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Senate

The Senate met at 1 p.m. and was called to order by the Honorable BENJAMIN L. CARDIN, a Senator from the State of Maryland.

PRAYER

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

Let us pray.

Our Father, author of life and giver of life everlasting, we raise our hearts to You. Lift us, today, into Your light, love, purity, and blessedness as we seek to honor Your great Name. Keep us from hasty shortcuts that lead to failure. Rather, help us to pursue integrity, righteousness, and honor.

Strengthen our lawmakers for this week's labors. Fill them with Your presence, guide them with Your comfort, and energize them by Your spirit. May they never shut their ears to the cries of the least in our Nation and world. Rather, may they join You in bringing true freedom to the marginalized.

Lord, we ask your special blessing on Dr. JOHN BARRASSO as he is welcomed to the Senate today. We pray in Your mighty Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable BENJAMIN L. CARDIN, a Senator from the State of Maryland, 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, June 25, 2007.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BENJAMIN L. CARDIN, a Senator from the State of Maryland, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. CARDIN 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, following any time used by the leaders, the Senate will be in a period of morning business until 7 p.m. tonight. The time is equally divided and controlled between Senators KENNEDY and ENZI or their designees. During this time I expect there will be speeches on H.R. 800, the Employee Free Choice Act, and S. 1639, the Immigration bill.

At 7 p.m. Senator SESSIONS will be recognized to speak for up to 1 hour. There are no rollcall votes. At 3:15 the newest Member of the Senate will be sworn in, JOHN BARRASSO, who is an orthopedic surgeon from Wyoming. We welcome him here but with some degree of sadness, because you are forced to comprehend and think about Craig Thomas whom I had such great admiration for. As I have said before, Craig Thomas and I did not vote very much alike, but we shared a great belief in the sovereignty of our two States, two sparsely populated States, Wyoming and Nevada, and of course this great country of ours that we both have such affection for.

We welcome Dr. BARRASSO. More will be said about this later.

ORDER OF PROCEDURE

Mr. President, I ask unanimous consent that if any quorum calls occur during the debate until 7 p.m., they be equally divided between the sides controlling time.

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

LAKE TAHOE FIRE

Mr. REID. Mr. President, in the State of Nevada, one of the things we so appreciate is this great treasure we share with the State of California, Lake Tahoe, which Mark Twain called the fairest place in all the Earth. Some have said he said: The fairest picture the whole Earth affords. But the picture we get from Mark Twain is it was a beautiful place, and it is. There is only one other lake like it in the world, and that is in Russia. It is a wonderful alpine glacial lake about a mile deep.

It is a wonderful resource we share with California. But as we speak, there is a fire raging on the eastern side of the lake. It has, at last count, burned 2,500 acres, four square miles. It has engulfed and destroyed 250 homes; 500 more are in danger of being lost. Only 10 percent of the blaze has been contained.

One bright spot in this tragedy is that as of now, no injuries have been reported, and we hope these residents and emergency teams remain safe.

Many of these firefighters live in the area. They are battling this fire while their own homes are in danger. If we think about that for a moment, their own homes are at risk, their own families are in harm's way, and they are working to protect the homes and families of others. That is real bravery, and that is what a firefighter is all about. We owe a great deal to these men and women. We will surely owe them much more when this fire is brought under control. There is no way

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



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to protect a firefighter, other than to quote Fire Chief Edward Croker, who was with the New York Fire Department almost 100 years ago. Here is what he said:

I have no ambition in this world but one, and that is to be a fireman . . . Our proudest moment is to save lives. Under the impulse of such thoughts, the nobility of the occupation thrills us and stimulates us to deeds of daring, even of supreme sacrifice.

This is as we learned from South Carolina last week upon the death of those nine firefighters. We will keep an eye on this blaze and give the States of California and Nevada—the blaze is burning on the California side at this time—give the States of California and Nevada all the resources we can help them with.

RESERVATION OF LEADER TIME

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

EMPLOYEE FREE CHOICE ACT OF 2007—MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the motion to proceed on H.R. 800, which the clerk will report.

The legislative clerk read as follows:

Motion to proceed to H.R. 800, an act to amend the National Labor Relations Act to establish an efficient system to enable employees to form, join, or assist labor organizations, to provide for mandatory injunctions for unfair labor practices during organizing efforts, and for other purposes.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 7 p.m. shall be equally divided between the Senator from Massachusetts, Mr. KENNEDY, and the Senator from Wyoming, Mr. ENZI, or their designees.

Who yields time?

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. 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.

Mr. KENNEDY. Mr. President, I yield myself such time as I might use.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, over the period of these last few days, we have had a number of our colleagues on this side who have spoken, and spoken very well, about the Employee Free Choice Act. We have had Senator DURBIN, Senator BROWN, Senator CLINTON, Senator SCHUMER, Senator MURRAY, Senator LAUTENBERG, Senator MENENDEZ, Senator KLOBUCHAR, Senator

WEBB, Senator CASEY. I have spoken myself. We have a number of additional Senators. I see my friend from Maryland, Senator CARDIN, will be addressing the issue this afternoon.

I think we have had some excellent presentations about this issue and about the importance of this issue, about the fact that there are about 60 million men and women across this country who wish to be able to participate in the trade union movement, but because of the realities of the current election process are denied the opportunity to do so.

There are millions of people across this Nation who are enormously concerned about the growing disparity which has taken place in this country between the explosion of wealth in terms of the top one-tenth of 1 percent of our population and the fact that those at the lower end of the economic ladder most recently had to wait 10 years to get an increase in the minimum wage.

I can remember going back to a period of time when the increase in the minimum wage was a bipartisan event. People understood at that time they were trying to make the minimum wage about half of what the overall national wage was going to be, to say to American workers: If you worked at the lower end of the economic ladder in our economic system, we still appreciated your work and you would not have to live in poverty here in the United States of America.

We have in recent years seen where millions of our fellow citizens have had to live in poverty because we have failed to get the increases in the minimum wage. It has become a more partisan issue here in the Senate and also in the House of Representatives, regretfully. I am basically suggesting that we are seeing America growing apart. That is a matter of enormous concern to Americans everywhere. It does not have to be this way. It was not this way when I think America was at its best. It was not this way.

What we are seeing now is the increasing factor that those who have the resources and have the wealth and have the superwealth are accumulating it more and more; those who are at the lowest end are falling farther and farther behind, and the great middle class that is represented by workers and used to be the trade union movement is being constantly challenged.

For many in that middle class, they feel they are slipping farther and farther behind, and they are slipping farther and farther behind. They were not slipping farther and farther behind when we had a strong trade union movement. They weren't. They were moving ahead with the rest of the country. But now, they are falling farther and farther and farther behind. They know that. The option before the Senate now is to at least give American workers an opportunity, if they so desire, to be able to participate in a union so that their economic interests,

their health insurance interests, a decent retirement, can be addressed, because as we have seen, working families, increasing numbers of those working families, are losing health insurance, are finding their deductibles and copays are on the rise, and it is getting more and more difficult for them to continue to afford this. An increasing number of retirees, who thought they had commitments to health insurance, are being dropped. We are finding an increasing number of those Americans who rely on a defined benefit system losing out on their pensions.

We are finding out that the costs across the spectrum for working families are going up through the roof—the price of gasoline, the price of health care, the price of prescription drugs, the price of tuition, the price of any kind of retirement income.

Books have been written about this great shift from the kind of common responsibilities and common involvement Americans had with each other, commitments we had with each other, to a different perspective and a different paradigm where everyone is sort of effectively on their own.

That means you are on your own with regard to retirement, health insurance, and education in the workplace. That is happening increasingly. You are on your own when the employer won't give you a raise. You are on your own when you are put in working conditions which may very well jeopardize your health.

I wish to review exactly where we have come as a country on the issue of growing apart and growing together. Most of us remember clearly the Mayflower compact that was signed a few miles off Provincetown, MA, when extraordinary men and women had sailed the seas to escape religious persecution and, after 6 long weeks and the loss of a number of those who had set sail on the ships, before they got off the ship, they gathered on the deck and made a compact between each other about the importance of working together for the common good as a community and as a society. The Federal Constitution talks about the general welfare and about moving ahead together as a country and a society. We have seen that when America has been at its best.

Here we have a chart that shows the years 1947 to 1973. It is titled "A Rising Tide Lifts All Boats." What this chart shows is income for five different sectors of our economy—this is from the Economic Policy Institute—the lowest 20 percent, the second 20 percent, the middle, fourth, and top 20 percent. This chart shows clearly from these colors that from 1947 to 1973, America's income moved along together. Those in the lowest sector of our economic society moved along. As a matter of fact, they moved along a little higher than those at the very top. But America was moving along together.

It is interesting that this is a period of time when we had the trade union

movement at its peak. One of their strong themes during that time was economic fairness, economic justice. If we were going to see an increase in productivity as a result of their own enterprise and working with the employer, the benefits were going to be shared. It was going to be shared between those at the top and those who were working. That was the concept we had seen reflected in this growth from 1947 to 1973.

Look at what is beginning to happen from 1973 to 2000. We begin to see now the lowest is growing the least and the top 20 percent is growing at a rate of three or four times higher than the lowest. This was the beginning of significant tax cuts that benefited the wealthiest individuals. We see the economic indicators reflected here in the income for those individuals across the board.

Now look at what has happened in the most recent time. We see that those in the lowest economic income have been falling further and further behind, and those in the top 1 percent have been going further and further ahead. All of this is going on at a time when we have seen the weakening of the trade union movement.

How is this reflected in what has happened with corporate profits? Here we see at the same time corporate profits were going up some 84 percent at the time from 2001 to 2007, where wages and salaries have been virtually stagnant. They haven't moved. They have gone up a total of 4 percent over this 6-year period. The profits have been growing; wages and salaries have not been growing. Benefits are going up in terms of corporate profits, but the workers' are not. We have seen what has happened.

This chart is interesting. It tells the story of what I have just mentioned in a different way. For the first time, young men make less than their fathers did. We have grown up in this country believing that the future generation was going to have a better opportunity and a more hopeful future than the current generation. Those certainly were the hopes and dreams of those who came to this Nation. It has been certainly generally true, right? Wrong. We saw that was true from 1964 to 1994, the purple colors reflecting the son; the green, the father. We talk about income. You see that the son's income exceeded the father's. Now look from 1974 to 2004. There has been a 12-percent decline of the son over the father—again, the decline in the voice to speak for workers, the strong voice that is going to speak for workers.

Now look at what happened again, if we can go back. Remember the first chart where I talked about 1947 to 1962 when all of the different economic groups went along and went up together. This is the time of peak union membership. What this chart shows is that wages and productivity rise together. What does this chart show? It shows right along here increasing productivity. That means the workplace is

becoming more productive. They are producing more. What happened when we had the height of the trade union movement during this time, we found out wages were keeping up with productivity; therefore, workers were working harder, but they were getting more in terms of wages. They were keeping pace with their increasing productivity. Now we see the unions begin to decline, and the workers are falling further behind. Productivity is still going up, but real wages are in decline and productivity grew more than 200 percent more than wages, reflected in that earlier chart which showed the profits going up.

All this is at an interesting time where the workers' voice in the workplace is being constantly diminished. On the far left, we find peak union membership; wages and productivity rise together.

Now you can ask: What happened after 1966? Why this sudden disparity? How could it be doing so well with union membership during this period and then suddenly we find a decline? Well, we had decisions made by the National Labor Relations Board and the Supreme Court that decided businesses can veto majority signups as a result of elections. I will go through that in more detail. But they have it as an art at the present time where an election can be held, let the workers make a judgment, a majority can say: We want to join a union, and next you know that those individuals who are involved in that activity are being fired, lose their jobs, are out of jobs—not just for 1 month or 2 months, not just for 6 months, not even for 1 year, sometimes 3, 4, 5 years. It is the cost of doing business. A whole industry has grown up to help employers defeat the voices of workers in the workplace. That is what happened during this period of time in the 1960s and 1970s. We had our Republican friends appointing members to the National Labor Relations Board during this period of time—also the Supreme Court—who made these judgments to disadvantage workers. We have seen the abuses skyrocket.

This chart is from a Peter Hart Research Associates poll from a year ago. It shows that 58 percent of nonmanagement workers would vote for union representation. This represents 60 million workers who want to join. We can ask ourselves: If they want to join, why don't they join? Let me point out, before we get there, what else has been happening in the workplace.

We find there have also been assaults on unemployment insurance. This is the fund for when we have extended unemployment periods. This is an unemployment insurance fund which is paid into by workers so they will be able to receive it when they are unemployed. It has been generally used historically in times when we have had a downturn in the economy. But we have had administrations which have refused to extend the unemployment insurance, even though the fund itself is in sur-

plus, to look out for the workers. We have seen 6 million individuals who qualified for overtime who were workers 3 years ago lose their overtime pay. We saw the results of administration action in Hurricane Katrina where they refused to extend the Davis-Bacon provisions. We have the undermining of family and medical leave. We have had Supreme Court judgments and decisions which have also compromised the worker.

One of the most notorious was the Supreme Court decision that was made probably 4 weeks ago where a woman who had been working in a plant for a number of years and had been working alongside a number of men for all these years found out she was being paid significantly less than the men. That is unfair under legislation we have passed in the Civil Rights Act. When the case finally went up to the Supreme Court, the Supreme Court said: Well, it is too bad that has been her case because under the legislation, she should have complained in the first 180 days. Since she didn't complain in that time, she lost all her rights.

That is the most cockamamie decision I have heard of the Supreme Court making in recent years. I can give you another one, the Grove City case on civil rights, but imagine this individual didn't even know she wasn't being paid fairly. She had no notice of it. The payroll was being kept by the employer. This is what is happening in real America.

We all know what happened with carpal tunnel syndrome. We had rules and regulations under the previous administration. More than a million people, most of them women, are doing the kind of repetitive work which endangers their health. We had the National Academy of Science make determinations that these individuals, by and large women, are being harmed by this kind of activity. We had the previous Democratic administration issue rules and regulations to provide protections and, and bam, under this administration, under the current administration, the Bush administration, they have been eliminated, all of them.

