii) force the United States to accept different food safety standards as "equivalent", in a manner that undermines the level of human health protection provided under domestic law.

(3) TREATMENT OF DEVELOPING COUNTRIES.—The agreement shall grant special and differential treatment for developing countries with regard to the timeframe for implementation of the agreement as well as other concerns.

(4) TRANSPARENCY.—

(A) IN GENERAL.—The process of negotiating the agreement shall be open and transparent, including through—

(i) prompt and regular disclosure of full negotiating texts; and

(ii) prompt and regular disclosure of negotiating positions of the United States.

(B) PUBLIC AVAILABILITY OF OFFERS AND REQUESTS.—In negotiating the agreement, any request or offer relating to investment, procurement, or trade in services must be made public within 10 days after its submission if such request or offer—

(i) proposes that specific Federal, State, or local laws or regulations in the United States, including subsidies, tax rules, procurement rules, professional standards, and rules on temporary entry of persons, be changed, eliminated, or scheduled under the agreement;

(ii) proposes to cover under the agreement—

(I) specific essential public services, including public benefits programs, health care, education, national security, sanitation, water, energy, and other utilities; or

(II) private service sectors that require extensive regulation or have an inherently social component, including maritime, air transport, trucking, and other transportation services, postal services, utilities such as water, energy, and sanitation, corrections, education and childcare, and health care; or

(iii) proposes an action or process of general application that may interfere with the ability of the United States or State, local, or tribal governments to adopt, implement, or enforce laws and regulations identified in clause (ii)(I) or to provide or regulate services identified in clause (ii)(II).

(C) REPRESENTATION OF INTERESTS.—The broad array of constituencies representing the majority of the people of the United States, including labor unions, environmental organizations, consumer groups, family farm groups, public health advocates, faith-based organizations, and civil rights groups, must have at least the same representation on trade advisory committees and the same access to trade negotiators and negotiating fora as those constituencies representing commercial interests.

(D) DISPUTE RESOLUTION MECHANISMS.—Any dispute resolution mechanism established in the agreement shall be open and transparent, including through disclosure to the public of documents and access to hearings, and must permit participation by nonparties through the filing of amicus briefs, as well as provide for standing for State and local governments as intervenors.

Mr. FEINGOLD. Mr. President, I am pleased to again submit a measure to begin to address one of the central problems our Nation faces, namely the loss of family-supporting jobs because of our flawed trade policies.

Today's announcement that the U.S. trade deficit for 2006 rose to \$764 billion, setting a record for the fifth consecutive year, is a stark reminder of just how seriously flawed our trade policies are. Those policies have far reaching consequences, and they require a multifaceted response.

One response must be to take on the trade deficit directly, and I have been pleased to join the Senator from North Dakota, Mr. DORGAN, to do just that.

But we also must change the agreements into which we enter with our trading partners.

The record of the major trade agreements into which our Nation has entered over the past few years has been dismal. Thanks in great part to the flawed fast track rules that govern consideration of legislation implementing trade agreements, the United States has entered into a number of trade agreements that have contributed to the significant job loss we have seen in recent years, and have laid open to assault various laws and regulations established to protect workers, the environment, and our health and safety. Indeed, those agreements undermine the very democratic institutions through which we govern ourselves.

The loss of jobs, especially manufacturing jobs, to other countries has been devastating to Wisconsin, and to the entire country. When I opposed the North American Free Trade Agreement, the Uruguay round of the General Agreement on Tariffs and Trade,

Permanent Normal Trade Relations for China, and other flawed trade measures, I did so in great part because I believed they would lead to a significant loss of jobs. But even as an opponent of those agreements, I don't think I could have imagined just how bad things would get in so short a time.

The trade policy of this country over the past several years has been appalling. The trade agreements into which we have entered have contributed to the loss of key employers, ravaging entire communities. But despite that clear evidence, we continue to see trade agreements being reached that will only aggravate this problem.

This has to stop. We cannot afford to pursue trade policies that gut our manufacturing sector and send good jobs overseas. We cannot afford to undermine the safeguards we have established for workers, the environment, and our public health and safety. And we cannot afford to chip away at our democratic heritage by entering into trade agreements that supercede our right to govern ourselves through open, democratic institutions.

The legislation I am introducing today addresses this problem, at least in part. It establishes some minimum standards for the trade agreements into which our Nation enters. It sets forth principles for future trade agreements. It is a break with the so-called NAFTA model, and instead advocates the kinds of sound trade policies that will spur economic growth and sustainable development.

The principles set forth in this resolution are not complex. They are straightforward and achievable. The resolution calls for enforceable worker protections, including the core International Labor Organization standards.

It preserves the ability of the United States to enact and enforce its own trade laws.