So we see the series: elimination of overtime pay, elimination of protecting people in terms of pay on the job, eliminating rules and regulations to protect people from carpal tunnel syndrome—all of these going on at the same time. They are the kinds of situations the trade union movement speaks about and fights about. They fight for an individual member who is being abused like the woman being abused in the workforce. They have been a principal spokes-group for the protection of people doing repetitive work and being affected by carpal tunnel syndrome. But they have been weakened, their voice has been weakened. As a result, we see the great economic disparities, and we see the great threat to the workers.

Now, you can say: Well, that is very interesting, Senator, but what are

these kinds of barriers to workers, if they have an election and they are successful? Well, here are some of the roadblocks. Workers who lead the union efforts are fired. We have 30,000 a year who get backpay. Mr. President, 30,000 a year get backpay from employers for violations of their rights. What kind of message do you think that sends to other workers who have to provide for their children and their family, seeing the individuals dismissed or their rights violated?

The employer challenges the election results. No matter what the disparity, they still challenge it and delay it. Then the employer appeals the NLRB ruling in the courts. I might, later on this afternoon, go over some of the court decisions as to the National Labor Relations Board and how they have changed from protecting the worker to protecting the employer and how the DC court—because the DC court is the special court of jurisdiction—how they have altered and changed in terms of protecting the workers. But the workers, effectively, are not getting protection either from the National Labor Relations Board, which was set up to protect them, or in the courts, which are supposed to be protecting their interests.

The employer stalls or refuses to bargain for a first contract. They are able to kick this over for a year. The employer can seek to stop recognizing the union. Then the workers start all over again.

This is what we have: The employees are fired in one-quarter of all private sector union-organizing campaigns—one-quarter of the campaigns. Talk about discouraging those who want to speak up. One in five workers who openly advocate for a union during an election campaign is fired. This has not varied or changed. You would have thought the Department of Labor or the National Labor Relations Board or the courts would try to protect these workers. Oh no, they have not, and we have the current situation we have.

In 2005, over 30,000 workers received backpay after employers had violated their rights. This gives you an idea of the warfare that is going on in the workplace—absolute warfare. Can we do something about it? Yes. That is what the legislation which is before us is trying to do. That is exactly the issue this legislation is trying to face. We will explain that. But that is exactly the point.

We see why some 60 million workers want to join unions. This chart demonstrates the percentage of wages for union members over nonunion members. This next chart is very interesting because it draws the distinction, the effect of union organizing for women. It makes a very significant difference in protecting women and women's rights, for African Americans, and Latino Americans. It is a very major force and factor in terms of making sure we are going to protect the rights and the civil rights of our fellow citizens.

This chart gives you a pretty clear idea. This is what we are talking about: people with wages that are \$22,000, \$23,000, \$17,000, or \$18,000. These are the people we are talking about. We are talking about, as demonstrated on this chart, that the cashier, if they do not belong to a union, is making \$15,000; if they do, they are making \$24,000. For childcare workers, if they are nonunion, they are making probably \$16,000; if they are a union member, they are probably making \$21,000. And we have demonstrated on the chart the wages for a cook, a housekeeper, across the board.

Look at the Federal poverty line on the chart. Those who are not a part of the union movement are below the poverty line, and those who are members of a union are slightly above it.

So let me point out what we are attempting to do. We are saying we want to give individuals the opportunity to be able to join unions through a card check, effectively. If a majority of those in a union are going to check the card, they are going to be a majority, and they have the opportunity to do so. But we do not eliminate the secret ballot. We are saying the secret ballot is still available.

Today, the secret ballot is decided, effectively, by the employers. Since the employees are the ones whose interests are at stake, we give them the option to go either through the secret ballot or to be able to do it through a card checkoff.

We have heard a lot on the floor about how the secret ballot in the workplace is comparable to the great American tradition of elections in the United States. But, of course, that is completely untrue. For example, if you take what we call the NLRB—that would be the elections in the workplace—versus a Federal election, in regard to equal access to the media, do we think the workers have equal access with the employer? No, of course not. It is the employer who has all of the access. Now, in a Presidential or a congressional campaign, there is relatively equal access. Maybe one candidate is able to get additional kinds of resources and able to get more of the media, but at least there is some degree of fairness and some degree of comparability. But here it is all one-sided, all with the employer. The freedom of speech is with the employer.

Access to the voters: No union members can come onto a grounds and say: Look, we would like to talk to these individuals who are trying to make up their mind. But the employer has access to these individuals all day long.

Campaign finance regulations: The employer spends whatever they wish on these issues.

The timely implementation of the voters' will: The federal elections all have them but not here. As we have just pointed out, employers contest the elections.

The way these elections are conducted now in the workplace, the odds

are all stacked against the workers. So the workers have been discouraged from doing so, from being able to express themselves. As a result, they have not been able to move ahead. As a result, they have fallen further and further behind.

Now, we also hear on the floor: Well, we can't have this kind of a checkoff because we will have intimidation of these workers in a certain way, we will have intimidation for those in the workplace. Well, the fact remains there are very strong laws against any kind of intimidation or coercion of workers. We can go through that in greater detail, which I am glad to do.

I know some opponents on the other side have cited a study by the Human Resource Policy Association that identified 113 NLRB cases that involved union deception or coercion. Over the last 60 years, one expert—who testified at the House hearing of the employee free choice legislation—who examined the cases found they contained only 42 such instances. We should not have any, but they had 42. In any event, those 113 claimed examples of coercing or intimidating workers over the past 60 years are next to nothing compared to the NLRB statistics that show acts of coercion alleged in a single year, which, in 2005, equaled about 30,000 workers getting backpay for firings or violations of their rights who were involved in union activity—firing them, throwing them out of their jobs or otherwise violating their rights.

So experience has shown, too, that when the majority signup replaces the battlefield mentality of the National Labor Relations Board election process, conflict is minimized and the workplace becomes more cooperative and productive—a win for both sides.

I might mention that this chart shows Cingular Wireless, and this one shows Kaiser Permanente. They provide for what is permitted under this bill. Of course, if the company wants to do it, it can do it now. It can do it today. But this will institutionalize it to encourage companies all over the country to do it.

Here is Kaiser Permanente, a well-known company. Mr. President, 800 nurses were able to choose a union based on the model of the Employee Free Choice Act. Kaiser Permanente proves that respecting workers' desire to have a voice on the job, rather than fighting the unions, is not only the right thing to do, but it makes good business sense. Says the president of Kaiser Permanente:

We not only believe it's the fair thing to do, but we also believe it's the right thing to do for our employees, our health plan members, and also our business. It has been their experience.

This is Cingular Wireless. A majority signed up. This is what one of the workers, Larry Barrett, said:

Management didn't pressure us or try to interfere. . . . We didn't attack the company and they didn't attack us. We were focused on improving our jobs and making Cingular a better place to work.

This is what the executive vice president of Cingular said:

We believe that the employees should have a choice. . . . Making that choice available to them results . . . in employees who are engaged in the business and who will have a passion for their customers.

We can either do it right or we can do it wrong. That is what this is really all about. It is permitting, on a voluntary basis, the opportunity to be able to permit workers to make a judgment and a decision as to who can be their voice and representative in terms of their economic conditions, their work conditions, their retirement conditions, their health conditions, and the rest. If they want to do it, let's let them do it. If they do not want to do it, let them make that judgment and choice. But today, the system is effectively broken. It is unworkable. The workers know it. The employers know it. Too many of the employers want to keep it that way.

We have an opportunity to provide some real democratization in the workplace. When we do that and we have workers who can have a voice in determining their economic future, their future in terms of other issues, we are going to have a stronger economy. It is going to be stronger in dealing with our competition around the world, and we are going to have increasing productivity.

I know there are those who say: Well, if we have a weaker trade union movement, we are going to have a stronger economy. I will just show the example of Ireland. Ireland has one of the strongest economies in all of Western Europe at the present time, and 35 percent of their workers are union members, as compared to 12 percent in the United States. Look at the economic growth of Ireland, which is at 6 percent; the United States is at 3.3 percent.

So I am hopeful the Senate will at least give us a chance to move ahead on this legislation. The time to act is now. This legislation will make a major difference in terms of our ability to deal with the challenges of a stronger economy, a fairer economy, an economy where workers have a voice as well as a vote. It is the right thing to do, and now is the time to do it.

Mr. President, I withhold the remainder of my time.

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

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

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

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

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

Mr. MCCONNELL. Mr. President, more than three centuries ago, settlers

in the New World began to put into practice the political ideals that brought them here and for which many of their descendants would later fight and die.

One of the most important of these was the ideal of political freedom, and one the most concrete expressions of it was the right to vote in secret, without harassment and without coercion. Rejecting the English Parliamentary tradition, several colonies, including all the New England colonies, established secret elections as the norm.

The secret ballot has been standard everywhere else in this country for more than a century. It simply hasn't been questioned. Americans have come to assume that in everything from electing their high school yearbook editor to their President, their vote is sacred and it is secret.

That is, until now. The so-called "Employee Free Choice Act" is an assault on the centuries-old practice of secret voting, and the fact that we are here in this Chamber discussing it at all is a scandal.

The Employee Free Choice Act was not written to help employees. It was written to help union bosses, who are angry because their membership has been plunging for decades.

This bill aims to reverse that trend by stripping workers of the right to vote privately for or against a union. They'd be forced to publicly sign a card instead, exposing them to coercion and intimidation by employers and union bosses alike.

When union bosses convince more than half the employees at a work site to sign a card authorizing a union, they will be free to organize.

Meanwhile, employers would be free to check whether their workers favor labor or management.

Look, Congress settled this issue 60 years ago when it amended the National Labor Relations Act to provide secret ballots at the workplace. Congress changed the existing law then precisely because of widespread intimidation and coercion at the workplace.

Now our Democratic friends want to strip that right away from 140 million American workers, rolling back the clock 60 years on employee rights and potentially eroding the broader voting rights that generations of Americans have fought to secure for themselves and their children.

This is really a disturbing development. For years, American voters have been able to depend on Democrats to be loud persuasive supporters of voting rights. Their sudden conversion is shocking, but its cause isn't a secret.

Speaking to a union rally on Capitol Hill last week, the distinguished majority leader gave us a clue into the origins of this anti-Democratic bill. Here's what he told the unions that showed up: Democrats are in control of Congress now because of you. You made all the difference—and let me start with two words: thank you.

Well, are we to expect that blowing these folks a kiss at a pep rally was all they wanted? I think not.

The unions haven't been coy about their legislative wish list. And according to the Las Vegas Review Journal: "The Employee Free Choice Act is at the top of their wish list."

The Review Journal is calling this a textbook case of payback. Well, for all you civics students out there, you are about to see a textbook example of something else: how this kind of thing backfires when it threatens to undermine something that Americans hold dear, and that is the right to vote without somebody looking over your shoulder.

Historians tell us that once secret ballots gained near-universal acceptance a little over a century ago, the only Western country that didn't continue to observe the practice religiously was the Soviet Union.

Yet even there, communist leaders were careful to maintain at least the formal appearance of secret ballots. An ad that recently appeared in a number of national newspapers illustrates my point. I think I have it here behind me. At least I thought I was going to. I guess I don't.

Leading with the quote: "There's no reason to subject the workers to an election," it asks: "Who said this?"

We are given three choices: Mahmoud Ahmadinejad, Idi Amin, and American union leader Bruce Raynor. It was Raynor in fact who said that in defense of the Employee Free Choice Act.

No wonder the Communist Party USA endorsed the bill at its national convention in 2005.

It's understandable why my good friends on the other side hoped they could introduce this bill quietly—just slip it in, watch it fail with a whimper, then crow about their support for Big Labor at political rallies.

They knew as well as I do that if voters knew they were looking to roll back a basic protection like the right to vote in secret, they would be in trouble.

The polling data is overwhelmingly on this one: Nine out of ten Americans—including 91 percent of Democrats—favor the right to a federally supervised secret ballot election when deciding whether or not to form a union. The main provision in this bill is about as popular as poison ivy, which is why this was supposed to all be quiet.

Incredibly, my good friend the majority leader has even indicated that he doesn't expect the bill to pass. Last week he was worried that some Republicans who are opposed to the immigration bill would vote for this bill just to delay debate on that one.

He said such a move would be made out of pure spite, which could only mean that he doesn't expect—or want—this bill to go anywhere.

So what are we doing here?

I'll tell you what: we are being told to squeeze in a vote on this anti-Democratic bill between two of the most important pieces of legislation in this Congress, in the hope that it will fail.

Well, it will fail. But not quietly.

Democrats can't put voting rights on the table and expect to get away with it.

So first, Republicans will indeed block this bill.

But we won't be quiet about it. We're not going to forget about it. We will make sure Americans don't forget about it either.

We'll remind our constituents that our friends on the other side didn't mind promoting a bill that would lead to voter intimidation by employers and union bosses.

All but two Democrats in the House passed their version of the bill in March. Apparently they have no problem with union bosses following employees to their cars after work and telling them to vote union.

Apparently they have no problem with these guys following workers home at night and knocking on their doors for a chat.

I am not making this stuff up.

We have read about a case in Louisiana where a worker was forced to seek an arrest warrant for a union boss who showed up at his home eight times trying to get him to sign a unionization petition.

Under this bill, the threat of employer intimidation is just as worrisome. Imagine having to announce in front of the person who writes your review, who sets your bonuses, approves your raises, and controls future promotions that you prefer labor to management.

This is no different than the days when landowners sent their agents into the fields to tell their tenant farmers how to vote in local elections. It was because of practices like these that the first colonists fled to America in the first place.

Another reason Democrats wanted to keep this bill quiet is that so many of them are on record opposing any abridgement to the right to secret ballots.

On the first day of this session, the Senate's Democratic leadership introduced a bill outlining the purpose of U.S. Democracy-building efforts abroad. This Congress' Democratic leadership introduced this bill. Here's what it said:

It should be the policy of the United States to use instruments of United States influence to support, promote, and strengthen democratic principles, practices, and values, including the right to free, fair, and open elections, secret balloting, and universal suffrage.

Apparently, our good friends on the other side believe the right to a secret ballot is essential for everyone—except the American worker.

Time and again, Democrats have expressed their belief that the right to a secret ballot is sacred in a democracy.

Six years ago, 16 Democrats in the House sent a letter to a group of government officials in Mexico chastising them for even considering a switch away from secret ballots.

They wrote:

We feel that the secret ballot is absolutely necessary to ensure that workers are not intimidated into voting for a union they might not otherwise choose.

Support for the secret ballot in the Senate has been just as passionate. My good friend the senior Senator from Vermont has called it "one of the great hallmarks of this Democracy."

The senior Senator from Connecticut has referred to "the sanctity" of a private ballot.

The junior Senator from Iowa went even farther, saying in 2005 that:

Perhaps what we need is a Constitutional Amendment guaranteeing the right of every citizen of the United States a secret ballot and to have that ballot counted.

Nine out of 10 Americans agree with these Democratic Senators, which is why their party's effort to roll back this right for workers is so alarming, and why it promises to be so alarming to voters next year.

Unions have every reason to be worried about their membership, which has been in steady decline for decades. In 2005, only 12.5 percent of workers nationwide belonged to unions. In the private sector, the figure was even more anemic. It is now less than 8 percent.

But the price of reversing this trend shouldn't be one of the fundamental tenets of a free society, nor should elected officials be complicit in the effort.

According to the Associated Press, organized labor spent some \$100 million on get-out-the-vote efforts last year, reaching tens of millions of voters by phone and other means on behalf of labor-backed candidates. Labor PACs contributed \$60 million for federal candidates, including \$40 million from the AFL-CIO.

According to news reports, Big Labor explicitly traded their endorsements of prospective freshman Democrats last year for the promise that the candidates would later vote in support for the Employee Free Choice Act.

After the election, AFL-CIO's chief John Sweeney told a reporter it was money well spent. Big Labor had a plan when it poured money into the election last year.

Look, you don't need to be John Locke to figure out what's going on here. The unions are losing the game, so they have decided to change the rules.

But the rule they want to change isn't some little provision in the labor code it is a fundamental right that the citizens of this country have enjoyed without interruption for more than a century.

This was bold, it was desperate, and it was stupid.

Republicans will proudly block this bill from becoming law, and we will just as proudly remind people who forced a vote on it in the first place.

Today happens to be the birthday of George Orwell, a great enemy of tyranny who had some harsh things to say about political speech.

Orwell saw how rhetoric was used in his own day to excuse the inexcusable.

We now call it doublespeak—or speech that is meant to conceal the actual thought of the person speaking.

I can think of no better example of this than the Employee Free Choice Act.

This bill isn't meant to help employees; it is meant to help unions. It is not about increasing employee choice, but limiting it.

I will vote against it. And I strongly urge—and fully expect—my Republican colleagues to join me.

I yield the floor.

The PRESIDING OFFICER (Mr. PRYOR). Who yields time?

The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I yield myself such time as may be necessary.

I have been looking at a lot of the charts the other side of the aisle has presented. We are going to have a vote on cloture to proceed to H.R. 800, which is the so-called Employee Free Choice Act. It would be better named the "lose your secret ballot by intimidation act."

This legislation attempts the most radical, unacceptable, and unwarranted change in our system of labor-management relations in over 60 years, since Congress passed the Taft-Hartley Act. We have watched the other side of the aisle grasping for ways that this might be justified. We heard about the minimum wage, health insurance, pensions, costs going up, gas, food, and that it is all related to people having a secret ballot. The secret ballot is causing that? That is a stretch—saying that unions cannot organize because they are required to have secret ballot elections. I grant you it is going to be much easier for them if they don't have to have secret ballot elections, and can rely on intimidation.

I was fascinated by the chart on voting that was shown earlier, and the things that are supposedly not available in a union election as opposed to the things that are available to the American public in federal elections. Most of them just are not accurate.

One was "equal access to media." If one side is buying ads, the other can do it, too. You cannot tell me unions don't have money or don't know how to run ads because I have seen them run ads against politicians. They are both free to run ads under current law. Another was "Freedom of speech." I don't know where they allege the National Labor Relations Act takes that away. We have freedom of speech under current law. My favorite category on the chart is "equal access to voters." Under current law, the union gets a list of the home addresses of every single person who works in that business. Now, the employer cannot go to their home, but the union can go to their home, and we've heard some examples of how that works. That is why I call it "lose your secret ballot by intimidation act." If you have half a dozen people show up at your door, some of whom you know and some of whom you

don't know, and they are going to try to persuade you to sign a check card, is that equal access to voters? If you don't let them have a secret ballot afterwards to see if they meant to sign that check card or if they only did so because the intimidators were there, it is simply not fair to the employee.

You have to agree this card checking system is kind of a joke and that it isn't a real election where rights are protected. The National Labor Relations Board watches those very carefully. In fact, they run the election and guarantee a secret ballot to every potential union person who votes.

Despite its cynical and deceptive title, this legislation is not about employees, nor is it about enhancing employee rights. This legislation certainly has nothing to do with free choice either. It is plain and simple; this bill is about unfairly and artificially boosting organized labor's steadily declining membership at the expense of essential employee democratic rights. We need to begin by understanding just how radical a departure this objective is from our longstanding national labor-management policy.

Under our system, the Government's role has never been to guarantee a level of membership for unions, or to change the rules in order to boost a union's membership numbers. The role of Government has been—and should be—to remain neutral with respect to the positions of both organized labor and management. Its most important rule is to guarantee that employees have the maximum freedom possible to make their own choice as to whether they do or do not wish to be represented by a union in their workplace. In short, our system of labor-management relations is based on employee rights, not organized labor rights, and not employer rights, and certainly not on some supposed right to a certain level of membership among private sector employees.

This legislation would turn that national labor policy on its head. It would sacrifice the fundamental democratic rights of working men and women in order to artificially boost union membership levels, increase union bank accounts with employees' dues, and enhance the political leverage of organized labor. That is what such money buys. We saw the results of that last week at some of the rallies put on by this bill's supporters. The speeches given at those rallies offer a real appreciation for that kind of political leverage. They implied that now is the time to pay up. This is a totally unacceptable perversion of our longstanding national labor policy. More important, it is outrageous to even suggest we should sacrifice the democratic rights and freedoms of working men and women to further such an effort.

Despite the radical nature of what is proposed in this legislation, and despite the fact that it would constitute the largest attempt to change basic

Federal labor law in more than 60 years, it is telling how the proponents of this legislation have sought to move this bill. In the House, those who opposed this legislation were effectively cut out of the process. Leadership in the House brought this bill to the floor and allowed little opportunity for amendment or debate. Indeed, it was on the floor in that Chamber for only a few hours. Here in the Senate, the proponents now seek to move this legislation outside the regular order. It hasn't been to committee. Even though this bill falls squarely in the jurisdiction of the HELP Committee—Health, Education, Labor, and Pensions—of which I am the ranking member, the proponents of this legislation bypassed the normal committee process and brought this measure directly to the floor. With the committee process comes increased scrutiny and a decreased prospect that legislation would ever move based on rhetoric rather than sound facts and reasoned policy.

There may be those who believe that by short circuiting the committee process, it would be less likely that the public would see the legislation for what it is—that the true dimensions of this devil's bargain would be hidden behind a wall of rhetoric. We cannot and will not let that happen.

Let's briefly look at what the legislation does. For nearly seven decades, millions of employees have decided for themselves, and for their individual workplaces, whether they want a union to become their exclusive legal representative. In the vast majority of instances, this critical decision has been made through the use of the most fundamental institution of our democracy, the private ballot. In a democratic society, nothing is more sacred than the right to vote, and nothing ensures truly free choice more than the use of a private ballot.

The current system provides that the question of union representation in the workplace is determined by a Government-supervised secret ballot process overseen by the NLRB. For over 60 years, the NLRB has conducted tens of thousands of elections involving millions of workers, and has developed and refined complex rules and procedures designed to guarantee that the entire process is fair and regular and free from threats, intimidation, and coercion. It carefully monitors the conduct of all parties to the election process and acts quickly and effectively to remedy any misconduct that interferes with the free choice of employees. Those who understand the National Labor Relations Board's processes know that it conducts union elections in a free and fair manner, as evidenced by the fact that only around 1 percent of all elections are rerun due to misconduct on either side. More recently, in 2005, over 2,300 certification elections were conducted by the National Labor Relations Board. Yet the National Labor Relations Board conducted rerun elections because of mis-

conduct by either the employer or the union in only 19 cases. Yes, that is what they do, they force rerun elections because of misconduct by either the employer or the union. So in 2,300 certification elections in 2005, misconduct by either the employer or union, there were only 19 cases.

The current private ballot election system is not only fair, it actually favors unionization. The win rate by unions in the National Labor Relations Board elections has increased for the last 10 years in a row. This is an unmatched run of electoral success. The win rate for unions in 2005 and 2006 was over 61 percent, again an unmatched record. Contrast this with the fact that during the entire 1980s, the average win rate was below 50 percent. For example, in 1982, unions won less than 45 percent of the time. The same is true for the decade of the 1970s, where unions again averaged losing more than they won. But they didn't ask the heavily Democratic Congress at that time to change the laws. In light of unions' increasing electoral success, and the fact that the legal rules have not changed in 60 years, there is absolutely no basis to claim that a change is warranted, particularly where that change is to strip workers of their rights.

Unions want to now change this carefully developed democratic system into one that is totally one sided, unsupervised, and an invitation to undue pressure, coercion, and even outright intimidation.

Imagine you are a worker at a non-union facility and you are approached at work by people with whom you must interact day after day, or visited at home by union organizers. Remember, they have all the addresses. Imagine you are repeatedly asked to "sign up" for the union and that you are given a sales pitch that may or may not be true. Do you think you might sign just to avoid the hassle, just to get people off your back, just so you don't offend a coworker, or just because you haven't heard both sides? Do you think you might sign up even though your truly free choice would be not to have a union? Think about it: visitors to your own house. Most people would sign for any one of those reasons, and that is exactly why we have private ballot elections.

Beyond assaulting free choice and the right to vote, this bill would gravely damage the freedom of contract that has been a hallmark of our private sector labor-management relations. Our system recognizes the reality that in the workplace, as in other contractual situations, the parties who must live by the contract are the parties who must make the contract. Instead, under this bill, if an agreement was not reached within a mere 90 days, the contract would be placed in the hands of a Government arbitrator who would have the power to determine every detail of the employee-employer relationship. They could determine hours, pay, conditions, benefits, insurance, pensions,

everything. Neither the employees nor the employer could contest this contract, and both would be bound to the terms for 2 years. There would not even be a right for the union members to even vote to approve or disapprove the contract agreement, none at all. That right, which they have under current law, would be taken away, too.

Can you imagine either buying or selling a house and being told that someone from the Government would decide the terms of the sale? And even if you didn't agree, you would be forced to go through with the deal? Whether it is buying a house or negotiating a labor contract, this notion is simply untenable.

Lastly, the bill would substitute a tort-like remedy system for the make-whole remedy system that has served so well since the inception of the National Labor Relations Act. The vast majority of labor-management disputes are voluntarily resolved. A tort-type system, while it would certainly keep the trial lawyers busy, will clog the system with litigation and simply delay the resolution of claims.

The bill seriously infringes on due process and the right to manage a private business through its mandatory injunction provision. This is how that works. If an individual claimed he was terminated because of his union sentiments, the Government would require that he return to work before the merits of his claim are determined. The law already provides that this extraordinary step can be taken in appropriate cases, but it doesn't require it in every case. We should not require that the Government take action based on the presumption that a party is guilty unless proven innocent, except in the rarest of circumstances. We certainly should never make that practice the norm. In a host of other statutes, we quite rightly outlaw all types of employment discrimination. However, in none of those statutes do we presume guilt and require the individuals who merely claim to have been discharged be returned to work before the merits of their claims are determined, and we shouldn't do so here. The law provides for them to be reinstated, but it doesn't require it in every instance.

I am not alone in the view that this legislation is fundamentally flawed, unnecessary, and destructive to employee rights. That view is widely shared with others, as shown by some of the poll numbers that were mentioned earlier. Even union members oppose this bill by a wide majority—80 percent. I suspect that doesn't include union bosses, but it includes union members.

These views were, at one point, shared by my colleagues across the aisle. In 2001, the lead sponsor of this misguided legislation in the House, along with the current House and Senate Members, wrote a letter to the Mexican Government regarding its labor laws in which they noted:

The secret ballot election is absolutely necessary in order to ensure that workers

are not intimidated into voting for a union they might not otherwise choose.

Incidentally, that was the chairman of the Labor Committee on the House side. It is simply incomprehensible that my colleagues would lecture foreign governments about the importance of industrial democracy while simultaneously advocating we strip American workers of the same rights.

The signatories of this letter are not the only Members supporting this bill who, previously, consistently upheld the importance of the secret ballot. My colleagues have rightly noted:

One of the most fundamental of all rights that make us uniquely American [is] the right of the secret ballot.

Yes, that was Senator HARKIN. Another colleague said:

The sanctity of a private ballot is so fundamental to our system of elections.

That was Senator DODD.

Second, not only have my Democratic colleagues previously insisted on the necessity of a Government-supervised private ballot, so, too, has organized labor when it has suited their purpose.

In 1998, two of the AFL-CIO's most prominent unions argued to the National Labor Relations Board that the National Labor Relations Board supervised election process "is a solemn . . . occasion, conducted under safeguards to voluntary choice . . ." Other means of decisionmaking are "not comparable to the privacy and independence of the voting booth," and the secret ballot election system provides the surest means of avoiding decisions which are "the result of group pressures and not individual decision."

I remind both my colleagues and organized labor that such statements are ones of principle that are not to be twisted or abandoned for political expediency. Advocating these positions and supporting this legislation are so inconsistent as to be the height of hypocrisy.

At least some labor organizations are willing to stand for the true preservation of employee rights by directly opposing this legislation. Last Thursday, the Fraternal Order of Police, an organization of over 300,000 law enforcement professionals, sent an open letter to Senator REID advising of its strong opposition to H.R. 800. In its letter, the Fraternal Order of Police noted:

The National Labor Relations Board provides detailed procedures that ensure a fair election, free of fraud, where employees may cast their vote confidentially, without peer pressure or coercion from unions, employers or fellow employees.

The letter concludes by noting:

The only way to guarantee worker protection from coercion and intimidation is through the continued use of a federally supervised private ballot election so that personal decisions about whether or not to join a union remain private.