It protects foreign investors, but states that foreign investors should not be provided with greater rights than those provided under U.S. law, and it protects public interest laws from challenge by foreign investors in secret tribunals.

It ensures that food entering into our country meets domestic food safety standards.

It preserves the ability of Federal, State, and local governments to maintain essential public services and to regulate private sector services in the public interest.

It requires that trade agreements contain environmental provisions subject to the same enforcement as commercial provisions.

It preserves the right of Federal, State, and local governments to use procurement as a policy tool, including through Buy American laws, environmental laws such as recycled content, and purchasing preferences for small, minority, or women-owned businesses.

It requires that trade negotiations and the implementation of trade agreements be conducted openly.

These are sensible policies, and will advance the goal of increased international commerce.

The outgrowth of the major trade agreements into which we have entered has been a race to the bottom in labor standards, environmental standards, health and safety standards, in nearly every aspect of our economy. A race to the bottom is a race in which even the winners lose.

For any who doubt this, I invite you to ask the families in Wisconsin who have watched their jobs move to China.

We can't let this continue to happen. We need to turn our trade policies around. We need to pursue trade agreements that will promote sustainable economic growth for our Nation and for our trading partners. This resolution will begin to put us on that path, and I urge my colleagues to support it.

AMENDMENTS SUBMITTED AND PROPOSED

SA 264. Mr. CHAMBLISS (for himself and Mr. ISAKSON) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 20, making further continuing appropriations for the fiscal year 2007, and for other purposes; which was ordered to lie on the table.

SA 265. Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 259 submitted by Mr. WARNER (for himself, Mr. LEVIN, Ms. COLLINS, Mr. NELSON of Nebraska, Mr. HAGEL, Ms. SNOWE, Mr. SMITH, Mr. BIDEN, and Mr. SALAZAR) and intended to be proposed to the joint resolution H.J. Res. 20, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 264. Mr. CHAMBLISS (for himself and Mr. ISAKSON) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 20, making further continuing appropriations for the fiscal year 2007, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after "**SEC.**" and insert the following:

— . ADDITIONAL AMOUNTS TO ADDRESS SCHIP FUNDING SHORTFALLS FOR FISCAL YEAR 2007.

(a) IN GENERAL.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd) is amended by adding at the end the following:

"(i) ADDITIONAL REDISTRIBUTION OF AMOUNTS NECESSARY TO ADDRESS FISCAL YEAR 2007 FUNDING SHORTFALLS.—

"(1) REDISTRIBUTION OF CERTAIN UNUSED FISCAL YEAR 2005 ALLOTMENTS.—

"(A) IN GENERAL.—Subject to subparagraphs (C) and (D), with respect to months beginning during fiscal year 2007 after April 30, 2007, the Secretary shall provide for a redistribution under subsection (f) from amounts made available for redistribution under paragraphs (2) and (3) to each shortfall State described in subparagraph (B), such amount as the Secretary determines will eliminate the estimated shortfall described in such subparagraph for such State for the month.

"(B) SHORTFALL STATE DESCRIBED.—For purposes of this paragraph, a shortfall State described in this subparagraph is a State with a State child health plan approved

under this title for which the Secretary estimates, subject to subsection (h)(4)(B) and on a monthly basis using the most recent data available to the Secretary as of April 30, 2007, that the projected expenditures under such plan for such State for fiscal year 2007 will exceed the sum of—

"(i) the amount of the State's allotments for each of fiscal years 2005 and 2006 that was not expended by the end of fiscal year 2006;

"(ii) the amount, if any, that is to be redistributed to the State in accordance with subsection (h); and

"(iii) the amount of the State's allotment for fiscal year 2007.

"(C) FUNDS REDISTRIBUTED IN THE ORDER IN WHICH STATES REALIZE FUNDING SHORTFALLS.—The Secretary shall redistribute the amounts available for redistribution under subparagraph (A) to shortfall States described in subparagraph (B) in the order in which such States realize monthly funding shortfalls under this title for fiscal year 2007. The Secretary shall only make redistributions under this paragraph to the extent that such amounts are available for such redistributions.

"(D) PRORATION RULE.—If the amounts available for redistribution under paragraph (3) for a month are less than the total amounts of the estimated shortfalls determined for the month under subparagraph (A), the amount computed under such subparagraph for each shortfall State shall be reduced proportionally.

"(2) TREATMENT OF CERTAIN STATES WITH FISCAL YEAR 2005 ALLOTMENTS UNEXPENDED AT THE END OF THE FIRST 7 MONTHS OF FISCAL YEAR 2007.—

"(A) IDENTIFICATION OF STATES.—The Secretary, on the basis of the most recent data available to the Secretary as of April 30, 2007—

"(i) shall identify those States that received an allotment for fiscal year 2006 under subsection (b) which have not expended all of such allotment by April 30, 2007; and

"(ii) for each such State shall estimate—

"(I) the portion of such allotment that was not so expended by such date; and

"(II) whether the State is described in subparagraph (B).