Third, not only do my colleagues and labor unions agree that the private ballot is the most fair, the most accurate, and the most democratic way to deter-

mine employee free choice, and that all other methods are seriously flawed, so, too, do the Federal courts.

I have a chart from the U.S. Supreme Court which, along with every Federal circuit court of appeals, has uniformly and over the course of decades held that the private ballot is the best, most reliable, and most democratic means of determining employees' free choice in the matter of unionization, and that all other methods, most particularly card signing, are inherently flawed and unreliable.

With respect to signed cards, the Supreme Court noted that cards are not only unreliable because of the possibility of threats surrounding their signing, but because they are inherently untrustworthy since they are signed "in the absence of secrecy and in the natural inclination of most people to avoid stands that appear to be nonconformist and antagonistic to friends and fellow employees."

With respect to the importance of the private ballot, one Federal court of appeals put it best when it observed that its preservation mattered "simply because the integrity and confidentiality of secret voting is at the heart of a democratic society, and this includes industrial democracy as well."

The long line of those who oppose this legislation and its outrageous assault on the democratic rights of American workers does not end here. I received a letter from a half dozen former members of the National Labor Relations Board regarding this legislation. The National Labor Relations Board is the Federal agency that oversees private sector labor-management relations, and enforces this very statute that this legislation would alter so radically. It supervises the entire secret ballot process under which workers currently make their free choice for or against union representation.

These are the experts in this area of the law who were nominated by both Democratic and Republican Presidents. Here is what they have to say about this grossly misnamed legislation:

We, the undersigned are all former Members of the National Labor Relations Board, and were nominated to serve by both Republican and Democrat Presidents and confirmed by the Senate. In addition, each of us has devoted our respective professional careers to work in the field of labor/management relations. Each of us has carefully reviewed H.R. 800, legislation entitled "The Employee Free Choice Act"; and, based on that review believe that the legislation is fundamentally flawed and should be rejected by the Senate. We fully agree with the position consistently expressed by the Federal courts and by virtually all experienced practitioners that authorization cards are inherently unreliable indicators of true employee choice. There simply is no more fair, accurate or democratic way to determine an individual's free choice on any matter than through the use of secret ballot election. We are also deeply disturbed by the legislation's binding arbitration provision. This provision would radically change the process of private sector collective-bargaining in the United States and such change is neither required nor beneficial. The success of private sector

collective-bargaining in the United States has long been premised on the traditional precept of contract law that the parties that must live up to a contract are the ones that must make the contract. The legislation would, in our view, do grave damage to the process of collective bargaining in the United States.

Again, I mention that these are both Republican- and Democratic-nominated people to the National Labor Relations Board who were approved by the Senate.

They go on to say:

Lastly, we believe that the remedial provisions contained in the legislation are unnecessary and counter-productive. Since its inception the National Labor Relations Act has provided that individuals who have suffered a loss because of violation of the act be made whole. The act has never made a provision for punitive sanctions. Because of this, the vast majority of claims before the National Labor Relations Board are voluntarily adjusted and fully resolved in a very short amount of time. Were the remedial provisions of H.R. 800 enacted, board litigation would increase dramatically, and the voluntary adjustment of claims that has been a hallmark of the board process would inevitably become a thing of the past. While this might be a boon to trial lawyers, it would result to no benefit to employees whose rights have been violated. Indeed, the sole effect on such employees would be to substantially delay the receipt of compensation to which they may be entitled.

For the reason noted, we would respectfully urge the Senate to reject H.R. 800 or any other legislation, containing like or similar provisions.

That is signed by Marshall B. Babson, J. Robert Brame, Charles I. Cohen, Dennis M. Devaney, Peter J. Hurtgen, and John N. Raudabaugh.

Let's listen to what our Democratic colleagues have said in their more candid moments, which I quoted earlier. Let's listen to what the Federal courts have consistently told us. Let's listen to what the labor unions honestly believe, and to labor law experts who enforce the NLRA and were nominated by both Democratic and Republican Presidents and confirmed by a bipartisan Senate. Let's hear what they say. Let's listen to what they say. Most of all, let's listen to common sense. Only in a totalitarian country or a society imagined by George Orwell could anyone assert that the Government was going to afford free choice by stripping them of the right to vote by secret ballot.

It is plain to anyone who takes a moment to look that this legislation is not about employee rights, it is not about enhancing free choice, it is a transparent payback to organized labor at the expense of employee rights and employee choice.

I urge my colleagues to flatly reject the notion that we should even further consider this unwarranted and destructive legislation. The Senate, quite frankly, has too many matters of genuine substance and importance to be spending time on legislation that is plainly designed to profit the special interests at the cost of fundamental employee rights. Help me to be sure we do not take away the right to a secret ballot.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield such time as the Senator from Maryland may consume.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. KENNEDY. First, Mr. President, I ask unanimous consent that at 3:15 p.m. the Senate suspend its deliberation of the motion to proceed for the swearing in of the Wyoming Senator, and that any time consumed by that and speeches thereon not be counted against either side in the debate, with Senator SESSION's time delayed accordingly.

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

The Senator from Maryland.

Mr. CARDIN. Mr. President, first, let me thank my colleague from Massachusetts, Senator KENNEDY, for yielding me this time and for his leadership on behalf of working families and among the poor American workers.

I listened with great interest to the Republican leader talk about the concerns of protecting workers' rights to a secret ballot. He had one complaint. It seems this legislation is lopsided in taking away the right of a secret ballot. The Republican leader then said, well, we are going to not be quiet about this. We are going to talk about this and make sure people understand exactly what this bill does.

What I don't understand, and I think people listening to the debate will not understand and be somewhat confused about, is if you read H.R. 800, you will see the protection for a secret ballot is preserved. It is an option the workers have to be able to have a supervised election. It is still in this law. I think they are going to be more confused because we have a vote tomorrow where we are going to have a chance to bring this bill before this body where we can have a full debate and consider amendments.

Quite frankly, I have heard from a lot of my constituents about this legislation—some for, some against. Workers are concerned about the tactics being used by some employers to prevent unions from being able to collectively bargain. There are worker intimidations, where workers are fired; there are threats made that plants are going to be relocated if they dare choose to be represented by a union; there is propaganda put out by employers that is downright intimidating. Those things do happen and they deny workers the real freedom of choice.

Some employers have expressed concerns about the arbitration provisions in this legislation and about making sure they do preserve an equal opportunity to be able to talk to their employees. These are matters we can debate, if the Republican leader will allow us to bring this issue to the floor. After all, he said he wanted an open debate on this subject. Let us have an open debate. There are troubling con-

cerns in this country. Nothing is more American than an honest day's pay for an honest day's work. America's great economic strength has been created because of fairness in the workplace, because of collective bargaining, because of the importance of workers in our economy, and effective collective bargaining. But as Senator KENNEDY pointed out a few minutes ago, we have some very troubling economic trends in this country—very troubling.

Real wages for U.S. workers are lower today than they were in 1973, even though productivity has increased by 80 percent. We do pride ourselves that each generation of Americans will live a more prosperous life than in previous generations. That will not be true for a large number of Americans. Today, wages are not keeping up with productivity. There is a problem in the workforce, and it affects all of us in this country. We need to do something about it.

Real median household income in my own State of Maryland has declined by 2.1 percent from 2000 to 2005. We find a widening of the income gap in America, a widening of the wealth gap in America. We should be moving to narrow that gap, not to see it continue to increase. We have a problem we need to deal with, and this legislation, H.R. 800, gives us an opportunity to debate these issues and determine whether the decline of unionization is one of the factors in contributing to these difficult economic trends.

CEOs are now paid 411 times what workers are paid in America—411 times. In 1990, it was bad enough at 107 times—once again, a widening of the gap. I remember when I was in college talking about the strength of America. The strength of America was that in all the western economic powers we had the narrowest gap between wealth and income. Now we have the widest. We need to do something about it. Unionization helps bridge that gap.

What has happened to unionization? In 1973, 24 percent of Maryland workers worked in a company that offered union representation. In 2006, that number dropped to 13 percent.

The United States has exercised international leadership. I listened as my colleagues talked about the letters we have written to other governments. We have been the leader in saying that workers rights is an international human rights issue. It is. America should be exercising leadership internationally on these issues. Some of us have argued on trade legislation that we should be doing a better job in protecting international workers' rights. But it also starts with what we do here at home, and we should be troubled that nationwide only 12 percent of U.S. workers have a union in the workplace. Surveys show that 53 percent want to have unions in the workplace.

I listened again to what the Republican leader said about secret ballots, and I know there is a disconnect here, because, again, this legislation doesn't

get rid of that. What this legislation tries to say is we want workers rights to be adhered to. If the majority wants to have a union, they should be able to have a union without intimidation from the employer. And if the majority does not want to have a union, they should be able to do that without intimidation from the union. Both are true. But in today's workplace, it is not balanced. H.R. 800 gives us the opportunity to debate this issue and, hopefully, act on this matter.

Why do we need this? As I have pointed out, we already have documented examples. Senator KENNEDY pointed out how many back wages have had to be paid because of wrongful firings. We can go through the list, but it is clear it is not effective today—not effectively giving workers a real freedom of choice.

This bill increases the penalties for illegal activities; allows the majority will of employees in joining a union; gives the framework for achieving negotiated contracts. It is a comprehensive bill. It is a bill that deals with more than just one subject, as the Republican leader keeps mentioning. It is a bill that tries to say, let us do a better job so that workers rights are protected in our economy and that workers who want to join a union are able to join that union and those who do not are equally protected.

We will never be able to get into that debate unless 60 Senators join us tomorrow to vote to bring up this issue. As the Republican leader said, this is an issue that shouldn't be kept quiet. Everybody should know where people stand on it. Tomorrow, Senators will have a right to do that by voting to bring this issue forward so we can have this debate in this body and in this Nation.

We should take every opportunity we can to act on behalf of protecting the rights of workers and working families here in this Nation. The statistics tell us we are not doing what is necessary for the growth of our economy. We need to make sure everyone prospers by our economy and we are not doing everything we need to do in that regard. That is why this Senator will vote to allow us to move forward to consider H.R. 800 when this issue is before us tomorrow.

I thank Senator KENNEDY for his leadership over so many years on these issues. He has been truly our leader in trying to speak up for what this Nation should be standing for. We are proud of the economic growth of America. Let us make sure all families can prosper in that growth. Senator KENNEDY has been our champion on those matters.

I urge my colleagues to support the effort to consider this legislation.

Mr. KENNEDY. Mr. President, if the Senator will yield for a question.

Mr. CARDIN. I will be glad to yield.

Mr. KENNEDY. And, Mr. President, I yield myself such time as we might use.

I listened to the very eloquent and persuasive speech of my friend from

Maryland, and one of the points he made which I think deserves mentioning is the underlying disparity between the wealth of the Nation, between the very rich and basic workers in the country; and his pointing out that in the 1960s that difference was the narrowest in the greatest economy in the world—which is the United States of America—and now it is the largest between the very wealthy and the neediest people in our society.

I am sure the Senator remembers Henry Ford, who we all understand was the creator, the early entrepreneur of automobiles, and Henry Ford's concept at that time was to have a million people who had \$10,000 a year to be able to support selling those cars and begin building the American economy. American workers brought us out of the Depression, fought in World War II, took a nation of close to 16 million men and women who had served in the military, came back, and transitioned again to being the most important economy in the world. Henry Ford understood it was important that there be a million people in America with \$10,000.

I am sure he would be perplexed today that we have 10,000 people with more than \$1 million. It is an extraordinary kind of irony that we have seen a small number with enormous kinds of wealth at that time in America, which had the strongest economy, as compared to now.

I share the concern the Senator from Maryland has, the direction we are going in, the indicators of where we are going and what is going to happen to that middle class, as the Senator pointed out; what is going to happen as tuitions go up and gasoline goes up, prescription drugs go up, and the pensions and security retirement are threatened, and the laws regarding what happens to workers.

As in Maryland, the same will happen to the workers in Massachusetts. These were always issues that workers and working families felt were important not only to their own families but to their neighborhood's family, their community family, and to the Nation's family. I am wondering if the Senator is not perplexed somewhat about his sense of the individual kind of activity, that we can let every individual sort of take care of themselves. They do not need health insurance; they can survive. They do not need much retirement to somehow be able to survive. They do not need much assurance about the cost of their house because they are going to survive. They are on their own, versus the coming together of a worker who is concerned about the common community and the common good.

I wonder if the Senator would talk a minute or two about how he sees which type of America he thinks is more in tune with our traditions and values.

Mr. CARDIN. Mr. President, I thank Senator KENNEDY for those comments and those questions.

As I said, I was in college during the 1960s, and I did listen to my professors

when they talked about the strength of this country, and it was unions that brought us the sensitivity in the workplace to provide health care benefits for people who never had health care insurance, who brought retirement plans for people who didn't have economic security when they retired. We made tremendous progress during the 1960s, the 1970s, and the 1980s as more people got health insurance and as retirement plans were readily available to workers.

When we look at the record today, we find 46 million people without health insurance and we know there has actually been a reduction of employer-provided health benefits in this country. Every year more and more of the cost of health care is being put on the backs of the employees. There has been an erosion of middle-income families being able to afford health care, so many are now forced into bankruptcy because they can't pay for health care bills.

For two-thirds of Americans, when they retire, Social Security is their largest source of income. It was never intended to be that way.

We always thought private retirement would be a major security for people when they retired. We have not met those goals. So we have a shrinking middle class in America, and the middle class is critically important, as Henry Ford said, for the manufacturers and producers and farmers to be able to sell their wares here in America. To have economic strength, you need to have the middle class. You need to have the sharing of wealth among the people of this country, and we do not have that in America today. We are moving in the wrong direction. I think that is what troubles me the most. I know how important a growing middle class is to an economy, to the economic strength of our entire country, so everyone can benefit from this great economy. I agree, we have a great economy. We are the strongest economy in the world. But we have to tend to it, we have to deal with it. Protecting the growth of worker rights will help everyone in our economy, including the owners of our large companies. That is what is so troublesome about this debate. It is not employers versus employees. We want a level playing field. We want companies to grow in America because we want more good jobs in America and we want employees to be able to get fair compensation for their work. That is what this debate should be about.

I thank the Senator from Massachusetts for bringing this issue forward because it really does talk about what type of country we want for our children and our grandchildren.

Mr. KENNEDY. The Senator understands—as we listened to this debate—who brings support for this legislation. The Senator suggested broadly, during his comments, we have civil rights groups supporting the Employee Free Choice Act. Civil rights groups, community, religious, and poverty groups

all support it. Whether it is ACORN, Sierra Club, the Presbyterian Church, public health associations, the Churchwomen United, the Methodists, the Alliance for Retired Americans, the Mexican-American Legal Defense—this is a group, not only of workers, it is a representation of civil rights groups, of women's groups, church groups that talk about the morality and the fairness. They talk about the morality of this issue as well, the fairness of this issue. I think that is what I find so persuasive.

I wonder, if the Senator just had a minute, if he would not agree with me, in the outline of this legislation, that he finds this is an effective summary of the legislation? It requires the employer to recognize the union if a majority of employees sign valid authorization cards. So a majority has to find it. We have heard a lot of talk about expressing the minority and majority views.

It preserves, as the Senator has said, the elections if employees choose to ask for one. The employees, after all, are the ones who are going to be affected by this choice. We hear a lot about free elections. Here, this legislation preserves free elections if the workers want that. It then instructs the NLRB to make clear and fair rules for a majority to sign up to protect workers' rights. Not if you listen to some of the comments and statements on the floor about how radical this proposal is. Does the Senator not agree with me that this is a fairly straightforward proposal to give those workers who are working in a setting the opportunity to express their will as to whether they choose to join a union?

Mr. CARDIN. The Senator is absolutely right. To bring home the reason this is needed today, 53 percent of workers would like to have a union in their employment. Only 12 percent today have union opportunities. The will of the worker today is not being adhered to because of the tactics used by some employers to prevent a fair and open process for employees to choose a union.

Just to underscore one more time, this is allowing the employees to have the freedom of choice. We will never be able to get to a full debate unless we get the opportunity to proceed with this legislation, and that is what this vote is about. I think the point of the Senator is very well taken. This is not taking away private, secret ballots. That is still an option which is available to the employees. But it allows the employees to have a level playing field, which in many cases today is not true.

Mr. KENNEDY. I thank the Senator for an excellent presentation.

I see my colleagues desiring to address the Senate. I withhold.

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

Mr. ENZI. I yield such time as he desires to the Senator from Arizona.

Mr. KYL. Mr. President, I rise today in opposition to H.R. 800, the Employee

Free Choice Act. While the bill's title suggests it would protect an employee's right to join a union, my belief is it would actually jeopardize that right. Actually, I would like to vote for cloture to allow this bill to be debated because I, frankly, think it would be defeated were that to be the case, and I would strongly oppose it. However, I will oppose cloture, not because I wouldn't like to have a debate on the bill but because I want to get to the next item of business before us, which is the immigration bill, which I hope we can complete before July 4.

As to the Employee Free Choice Act, as I think it is rather deceptively titled, it would remove the requirement that elections of union representation and leadership be conducted by secret ballot. The secret ballot, of course, is the ultimate protection for workers because it guarantees anonymity for every worker and protects workers from being submitted to coercion. Opposition to the bill even comes from the hometown newspaper of the bill's author, which notes in an editorial:

[B]iasing representation on whether a majority of signatures has been collected is a bad idea. . . . A worker who refuses to sign, or changes his or her mind and wants to revoke the signature, immediately becomes a target for pressure or retaliation by the union.

That is from an editorial, "Want a Union? Vote One In," the Boston Herald, February 11 of this year.

Currently, if a union has signed cards representing 30 percent of the workers, it can inform the employer, and the employer can either accept unionization or request a secret ballot. The secret ballot must pass a 50-percent threshold among employees for unionization to take effect. What is more fair? That is democracy. That is what this country has been built on. It is how we have operated in this country ever since our inception. The so-called Employee Free Choice Act would remove the option of a secret ballot and allow a majority vote of the signed cards to justify the certification instead.

As someone who was elected to my office by secret ballot, I am hesitant to uproot a process that is a cornerstone of American democracy, as I mentioned, and has proven to work very well. If American voters were forced to choose their Representatives and Senators by being presented with a card and then told to choose in front of the candidate's own staffer, let's say, I think we would dismiss this as nothing more than political thuggery. Why should union representation be anything different? In some cases, union representation affects a person's health care and wages more directly than Congressmen do, so the integrity of these elections is important, and it must be upheld.

Speaking of the American voters, it is interesting to note that, according to recent surveys, 79 percent of voters oppose this so-called Employee Free

Choice Act. Further, 89 percent of voters believe a worker's vote on union organization should remain private.

My friend, the Senator from Massachusetts, spoke of fairness and morality and mentioned various organizations. The one I remember was the church of which I am a member, the Presbyterian Church. I am a Presbyterian, and I don't think it is fair to remove the secret ballot, so I am not exactly sure what point that makes. It is best to stick with what has been the cornerstone of American democracy from our inception—the secret ballot; majority rule. It has been common practice for unions and employers for the better part of the 20th century and into this century, and it doesn't seem to me it needs to be changed now, especially with an extreme lack of compelling evidence to indicate that the current process has failed and in view of strong public and union opposition to doing away with the secret ballot. The Employee Free Choice Act crushes employee democracy, eliminates free choice for workers to unionize, and could expose workers to coercion; therefore, it should be defeated.

As I said I will join my colleagues in voting against cloture, not because I fear the debate—I think that would be healthy—but because clearly it is not going to pass. We might as well move on to our next item of business, which is the immigration bill.

I thank the ranking member.

Mr. ENZI. I yield myself such time as I might consume.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I listened to the Senator from Maryland, and I need to clear up some misunderstandings. I hope they are just misunderstandings. He said we should vote for cloture and let us debate. That really was not the intention of the other side of the aisle. If they really wanted us to have a debate, it would have gone through the regular process. This would have gone through the committee on which I am the ranking member, and we would have had a debate in committee. We would have had an opportunity for some amendments, maybe amendments that make the bill actually do what that side of the aisle is saying this bill would do.

I am most upset that they keep saying that under this bill, employees can still get a vote. This bill does not say the employees can get a vote if they want a vote. It simply does not. That is not just me saying it. We had the Congressional Research Service take a look at the bill and see if it requires the National Labor Relations Board to certify a union without any vote—and it does. Not vote. Only if the union sends in cards for only 30 percent of the employees will a vote occur as it does under current law. But the union organizers don't bother trying when they only have 30 percent of the people signed up. It is my understanding they seldom go for a vote unless they have

75 percent of the people signed up, and with 75 percent of the people signed up, in a secret ballot election they still lose 39 percent of the time.

This bill does not guarantee a vote. An employee who prefers to make his choice in a secret ballot election is not entitled to one under this bill. It does not guarantee a vote. That is not just my opinion. The Congressional Research Service, the Library of Congress folks who are dedicated to being impartial when they review bills, agree with me that there is no guarantee for a vote—unless there is only 30 percent of the people who sign up. That has been the rule for a long time.

I wish to point out one more inconsistency—maybe more than one. I really am kind of floored at the list of civil rights groups the other side presented—that those people put their name down as wanting to do away with a secret ballot. I would be no more surprised if they suddenly were for a poll tax.

Here is another little inconsistency in the debate here. There was a comment that there were 30,000 backpay orders for terminations during organizing drives. That is a misstatement. There were 30,000 backpay orders, but the vast majority of these claims have nothing to do with employee terminations during organizing drives. The vast majority of them have to do with bargaining claims and they are with members of already-established unions. For example, in 200, two thirds of the recipients of backpay orders were involved in a single contract interpretation dispute.

Union studies we've heard cited claim that half the employees who are offered reinstatement were illegally terminated during an organizing drive. There is not any basis for that estimate, but even assuming it is true, the number of discharges is very low. For example, in 2000, using the unions' own estimate, there were 600 unlawful terminations. In that same year, over a quarter of a million employees were involved in National Labor Relations secret ballot elections—hardly the 1 in 5 they are claiming; 600 out of a quarter of a million. That is about 1 discharge for every 416 employees. And that figure includes a huge percentage of settled cases in which there was never any finding that the termination was unlawful to begin with.

I have been fascinated by the charts we have seen, many of which—I am not sure what the sources were. We will be checking those and questioning them. But they really didn't have anything to do with taking the right to a secret ballot away from employees.

We have forgotten to mention that I have passed the Workforce Investment Act through this body unanimously on two occasions and then been blocked from having a conference committee with the other end of the building. The Workforce Investment Act would have provided training for 900,000 jobs in this country—900,000 people who could have

had a higher wage. How come we are not watching out for those folks? A lot of them would have gone through union apprenticeships. But, no, we are not going to do the Workforce Investment Act. Instead, let's concentrate on taking away the secret ballot.

I have a lot more people coming over to speak on our side, people who really do think there needs to be debate on this issue. I am told that if we want to debate, we ought to vote for the cloture motion. That is interesting because we have already agreed to a unanimous consent request that will keep us from debating that after we vote for it—yes, there is an agreement that we will go to immigration after this vote no matter what the outcome. So there is no intention to debate this bill.

It is very unusual. To me it is a realization by the other side that this bill to take away an employee's right to a secret ballot is not going anywhere.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY Mr. President, I wanted to mention at this time, I know my friend from Iowa, Senator HARKIN, is on his way, so I will speak for just a few moments until he comes about who is affected by this legislation.

We hear these words used around here: "free and open elections," "non-intimidation," "under the existing program." Let me give you a few examples of what is happening in the real world.

Here is Ivo Camilo, a vend pack operator at Blue Diamond Growers. This is from the hearing we had on February 8, 2007. These are his quotes.

In group captive audience meetings and one-on-one talks, company officials and supervisors threatened we could lose our pensions and the other benefits if the union came in. We told them we knew our rights. Less than a week later I was fired.

This is free and open election that we are talking about. This is the real world where the employer has the power, the power of intimidation.

Then he continues: After they were found guilty and had to rehire me and a coworker, they fired another union supporter. Getting a union shouldn't be so hard.

Here is another person: I thought the laws protected workers. I was wrong.

Jose Guardado, a former meatpacker, Omaha, NE:

My coworkers and I wanted a union at work to fight back against the dangerous working conditions, the lack of respect, and abusive treatment.

Working conditions are one of the principal concerns that many of these workers have, not only the economic rights but the dangerous working conditions. He continues:

The company terrified workers for standing up for their rights. They threatened to fire union supporters, threatened to close the plant, brought in a bunch of strange workers on the day of the election, just to get them to vote against the union.

Then they began firing workers who had supported the union. This company took

away my livelihood, hurt my family, just to keep us from organizing unions.

This is what was happening in Nebraska.

Here is a nurse who was pulled away—this is important because it is not just working conditions or the economic conditions, but it is the patients, what happens to the patients. Here is Linda Merfeld, Dubuque, IA:

Fewer and fewer nurses have been taking care of more and more patients. These staffing patterns jeopardize the quality of care of our patients. In 2003, I joined with other nurses to gain a voice on the job. Managers started holding meetings one on one and in small groups with nurses to spread myths and half-truths about forming a union. Not only were these meetings mandatory—mandatory—the employer mandates that these workers show up at the meeting, but the nurses were pulled away from patient care to attend them.

Nurses were pulled away from patient care to attend them. These are these free and open elections that we just heard referenced on the floor of the Senate.

A nurse with 30 years of experience was fired for speaking out about patient care issues. No one should be fired for trying to have a voice in the decisions that affect their jobs and patient care.

I see my friend from Iowa is here. I was just talking about Linda Merfeld from Dubuque, IA, Finley Hospital out there, and how she was dismissed out there. I see the Senator from Iowa here on the Senate floor.

I yield him 10 minutes. I believe at a quarter after 3 there is a previous order. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. So I yield the time until quarter after 3.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. I thank Senator KENNEDY for his great leadership on this issue and so many other issues that pertain to the rights of working families in America.

There is a need for organized labor in our country. When workers join together and act collectively, they can achieve economic gains and worker safety that they would not be able to get if they negotiated individually.

History tells us this: Union members were on the front lines fighting for the 40-hour workweek, paid vacations, minimum wage, employer-provided health insurance and pensions. Organized labor led the way in passing legislation to ensure fair and safe workplaces, and in championing many other safety nets we have such as Social Security, Medicare, and the Family and Medical Leave Act.

But, unfortunately, continued forward progress is not inevitable. We have seen in recent years, as union membership has declined, wages have stagnated, the numbers of uninsured have risen, and private companies have been allowed to default on their pensions threatening the retirement security of millions of Americans.

It is clear to me that in order to rebuild economic security for the middle class in America, we must first rebuild strong and vibrant unions; and to rebuild strong unions, we must first reduce the unfair barriers to union organizing. A recent study by the Institute for America's Future confirms this by comparing organizing campaigns in the United States and Canada. The study found that more worker-friendly certification rules resulted in increased union participation.

But, of course, this is all just common sense. If you reduce the barriers to workers joining unions, more workers will join. What does that mean? Well, as the study made clear, by passing this Employee Free Choice Act, by making it easier for workers to band together, more than 3½ million Americans would be able to secure health coverage, more than 3 million Americans would have access to employer-based pensions.

Middle-class families in this country have an increasingly difficult time making ends meet. More than 47 million lack health insurance, that is including 251,000 Iowans, and even those who get it find it covers less and less. This should not be happening in America. When productivity rises, everyone should see a fair share of the gain. But in the past several years, increasing productivity has gone hand in hand with a growing wage gap.

According to the nonpartisan Congressional Research Service: Adjusted for inflation, average worker pay rose 8 percent from 1995 to 2005; but median CEO pay at the 350 largest firms rose 150 percent over the same period.

In my home State of Iowa, real median household income fell by 3.4 percent between 1995 and 2005, at the same time productivity increased. So workers are working and becoming more productive, but they are not getting any of their fair share.

By passing the Employee Free Choice Act, by giving workers a seat at the table, we can start to reverse this negative trend. Union participation in the workplace means everybody wins. When employees have a voice, not just to ask for better wages and benefits but to make suggestions on how to do things better, employers benefit also.