"(B) STATES WITH FUNDS IN EXCESS OF 200 PERCENT OF NEED.—A State described in this subparagraph is a State for which the Secretary determines, on the basis of the most recent data available to the Secretary as of April 30, 2007, that the total of all available allotments under this title to the State as of such date, is at least equal to 200 percent of the total projected expenditures under this title for the State for fiscal year 2007.

"(C) REDISTRIBUTION AND LIMITATION ON AVAILABILITY OF PORTION OF UNUSED ALLOTMENTS FOR CERTAIN STATES.—In the case of a State identified under subparagraph (A)(i) that is also described in subparagraph (B), notwithstanding subsection (e), the amount described in subparagraph (A)(ii)(I) shall not be available for expenditure by the State on or after May 1, 2007, and shall be redistributed in accordance with paragraph (1).

"(3) TREATMENT OF CERTAIN STATES WITH FISCAL YEAR 2006 ALLOTMENTS UNEXPENDED AT THE END OF THE FIRST 7 MONTHS OF FISCAL YEAR 2007.—

"(A) IDENTIFICATION OF STATES.—The Secretary, on the basis of the most recent data available to the Secretary as of April 30, 2007—

"(i) shall identify those States that received an allotment for fiscal year 2006 under subsection (b) which have not expended all of such allotment by April 30, 2007; and

"(ii) for each such State shall estimate—

"(I) the portion of such allotment that was not so expended by such date; and

“(II) whether the State is described in subparagraph (B).

“(B) STATES WITH FUNDS IN EXCESS OF 200 PERCENT OF NEED.—A State described in this subparagraph is a State for which the Secretary determines, on the basis of the most recent data available to the Secretary as of April 30, 2007, that the total of all available allotments under this title to the State as of such date, is at least equal to 200 percent of the total projected expenditures under this title for the State for fiscal year 2008.

“(C) REDISTRIBUTION AND LIMITATION ON AVAILABILITY OF PORTION OF UNUSED ALLOTMENTS FOR CERTAIN STATES.—

“(i) IN GENERAL.—In the case of a State identified under subparagraph (A)(i) that is also described in subparagraph (B), notwithstanding subsection (e), the applicable amount described in clause (ii) shall not be available for expenditure by the State on or after May 1, 2007, and shall be redistributed in accordance with paragraph (1).

“(ii) APPLICABLE AMOUNT.—For purposes of clause (i), the applicable amount described in this clause is—

“(I) the amount by which the amount described in subparagraph (A)(ii)(I), exceeds the total of the amounts the Secretary determines will eliminate the estimated shortfalls for all States described in paragraph (1)(B) (after the application of paragraph (2)) for the fiscal year; multiplied by

“(II) the ratio of the amount described in subparagraph (A)(ii)(I) with respect to the State to the total the amounts described in subparagraph (A)(ii)(I) for all such States.”.

(b) CONFORMING AMENDMENTS.—Section 2104(h) of such Act (42 U.S.C. 1397dd(h)) is amended—

(1) in paragraph (4), by inserting “or subsection (i)” after “this subsection” each place it appears;

(2) in paragraph (5)(A), by inserting “and subsection (i)” after “and (3)”;

(3) in paragraph (6), by inserting “or subsection (i)” after “this subsection”; and

(4) in paragraph (7), by inserting “and subsection (i)” after “this subsection”.

(c) EFFECTIVE DATE; APPLICABILITY.—The amendments made by this section take effect on the day after the date of enactment of this Act and apply without fiscal year limitation.

SA 265. Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 259 submitted by Mr. WARNER (for himself, Mr. LEVIN, Ms. COLLINS, Mr. NELSON of Nebraska, Mr. HAGEL, Ms. SNOWE, Mr. SMITH, Mr. BIDEN, and Mr. SALAZAR) and intended to be proposed to the joint resolution H.J. Res. 20, making further continuing appropriations for the fiscal year 2007, and for other purposes; which was ordered to line on the table; as follows:

On page 7, between lines 11 and 12, insert the following:

(23) Congress and the American people will continue to support and protect the members of the United States Armed Forces who are serving or who have served bravely and honorably in Iraq.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition and Forestry be authorized to conduct a hearing during

the session of the Senate on Tuesday, February 13, 2007, at 9:45 a.m. in 328A, Russell Senate Office Building. The purpose of this committee hearing will be to consider “Rural Development—Challenges and Opportunities.”

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to hold a business meeting during the session of the Senate on Tuesday, February 13, 2007, at 10 a.m., in room 253 of the Russell Senate Office Building.

The purpose of this meeting will be to consider and approve the following legislation following bills: S. 184, S. 509, S. 385, S. 93, S. 84, S. 39, and to make nominations for promotion in the United States Coast Guard.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to hold a hearing during the session of the Senate on Tuesday, February 13, 2007, at 10 a.m. in room SD-106 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on the Stern Review of the Economics of Climate Change, examining the economic impacts of climate change and stabilizing greenhouse gases in the atmosphere.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet for a hearing on Tuesday, February 12, 2007, at 10 a.m. in SD-106. The purpose of the hearing is to review the report and recommendations of the U.S. Climate Action Partnership.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to hold a hearing during the session of the Senate on Tuesday, February 13, 2007, at 10 a.m. in SD-430.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Tuesday, February 13, 2007, at 10 a.m. for a hearing titled “The Homeland Security Department’s Budget Submission for Fiscal Year 2008.”

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

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Small Business and Entrepreneurship be authorized to meet during the session of the Senate for a hearing entitled “Alternatives for Easing the Small Business Health Care Burden,” on Tuesday, February 13, 2007, beginning at 10 a.m. in room 428A of the Russell Senate Office Building.

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

COMMITTEE ON VETERANS’ AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Veterans’ Affairs be authorized to meet during the session of the Senate on Tuesday, February 13, 2007, to hold a hearing on Veterans Programs for Fiscal Year 2008.

The hearing will take place in room 418 of the Russell Senate Office Building beginning at 9:30 a.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Intelligence be authorized to meet during the session of the Senate on February 13, 2007, at 2:30 p.m. to hold a closed hearing.

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

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the President of the Senate, and after consultation with the majority leader, pursuant to Public Law 106-286, appoints the following Members to serve on the Congressional-Executive Commission on the People’s Republic of China. The Senator from Montana (Mr. BAUCUS), the Senator from Michigan (Mr. LEVIN), the Senator from California (Mrs. FEINSTEIN), the Senator from North Dakota (Mr. DORGAN), Co-Chairman; and the Senator from Ohio (Mr. BROWN).

AUTHORIZING LEGAL REPRESENTATION

Mr. CARDIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 80, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 80) to authorize testimony, document production, and legal representation in State of Oregon v. Rebecca Michelson, Michele Darr, and Vernon Huffman.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, this resolution concerns a request for testimony,

documents, and representation in criminal trespass actions in Multnomah County Circuit Court in Portland, OR. In this action, anti-war protestors have been charged with criminally trespassing in the building housing Senator GORDON SMITH's Portland, OR office on December 12, 2006, for refusing repeated requests by the police to leave the premises. Trials on charges of trespass are scheduled to commence on February 26, 2007. The prosecution has subpoenaed a member of the Senator's staff who had conversations with the defendant protestors during the charged events. Senator SMITH would like to cooperate by providing testimony and any relevant documents from his staff. This resolution would authorize that staff member, and any other employee of Senator SMITH's office from whom evidence may be required, to testify and produce documents in connection with this action, with representation by the Senate Legal Counsel.

Mr. CARDIN. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD, without intervening action or debate.

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

The resolution (S. Res. 80) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 80

Whereas, in the cases of State of Oregon v. Rebecca Michelson (2101093-1), Michele Darr (2101093-2), and Vernon Huffman (2101093-3), pending in Multnomah County Circuit Court in Portland, Oregon, testimony and docu-

ments have been requested from Kellie Lute, an employee in the office of Senator Gordon Smith;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved that Kellie Lute and any other employees of Senator Smith's office from whom testimony or the production of documents may be required are authorized to testify and produce documents in the cases of State of Oregon v. Rebecca Michele Darr, and Vernon Huffman, except concerning matters for which a privilege should be asserted.

Sec. 2. The Senate Legal Counsel is authorized to represent Kellie Lute and other employees of Senator Smith's staff in the actions referenced in section one of this resolution.

MEASURE READ THE FIRST
TIME—S. 574

Mr. CARDIN. Mr. President, I understand that S. 574, introduced earlier today by Senator REID, is at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 574) to express the sense of Congress on Iraq.

Mr. CARDIN. I now ask for its second reading and I object to my own request.

The PRESIDING OFFICER. The objection is heard. The bill will receive its second reading on the next legislative day.

ORDERS FOR WEDNESDAY,
FEBRUARY 14, 2007

Mr. CARDIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 12 noon Wednesday, February 14; that on Wednesday, following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day; that there then be a period of morning business for 60 minutes, with Senators permitted to speak therein for up to 10 minutes each, with each side controlling 30 minutes; that at the close of morning business, the Senate resume consideration of H.J. Res. 20, the continuing funding resolution; that all time during the adjournment and morning business count postcloture.

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

ADJOURNMENT UNTIL TOMORROW

Mr. CARDIN. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 5:09 p.m., adjourned until Wednesday, February 14, 2007, at 12 noon.