Union employees take pride in their work and they work to get more training. They are happy to help find other efficiencies in the operation because they know if they do they get a share of the savings.

Unfortunately, the scaremongers out there are trying to tell us that the Employee Free Choice Act takes away employee rights to a secret ballot. Nothing can be further from the truth. This bill does not establish a new election process. It merely requires employers to honor the employee choice.

Right now a company gets to decide whether it will recognize a majority sign-up vote. Well, why should just the company get to decide that? Why should employees not get to decide

that? That is what this bill does. It levels the playing field. It says the employees get to decide as well as the company.

If the employees want to use the National Labor Relations Board process, they can do that also. But we know from hard experience—the best teacher, hard experience—that process can be threatening and intimidating to many employees.

So in addition to making it easier to form a union in the first place, the Employee Free Choice Act provides for arbitration for the first contract. I know from personal experience how a company can bust a union and cause major hardships for their employees.

My brother, Frank, was a member of the UAW for 23 years. He worked at a plant called Delavan in West Des Moines, IA, for 23 years, a proud union member. He had a good job as a machinist, operating machines, made parts for the military, had good pay, good benefits, a good pension.

In 23 years he had only missed 5 days of work. In 23 years the union never went on strike, never had a work stoppage. But then Mr. Delavan, the owner, decided to sell the plant. And he sold it to a group of investors. One of those investors bragged openly—it was in the Des Moines Register—if you want to see how to bust a union, come to Delavan, we will show you how. He openly bragged about it.

What happened? Well, the investors took over. When the union contract came up, the company put forward conditions with which no union could ever agree. So what was the union forced to do? To go out on strike. For the first time ever in 23 years they went out on strike.

Well, then what did the company do? They brought in replacement workers. Then what happened? There was a long bitter strike. I remember it well. After 1 year, as allowed by labor law, they had a decertification vote. Who votes to decertify? Well, the replacement workers. So they voted them out. They did not want to lose their jobs. So they voted to decertify.

So after 23 years, my brother Frank was out of a job. He lost his union job with excellent pay, vacation, pension. Now, I ask you, what does a 54-year-old deaf man—and my brother was deaf. He is disabled. What does a 54-year-old deaf man do when he loses that kind of a job? I will tell you what he did. The only job he could get was as a janitor working in a store at night in a shopping mall—minimum wage, no union, no pension, no benefits, nothing.

This is a real-life story, folks. That happened to my family. Not only did it just destroy my brother's livelihood, it broke his spirit. That is what happens when unions are weakened and destroyed, jeopardizing our middle-class way of life. That is what is happening today, my friends, to tens of millions of workers all over this country.

I will close with this, from a December 2005 letter by 11 Nobel Peace Prize winners:

Even the wealthiest nation in the world, the United States of America, fails to adequately protect workers' rights to form unions and bargain collectively. Millions of U.S. workers lack any legal protection to form unions, and thousands are discriminated against every year for trying to exercise these rights.

It is time to level the playing field and to give them a truly fair process.

CERTIFICATE OF APPOINTMENT AND CREDENTIALS

The VICE PRESIDENT. The Chair lays before the Senate the certificate of appointment of Senator JOHN BARRASSO of the State of Wyoming. Without objection, it will be placed on file and the certificate of appointment will be deemed to have been read.

The certificate of appointment is as follows:

OFFICE OF THE GOVERNOR,
The State of Wyoming.

CERTIFICATE OF APPOINTMENT

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES: This is to certify that, pursuant to the power vested in me by the Constitution of the United States and the laws of the State of Wyoming, I, Dave Freudenthal, the Governor of said State, do hereby appoint John Barrasso a Senator from said State to represent said State in the Senate of the United States until the vacancy therein caused by the death of Senator Craig Thomas, is filled by election as provided by law.

Witness: His Excellency our Governor Dave Freudenthal, and our Seal hereto affixed at Cheyenne, Wyoming, this 22nd day of June, in the year of our Lord 2007.

By the Governor:

DAVE FREUDENTHAL,
Governor.
MAX MAXFIELD,
Secretary of State.

ADMINISTRATION OF OATH OF OFFICE

The VICE PRESIDENT. The Senator will present himself at the desk. The Chair will administer the oath of office as required by the Constitution and prescribed by law.

The Senator, escorted by Mr. ENZI and Mr. Wallop, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to him by the Vice President; and he subscribed to the oath in the official oath book.

The VICE PRESIDENT. Congratulations.

[Applause, Senators rising.]

The VICE PRESIDENT. The minority leader is recognized.

Mr. MCCONNELL. Mr. President, let me say briefly a warm welcome to the new Senator from Wyoming, Senator BARRASSO. He has big shoes to fill with our departed colleague Craig Thomas. I am sure he is up to it. Given the average age of this institution, it is certainly good to have another physician in the Senate. An orthopedic surgeon may be particularly useful. I had a chance to meet with the new Senator this morning. He is a bright, capable

person. I commend the Governor of Wyoming for an outstanding choice and look forward to serving with the Senator for many years.

I yield the floor.

The PRESIDING OFFICER (Mr. PRYOR). The majority leader is recognized.

Mr. REID. Mr. President, the last physician we had, Senator Bill Frist, was a great public servant. I worked very closely with him over the years I was Democratic leader. The one thing I learned from Bill Frist is that a physician is always a physician. Everything Bill Frist did was through the eyes of someone trying to heal people. I am confident our new Senator, the esteemed Dr. BARRASSO from Wyoming, will be the same. As everyone knows, my personal relationship with Bill Frist was a very warm, close one. I believe like most of us who served with Bill Frist, whenever there was a medical problem in their life, whether it was family or a friend, Bill Frist was the first person they went to. I am confident we will now have another physician to go to. I was in a little trouble after Bill Frist left because all I had was my veterinary friend JOHN ENSIGN to go to. Now we are better off. I wish him the very best, and we are happy to have him with us.

EMPLOYEE FREE CHOICE ACT OF 2007—MOTION TO PROCEED—Continued

The PRESIDING OFFICER. Who yields time?

Mr. ENZI. I yield the Senator from Texas such time as he may require.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. CORNYN. I thank the distinguished Senator from Wyoming and offer my congratulations, together with the entire Senate family, to our new Senator from Wyoming. He has big shoes to fill, but I know he is ready to work hard, and he certainly couldn't have come to this body at a more propitious and challenging time.

IMMIGRATION REFORM

Mr. CORNYN. Mr. President, as we continue to debate proposed solutions to our Nation's immigration crisis, we have heard a lot of strong language about how important it is that we find a solution. I couldn't agree more. At the same time we have been treated to some incredible claims, if not downright myths. That is not to say this bill is all bad, because it isn't. But neither is it true that it is all good and can't be improved by a little time to offer amendments and debate them. Instead of a reasonable approach, however, we have been told, for example, that this bill is better than the status quo which some have defined as de facto amnesty. I disagree. What we have now is lawlessness and disorder, not a de facto amnesty.

It has been suggested this bill is better than rounding up 12 million undocumented immigrants, so the only

option is to confer upon them the greatest gift America can give a human being, which is American citizenship. The American people can see through that argument in a heartbeat. There are plainly other options available, somewhere in the middle between those two extremes.

Then we have been told unless we agree to what some have rightly identified as indistinguishable from the 1986 amnesty, we can't get border security or a secure means of identifying legal workers on the job. I ask: Why should security be made a hostage to those demands? Employers have been told the only way they can get legal workers to fill in labor shortages is the present bill. That clearly is not the case.

I believe we can do better than this bill. I sincerely want to fix this problem in all of its manifestations. What I do not want to be a party to is trying to fool the American people. I value the trust my constituents have placed in me too highly to overpromise, which this bill does, when the American people have good cause and good reason to know we cannot deliver as advertised.

The fallacious arguments I have referred to and the process by which this bill has been produced, which further inflame the skepticism of the American people, seem only to confirm for many Americans that the Senate is not serious about fixing our broken immigration system. If we are going to insult the intelligence of the American people with such specious justifications for this bill, how can they trust us? Moreover, how can they have any confidence that the various assurances on border security, worksite enforcement, security checks, and implementation of the provisions of this bill will actually work as advertised?

We all know our broken immigration system is a serious threat to national security. Border security, after all, is about national security. So the question we have to ask ourselves is: Does this bill make us safer? The more we have debated the bill, the more I have become convinced this legislation is not only dysfunctional, but unless corrected, some provisions of this bill present an actual danger to our Nation. This bill puts such onerous burdens on our law enforcement officials and ties the Government's hands in so much redtape that it will make us less, not more, safe. Some of the individuals involved in the recently foiled terrorist plots at JFK Airport and Fort Dix were in our country illegally. Some of those involved had even been granted citizenship by our current flawed immigration system. Thankfully, these plots were uncovered before they could be carried out. But knowing that there are likely terrorist cells already present in the United States, how can we in good conscience grant same-day legal status to more than 12 million foreign nationals?

Naturally, this bill does purport to require a background check. But instead of providing a reasonable timeframe for these reviews, an impossible

burden is placed on our already overworked citizenship and immigration services to provide these checks in 24 hours. It simply cannot be done. Under our current immigration system, this office already does more of these screenings than it can handle. The Government Accountability Office reported last year this agency was stretched to the breaking point already. This has resulted in an unofficial 6-minute rule, the most amount of time that can be spent adjudicating any one application. Adding an average of 48,000 applications a day more will further backlog an already overtaxed system, meaning less in-depth reviews and more haphazardly granted visas. Again, more cases and less time for review of these applications can do nothing but increase the likelihood of mistakes.

An article in the June 17 edition of the Washington Post explained that a large part of the backlog involved in our current system was due to FBI name checks. Delays in FBI name checks already force long waiting times for citizenship applications. The Post reports that of about 329,000 cases pending as of May, 64 percent were stalled for more than 90 days, 32 percent for more than 1 year, and 17 percent for more than 2 years. They added that the backlog appears to get worse because of a fee increase slated to take place in July which has prompted a 50-percent rise in new naturalization applications so far this year. If a new immigration bill is enacted, millions of foreign nationals would also apply for legalization.

This problem is even more apparent considering the difficulties the State Department and the Department of Homeland Security have had this summer in implementing the new western hemisphere travel initiative. Of course, this legislation requires American citizens to have a passport for travel to Canada or Mexico, where that requirement did not exist before. Although the Federal Government had 3 years to get ready for this new stricter visa requirement and passport requirement, the Federal Government failed to adequately prepare, causing disruptions in the lives of tens of thousands of American citizens. If the Federal Government can't get it right with 3 years' notice to process passport applications for American citizens, how will it deal with the increased complexities and burden of processing up to 12 million foreign nationals? I wonder what the Government's response will be to the even larger backlog this bill will create? Will we simply give up on background checks altogether, when the citizenship and immigration service realizes what an impossible burden has been placed upon it?

As we overload our already fragile system and background checks are either too cursory to be safe or too delayed to meet unrealistic deadlines, we will be undoubtedly granting legal status to some individuals who should not

get it. The potential danger is actually worse than it might appear at first blush. Not only do we need to be concerned about terrorist cells and other criminals in our country, we should also be concerned about the privileges these individuals will receive with same-day legal status.

Most notably, the ability to travel in and out of the United States presents a great threat to us and to others. Those already in our country with the knowledge and ability to train others could travel to foreign nations, teaching terrorist cells everything from combat tactics to explosives construction. At the same time, terrorists in our Nation who do not possess the knowledge and training to participate in such attacks could use their new travel visas to visit training sites in other countries, bringing their newfound knowledge back home to America.

For example, a May 28 article from the New York Times describes the problems created by free travel in and out of nations surrounding Iraq. That article says:

The Iraq war, which for years has drawn militants from around the world, is beginning to export fighters and tactics they have honed in the insurgency to neighboring countries and beyond.

The Times has reported:

Some of the fighters appear to be leaving as part of the waves of Iraqi refugees crossing borders. . . . But others are dispatched from Iraq for specific missions.

Granting same-day legal status and the privileges that accompany it to poorly screened foreign nationals has the risk of making us less safe and, indeed, potentially helping spread this threat not just to America but to other places around the world.

The impossible goals of this bill do not stop there. The bill calls for the Department of Homeland Security to define, procure, develop, and implement a worker verification system to check 200 million Americans in less than 2 years. How can the American people have any faith in the enforcement provisions of this bill when these provisions include unattainable goals and untenable standards?

For this reason, it is important we not pass any immigration legislation that makes these mistakes and repeats so many from the 1986 predecessor. I continue to hope we can pass meaningful, safe immigration reform. Everyone knows our current immigration system is broken, and I wish to see it fixed. But this bill will not do it.

Finally, one of the biggest problems we have had with this legislation centers around the way it came to the floor of the Senate. Written behind closed doors, this bill did not even see the light of a committee room. Instead, it promptly proceeded to the floor of the Senate. The short-term result was predictable. Senators wanted to offer amendments, many of them including important improvements which might have been appropriately dealt with in the committee process.

The majority leader's frustration with the number of amendments being offered led to that bill being pulled after almost 2 weeks on the Senate floor. Now a new bill is back. Instead of learning from our mistakes, the bill has once again been secretly negotiated, and will once again forgo the committee process.

What is worse, we have been told it will be presented to us with bipartisan amendments already chosen by a select few Senators, unrepresentative of the wide variety of strongly held views in the Senate.

There is a list of amendments which I believe ought to be included in this bill, amendments that I think might find support among my colleagues if given an opportunity to offer them—provisions such as one that would prevent criminal aliens from delaying and even avoiding their deportation by filing frivolous applications for a Z visa, and then appealing against those denied applications.

Another amendment I would offer, if given an opportunity, would prohibit criminal aliens, including gang members and absconders, from tying up our courts with frivolous appeals from the denial of a request for a waiver of grounds for removal. The bottleneck sure to ensue without these two provisions will cause extensive delays that will only increase the costs involved with this bill and allow abuse of the system.

A third amendment I would offer, if given an opportunity, would require judges to consider national security implications before issuing nationwide injunctions against immigration enforcement, an essential provision to protecting our border, something this bill claims to do.

I wish to add an amendment preventing those who have committed terrorist acts or aided terrorists from asserting they are meeting the "good moral character" requirement—something that seems so inherently obvious that I am shocked this bill, as currently written, would allow it.

Last year, Mohammed El Shorbaji pleaded guilty to providing material support to the terrorist organization known as Hamas. His conviction, however, did not specifically bar him from seeking American citizenship because under the law aiding an organization that routinely fires rockets on innocent civilians, families, and neighborhoods, abducts and kidnaps individuals, and has most recently staged a violent coup of an established unity government does not in any way affect your "good moral character," as currently written. It is a dangerous shortcoming of our laws which will not be addressed because of the closed and secretive manner in which this bill is being considered.

I wish also to limit the timeframe for an appeal to 2 years so that court proceedings do not drag on endlessly, wasting tax dollars, and allowing those who are not entitled to the benefits of

our immigration system to remain here indefinitely under the cover of an appeal.

These are only five of the amendments which I wish to offer which I think would make this bill better, if I had a chance to offer them and if Senators had a chance to vote on them. Others would make it harder for gang members to qualify, force immigrants to file a change of address notification with the Department of Homeland Security when they move, and authorize the detention of dangerous aliens during their deportation trial.

Unfortunately, under the process the majority leader will provide us, no opportunity for these measures to be considered will be allowed and, thus, they will not be in the final bill.

Rather, the world's greatest deliberative body will be presented with a bill that has not been fully considered, will not be fully debated, and where there will not be an adequate opportunity to offer and vote on amendments. Since when did the Senate have so little to say when shaping legislation which we will vote on? Since when did the majority leader get the power to force legislation on the rest of the Senate?

I cannot support this flawed bill or this broken secret process that has produced it. I hope my colleagues will join me in insisting upon free and open debates, which are the hallmark of the Senate, and which are the only possible path forward to providing a rational, commonsense answer to the challenge of immigration reform.

Mr. President, I yield the floor.

THE PRESIDING OFFICER. Who yields time?

Mr. WYDEN. Mr. President, I ask unanimous consent to speak for up to 30 minutes as in morning business, with the time taken from Senator KENNEDY's time.

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

The Senator from Oregon is recognized.

HEALTHY AMERICANS ACT

Mr. WYDEN. Mr. President and colleagues, there will be a great deal of activity in the Senate this week, and I want to take a few minutes to talk about the fact that this is going to be a big week in American health care as well.

There will be considerable effort devoted to the State Children's Health Insurance program. I see our friend Senator HATCH on the floor of the Senate. I commend Senator HATCH for his work on this program. The effort on the State Children's Health Insurance Program, in particular, has been a bipartisan one, involving Senator BAUCUS, Senator GRASSLEY, Senator ROCKEFELLER, and Senator HATCH. I commend their efforts on this legislation. Senator HATCH and I have talked about this in the context of health care reform many times. It is a moral blot on our country that so many youngsters do not have quality, affordable health care, do not have good coverage

like the children of Members of Congress.

So I want it understood that I am in strong support of the bipartisan efforts on the State Children's Health Insurance program that are ongoing in the Senate Finance Committee on which Senator HATCH and I serve. I particularly commend Senator BAUCUS, Senator GRASSLEY, Senator ROCKEFELLER, and Senator HATCH for the leadership they have shown.

Also, this week there will be several other significant activities in health care. Tomorrow, the Senate Budget Committee will open hearings on comprehensive proposals to fix American health care. They will start by looking at the bipartisan legislation I have worked on with Senator BENNETT of Utah. It is the first bipartisan proposal to overhaul American health care in almost 15 years. That and other approaches will be talked about in the Senate Budget Committee with the chair of our committee, Senator CONRAD, and Senator GREGG, having a longstanding interest on the question of health care reform, realizing you cannot get on top of big budgetary challenges in the United States if you do not address health care.

Then, finally, at the end of the week, my guess is there are going to be a lot of Americans flocking to the movie theaters to look at Mr. Michael Moore's movie. I will say, for purposes of the discussion this afternoon, since I am not in the movie business, I will spend my time this afternoon talking about health care legislation that is bipartisan in the Senate. Since I have mentioned the question of SCHIP, and how important it is, and how important it is that it be addressed quickly, let me turn now to the question of the Healthy Americans Act.

After 60 years of debate, going back to the days of Harry Truman, I believe the cure for America's ailing health care system is now within reach. My view is we are seeing encouraging signs pop up everywhere.

For example, the business community has done an about-face on the issue of health care reform. For example, in 1993—the last time Congress tackled this issue, during the Clinton administration—the business community said: We cannot afford health care reform. Now the business community is saying: We cannot afford the status quo. Previous adversaries, particularly business and labor, are now coming together to work for reform.

As the distinguished Presiding Officer knows, from our discussions when I introduced my legislation, the bipartisan Healthy Americans Act, we had Andy Stern, the president of the Service Employees International Union, standing right next to Steve Burd, the president of Safeway Company, and mid-size employers and small employers. So we are seeing the business community that so often has been at odds with labor and others coming together with them saying: We cannot afford the status quo.

Finally, it seems to me we have had a coming together of Democrats and Republicans on this issue. I am very pleased, under the leadership of my lead co-sponsor, Senator BENNETT, many Republicans have said they will go to a place they have had questions about in the past; that is, covering everybody. You say those words, "covering everybody," and, of course, to some people that implies you are going to have a government-run plan, it is somehow going to be a socialistic kind of plan. Well, many conservatives, many Republicans have come to agree with Senator BENNETT and me that you cannot fix American health care unless you cover everybody because if you do not cover everybody, what you have is people who are uninsured shifting their bills over to those who are insured.

Families USA has done an analysis indicating, in their view, that those who have insurance may pay in the vicinity of \$1,000 worth of their premium to cover people who do not have insurance. So my view is, with Republicans and Democrats coming together in an area saying, "Let's make sure everybody is covered," we do have positive signs for reform.

Now, of course, bumping up against these positive signs is the popular wisdom. The popular wisdom, of course, is: Oh, Government cannot possibly put something together. People say: Oh, Government cannot organize a two-car parade, let alone fix something that will be a seventh of the American economy: American health care. People say there are too many lobbyists—too many lobbyists—many more than legislators. They are going to block it. They say, of course, touching on the point I made earlier, that people who have coverage, they are going to say: Gosh, I would rather stay with the devil I know rather than that other guy, that other devil. But I will tell my colleagues, I think the public understands the system is broken, and if now the Congress comes forward with a step-by-step strategy to fix American health care, I think the public will be receptive.

So let me outline, for purposes of a brief discussion, what goes into the diagnosis with respect to what is ailing American health care. I think, for the most part, people understand what is ailing our health care system, so I am going to make this diagnosis brief. First, for the amount of money we are spending in this country annually—\$2.3 trillion—you could go out and hire a doctor for every seven families in the United States. So let's talk about what that means for folks in Arkansas and what it means for folks in Utah. If you divide the number of people in this country—300 million—into \$2.3 trillion, which is what we will be spending on health care this year, you could go out and hire a doctor for every seven families in the State of Arkansas, pay the doctor \$200,000 for the year and say, Doc, that is your job. You are going to take care of seven families. Whenever I

am out and about speaking to physician groups, they always come up to me and say: RON, where do I go to get my seven families? Because I like that idea of being able to be a physician again, to actually be an advocate for patients. So we are spending enough money.

Now, despite these enormous sums and the fact that we have thousands of dedicated, caring, and talented health care professionals, the collective value we get for our health care dollar in America is shockingly small. For example, we are 31st in the world in life expectancy, having recently surged ahead of Albania but still lagging behind Jordan. On infant mortality, we are beating out Belarus, but we are still lagging behind Cuba.

Part of our challenge is we don't have a lot of health care; we have mostly sick care. Medicare Part A and Part B show this better than anything else. In the State of Arkansas, under Part A of Medicare—or Utah or Oregon or anywhere else—Medicare will pay thousands of dollars for senior citizens' bills. It goes right from Medicare to a hospital in Arkansas and Oregon. Medicare Part B, however, the outpatient part of Medicare in our States, pays hardly anything for prevention, hardly anything to keep people well, and keep them from landing in the hospital and racking up those huge expenses in terms of health care. We ought to change that. We ought to change it, and I am going to talk a bit about how the Healthy Americans Act does it and does it with incentives.

In addition to this bias against wellness and against preventive health care, we have a system where the biggest expenditure, which is the tax breaks for employer-based coverage, goes disproportionately to the wealthiest of us and encourages inefficiency to boot. Under the Tax Code today, if you are a high-flying CEO, you write off on your taxes the costs of getting a designer smile. But if you are a poor woman working at the corner furniture store, you get virtually nothing. The biggest reductions now in employer-based coverage—the biggest reductions, according to a new study by the Robert Wood Johnson Foundation—comes in the area of low-income workers.

So that is a bit about the diagnosis, and I already mentioned the fact that people who have insurance pay about \$1,000 from their premium for folks who are uninsured.

Now I wish to talk about what we are going to do about it. What is it we are actually going to do about the big challenges with respect to health care? When I have gone home and had town meetings, we have always had kind of a back and forth early on between folks who say they want a government-run health care system of some sort and folks who want a private sector-oriented system. The discussion goes back and forth, and I am sure my colleagues have had similar experiences when they are home talking about health

care. But finally, after a little bit of back and forth, somebody in the audience stands up and says: RON, we want health care like you people in Congress have. We want coverage like you people and your families have. Then everybody starts cheering. Everybody is cheering for that. Nobody knows exactly what it involves or what it constitutes, but they figure if Members of Congress have it, that is what they want as well. So I very often, at that point, reach into my back pocket and take out my wallet, take out my Blue Cross card and ask people if that is what they want. It is private insurance. It covers me. It covers the Wyden family. People say, yes, that is what they want.

So I wrote a piece of legislation, the Healthy Americans Act, that gives folks across the country—in Oregon and Arkansas and Utah, across the country—guaranteed coverage such as Members of Congress get, delivered in a manner such as Members of Congress have, with choices and benefits such as Member of Congress have. Folks can get all the details about how this works at my Web site: Wyden.senate.gov.

Now, the Lewin Group—they are an independent, nonpartisan health care consulting group; kind of the gold standard for health policy analysis—says you can make that pledge, the pledge that I made for coverage at least as good as Members of Congress get, for all Americans for the \$2.3 trillion that is spent annually, and, according to the Lewin Group, you would reduce health care spending by almost \$1.5 trillion over the next decade.

Here is a bit of how the Healthy Americans Act works. Our country has about 300 million people, as I have mentioned. I don't alter the basic structure of care for Medicare, the military, and the small Government programs. The reforms I make to the Medicare program keep the basic structure of Medicare as is, but we do tackle the two biggest challenges facing the program.

The first is we are seeing a huge increase—a huge increase—in chronic illness. These are folks with heart and stroke and diabetes, a variety of problems that are chronic in nature. In fact, the estimate is about 5 percent of those on Medicare use up about 60 percent of the Medicare expenses. So we create efficiencies for how to better manage the chronic care that this large group of people incur. I think it will help generate savings for the long term. As we do that, we attack the underlying reason so many Americans need chronic care; that is, prevention has been given short shrift. So under our legislation, we create incentives for parents to enroll children and their family in preventive programs. They get lower premiums if they do. With respect to Medicare specifically, for the first time we authorize the Government to lower Medicare Part B premiums, the outpatient premiums, so

that if seniors lower their blood pressure, lower their cholesterol, and engage in sensible, preventive medicine, they would experience lower premiums.

So we make improvements to Medicare, and Government programs clearly can be refined. But I am of the view that in the area of Medicare and the VA and some of the smaller Government health care programs, we basically ought to focus on keeping the basic structure as it is and making improvements as I have outlined in the chronic care and prevention care within that basic structure. So if you do that, if you set aside Medicare and the VA, you are left with about 250 million people. About 170 million of those folks get their coverage through employer-based health care. About 48 million are uninsured. They are often without any coverage at all. They may have some very modest coverage—charity care—and then we have folks in the individual market and Medicaid.

So let me describe what we do for folks in that area where there are 250 million people, folks who aren't covered by Medicare or the VA. If a citizen does have employer coverage, the employer is required by law to cash out the worker. We do it in a way so that with the very first paychecks, the first paychecks issued under the Healthy Americans Act, the worker will win and the employer will win.

Let's say, hypothetically, in Arkansas or Oregon, you have a worker who has a salary of \$50,000, and the employer is purchasing \$12,000 worth of health care benefits for them as well. Under the legislation, the employer is required by law to give the worker \$62,000 in compensation—salary plus the value of their health care benefits. Then, we adjust the workers' tax bracket so they don't pay any additional tax on the additional compensation. That is important because, for all practical purposes, Senator BENNETT and I have legislated the biggest pay raise in the country's history by putting that extra cash in the workers' pockets. So when the worker sees it—we spent a lot of time talking about it—the worker says: That is pretty cool getting all this extra money. What is the catch? There has to be a catch if I am getting all this extra compensation. There is a catch. The worker, under the Healthy Americans Act, has to buy a basic health insurance policy, including prevention, outpatient, inpatient, and catastrophic—a basic policy. The first thing the worker is going to say is: How in the world do I do that? How am I going to be able to buy my own coverage? So we set up something called Health Help to make it easy for people, and people could do it online, to purchase their own coverage. We fixed the private marketplace to make it easier. Private insurance companies can't cherry-pick. They can't take just the healthy people and send sick folks over to Government programs more fragile than they are. There is community rating. People go into big pools so

you can spread the cost of the risk. There is guaranteed issue so you can't be turned down. We also prevent people from being hammered because they have a preexisting illness.

So that is the way it works for folks who now have coverage, about 170 million of them. In the case of the worker I described in Oregon and Arkansas, \$50,000 in salary, \$12,000 in health care, \$62,000 in compensation, if they can use that to go out, say, and buy a basic health insurance policy for \$11,500 rather than the \$12,000 they are now getting for health care, they can be on their way to Oregon for a great fishing trip in Central Oregon, because that is exactly what we are trying to do, is to create marketplace incentives for folks to try to hold their costs down. If the employer doesn't offer the coverage, employers make a contribution on the basis of their revenue per employee.

We had three groups of employers we worked on with this: large employers, medium-sized employers, and small employers, and when we launched the whole effort, there were representatives from each of those three employer groups. So it is a bipartisan bill: Senator BENNETT, a Republican, and myself, a Democrat. It is bipartisan, and it has the support of business and labor organizations.

Where does the money come from to pay for the Healthy Americans Act? We can make substantial savings by redirecting the Tax Code away from the system today which disproportionately favors the most affluent and rewards inefficiency. We steer it more to the middle class and the working poor. There are substantial administrative savings. According to the Lewin Group, this consulting group for private insurance, we have the administrative costs down to under 5 percent. That means we are going to systematically drive out a lot of what is being spent on marketing and underwriting and various kinds of inefficiency, which is clearly unneeded. We make substantial savings in what is called the disproportionate share of funding that now goes to the hospitals when they have to pick up the bills for those who are uninsured. It makes so much more sense. Instead of a poor person who has no coverage going to a hospital emergency room in Arkansas or Oregon or Utah, it makes so much more sense to use the scarce dollars so that person can afford a private insurance policy. It would be targeted at outpatient care and inpatient care and prevention rather than frittering away so much of our scarce resources for hospital emergency room services.

This legislation does that. The insurance companies compete not on the basis of cherry-picking but on the basis of price, benefit, and quality. Finally, we make care for the poor much more efficient and humane. Right now, if you are poor in America, you have to go out and try to squeeze yourself into one of perhaps 30 boxes in order to be able to get care as someone who is low

income. I think that is degrading and inefficient. We can do better.

Under the Healthy Americans Act, we say care for those individuals is automatic. They would get covered automatically. Once they are signed up, they are in forever. I know there are many who are saying that fixing health care is not possible in this Congress. I already mentioned the good work of Senator ROCKEFELLER, Senator HATCH, Senator BAUCUS, and Senator GRASSLEY on the children's health program. I will be with them all the way. They have done very good work. The fact that so many kids don't have decent health care is morally wrong and Congress ought to address it. I am going to do everything I can to help them.

I think this Congress ought to go farther. I don't think we got an election certificate to sit around and wait for another Presidential campaign to get going. Fortunately, under the leadership of Senators CONRAD and GREGG, the Senate Budget Committee will get going tomorrow, looking at a variety of options to fix health care. We are going to start with the Healthy Americans Act, but certainly a lot of colleagues have good ideas, and many are bipartisan. Certainly, Senators FEINGOLD and GRAHAM have good ideas. The American people don't want us to wait for 2 more years. They are not going to be tricked into comprehensive reform. The subject is too personal. They want to know what the benefits are going to be, what their costs are going to be; but they are ready. They know the current system cannot be sustained given our rapidly aging population, the huge increase in chronic illness, the disadvantages the employers face, and the tough global markets.

The American people know the current system cannot be sustained. They understand it is broken and we are going to show them there is a better way, a bipartisan way. The hearing that will begin tomorrow, and the bill Senator BENNETT and I have, will be the first bipartisan proposal to overhaul American health care in 15 years. I don't think we ought to wait 2 more years. That is not what we got an election certificate to do. Let's pass the SCHIP legislation. One of the key sponsors is on the floor this afternoon. Let us move on to address a new direction in American health care to finally make it possible for all of our citizens to get under the tent for basic, affordable, quality health coverage.

The PRESIDING OFFICER (Mr. DURBIN). The Senator from Minnesota is recognized.

Mr. COLEMAN. Mr. President, I rise to speak about the Employee Free Choice Act. Before that, I compliment the Senator from Oregon for the outstanding leadership he provided on this issue. Every American deserves access to affordable health insurance. This is the 21st century. He has worked in a bipartisan way to get important perspectives on the table, and I will add my

voice to that discussion. I applaud his leadership on this issue. It is something we have to get done. Time is passing us by and we have it in our capacity to do it. The Senator from Oregon has provided important leadership.

Again, I rise to voice my opposition to the Employee Free Choice Act. It is kind of a misnomer. There is not a lot of free choice in what has been labeled the Employee Free Choice Act.

It is an awesome privilege for those of us who serve in the Senate to have this magnificent Capitol as a workplace. Its massive dome and perfect symmetry have been an inspiration to generations. Its most vital feature is something none of us have seen: its sturdy foundation, which lies beneath this building. Our democracy has a foundation as well: It is the ability of our citizens to cast their votes freely, fairly, and secretly, without anyone looking over their shoulder.

Certainly, that is the expectation when we walk into the booth to vote on election day. All of us have our place in this Senate based on the right of individuals to step forward and cast a secret ballot, which is one of the fundamental underpinnings of democracy. We pull the curtain, mark our ballot in private, and rely on our own personal conscience and convictions, free from any outside pressures.

For more than 200 years, the secret ballot has been one of the most fundamental principles of American democracy. As the great revolutionary figure Thomas Paine wrote:

The right to vote is the right upon which all other rights depend.

That same principle has held true for American workers who have had the right to a secret ballot when it comes to unionization for the last 60 years.

I believe in a worker's right to union representation. I served for 8 years as mayor of St. Paul and I worked closely with unions to ensure that their right to organize was protected. But I also strongly believe in a worker's right to a secret ballot election. I will fight to protect that right—a right that the vast majority of Americans and union members support.

This fundamental belief in a worker's right to a secret ballot election has long been upheld by the courts. Throughout the years, the courts have spoken of the importance of secret ballot elections. The DC Circuit Court of Appeals said it best in a 1991 case that the "freedom of choice is a matter at the very center of our national labor relations policy, and a secret election is the preferred method of gauging choice."

Although the secret ballot process has served workers and unions well, the right to a secret ballot election is now under serious threat.

Already passed by the House, the Employee Free Choice Act would take away a worker's right to a private vote for union representation. Simply put, the passage of this legislation would

deny American workers the choice to freely and privately choose whether to join a union by replacing the secret ballot process with a card-check process. So we would be telling our workers that instead of having the right to a federally supervised election by secret ballot, that gets tossed aside and we now use a card-check process—somebody coming up and saying, "do you want to sign this?"

What is fascinating—and I have been involved in this business for 5 years as a Senator, 8 years as a mayor, and in the attorney general office for 19 years. I worked on a lot of issues—I hear a lot of discussion by my colleagues about some of the concerns impacting American workers today, the challenges we face in dealing with globalization and the pressures of working people. We should deal with those, but this is not the answer. This is not the answer to the issues and concerns being raised. Taking away the right to a secret ballot is not the answer.

Under the card-check process, there is no ballot, no voting booth, no ballot box, and no privacy for the worker's choice. Rather than a ballot, there is a union authorization card. Rather than the safe confines of the voting booth, the worker is surrounded by union members, and employers, as he or she considers the union authorization card. Rather than the privacy afforded by the secret ballot process, a worker's decision is publicly known.

The reality is that unions also fully appreciate the importance of secret ballot elections. For instance, when it comes to union decertification—in other words, when workers want to terminate union representation—the unions believe in secret ballot elections, which the AFL-CIO has characterized as "the surest means for avoiding decisions which are the result of group pressures and not individual decision."

I want to protect individual decisions. In the Senate, we should protect the sanctity of individuals' decisions, and we should protect the sanctity of federally supervised secret ballot elections. Certainly, if they are good enough for decertification, they should be good enough for union organizing.

I come to this debate with a strong and successful record of working with unions and fighting for American workers, including increasing the minimum wage and supporting collective bargaining rights for public safety workers. Again, I was mayor of St. Paul for 8 years, and during that time we settled every contract at the bargaining table. I am also proud of the support I have received over the years from the police unions, fire unions, building trade unions. That support is very important to me and I remain fully committed to the collective bargaining process.

The legislation pending before this body hurts workers, and it is on that basis that I cannot support it.

As we soon celebrate the July 4 holiday, we should honor our Nation's freedoms and liberties by ensuring that a worker's fundamental rights to a secret ballot election is protected. We should do so out of respect for our Nation's founding principles, so workers can make important choices about their workplaces and livelihoods without fear of repercussions for expressing their honest opinions. That is the simple fairness on which our whole system has rested.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, the proponents of this measure have tried to make the case that unions are good and that they deliver higher wages, benefits and overall prosperity for their members. Whether that is true or not is not the issue we are debating here today.

In fact, I am struck by the irony of the proponents' argument. If unions are so valuable to working Americans, unions should not have any difficulty winning an NLRB-supervised representation election. What do good unions have to fear from secret ballot elections?

Whether unions are good for workers is beside the point. This debate is about the method by which workers are allowed to choose a union.

If workers want to have a union in their workplace, they should be able to freely vote for one. But, workers cannot make this decision freely with either the employer or the union looking over their shoulders.

Card check is a recipe for legalized harassment and intimidation. The Senate should not allow this measure to pass.

Mr. President, I want to speak against cloture on the so-called Employee Free Choice Act, because it promotes neither freedom nor choice for employees when it comes to union representation. Rather, the card-check certification, the binding interest arbitration, and the penalty sanctions of the so-called Employee Free Choice Act would deprive employees of their freedom and choice in union representation that the National Labor Relations Act guarantees them and that the National Labor Relations Board secures for them.

The supporters of the so-called Employee Free Choice Act claim that the current system is broken and that the so-called Employee Free Choice Act will correct the deficiencies of the current system. However, they are misguided, because there is no free choice when an employee is bound by signatures on union authorization cards instead of votes in a secret ballot election made after an employee can learn about the advantages and disadvantages of union representation.

There is no free choice when a Government-appointed arbitrator decides the terms of a union contract that is binding for at least two years and employees are denied the right to vote on

whether to accept the union contract. In other words, it's mandatory arbitration on both the employees and the company.

Contrary to the claims of the supporters of H.R. 800, the National Labor Relations Act is effective in providing for and protecting the free choice of employees in union representation. In fact, current statistics from the National Labor Relations Board demonstrate that the system does work.

In a recently released study of statistics for 2006, the win rate of unions in secret ballot elections supervised by the National Labor Relations Board has increased for the tenth consecutive year. That is correct—unions have a rising in secret ballot elections over the span of the last 10 years.

For example, in 2006, the union win rate was 61.5 percent of all representation elections, which was up from 61.4 percent in 2005. Since 1996, unions have won more than 50 percent of all NLRB-supervised elections in each year. Thus, secret ballot elections supervised by the National Labor Relations Board are effective and time-honored avenues for employees to express their free choice on union representation.

More significantly, unions are winning well over 50 percent of these secret ballot elections. Yet the supporters of this bill, H.R. 800, now want to cast aside this effective system and give unions the ability to increase membership and dues by a forced card check system and a guarantee of a Government-imposed initial union contract.

Additional proof that the National Labor Relations Board is conducting union representation elections in an efficient and timely manner is found in reports from the Board itself. For 2006, the median time between the filing of a union's election petition and the election was just 39 days. In addition, 94.2 percent of all initial union representation elections were held within 56 days from the time the union filed its election petition.

In short, the system is not broken. Rather, the system works, and it works in favor of unions in over 50 percent of these secret ballot elections. If there is a breakdown as unions claim, then it may be that it is with unions and their appeal and message to the working men and women of this country. The reason unions are fighting for passage of the so-called Employee Free Choice Act is that they are fighting to maintain their political relevance. According to the Bureau of Labor Statistics of the U.S. Department of Labor, unions' membership of the private sector workforce in this country is only 7.4 percent today. This is down from 7.8 percent in 2005. It is a continuation of the decline in union membership from 20.1 percent in 1983.

Thus, the so-called Employee Free Choice Act is not as important and imperative as organized labor has claimed because it does not protect the free choice of employees in union represen-

tation. It has nothing to do with leveling the playing field in a globally competitive market. Rather, the so-called Employee Free Choice Act is a quintessential political power play. It is about changing the law by turning your back on one of the hallmarks of a democratic society—a secret ballot election—and by supplanting the collective bargaining process with a federally mandated union contract. With these changes in the law, it will be easier for unions to increase membership by forced card check and to increase their financial dues to sprinkle around so that unions can maintain their political influence which is disproportionate to their shrinking membership.

I encourage my colleagues to stand up for working men and women by opposing this ill-advised legislation.

Mr. President, I think it is time that somebody stood up to defend the hard-working career employees of the National Labor Relations Board, NLRB, who are under attack from organized labor and who are being demeaned by this legislation, this so-called Employee Free Choice Act.

As I said, in 1978, during the labor law reform debate, the NLRB is one of the finest and most efficient organizations in the Federal Government, and its lawyers serve the public interest by representing the Nation's employees—not unions or employers but employees. They are among the best lawyers in Government or, for that matter, anywhere in private practice law firms, and their representation of employees is free of charge. Although I certainly do not always agree with the NLRB or its decisions, I have consistently defended the agency over the 31 years I have been in the Senate.

NLRB lawyers in Washington and throughout the country in regional and subregional offices are among the most dedicated protectors of employee rights—apparently even more so than unions if one considers the unions' position on H.R. 800 denying secret ballot rights of employees and depriving employees of a vote on wages and terms and employment conditions resulting from a federally imposed union contract.

If H.R. 800 were to pass, NLRB lawyers would have to become, in effect, handwriting analysts, making sure employee signatures on union-solicited authorization cards are not forged or fraudulent. The proud record of the agency and its lawyers in conducting secret ballot elections for union representation and in protecting the rights of employees in the election process would be history. The voting booth, the ballot box, the American flag, the NLRB agent standing guard to make sure the election is conducted without intimidation or coercion by unions or employers—all that would be thrown out and replaced with one role: simply counting union authorization cards submitted by union organizers.

With that, of course, would potentially come the loss of career NLRB jobs, since how many handwriting experts does the NLRB have or need? They deserve better treatment from organized labor, as do the employees the NLRB seeks to protect.

Lost also under H.R. 800 would be the significance for employees of walking into the voting booth to cast a private vote for or against a union. After all, under the card check system in H.R. 800, employees do not get to vote against union representation even though they will be bound by principles of majority rule and exclusive representation.

Let's get that clear. If 50 percent of the employees plus one sign cards, the other 49.9 percent are disenfranchised. If they don't want a union, that is tough; they are automatically unionized. That is not right. Under the card check system in H.R. 800, employees do not get to vote against union representation even though they will be bound by principles of majority rule and exclusive representation. Their vote, if one can call it that, is not signing a card, assuming they are even asked to sign a card, which is far different from having the opportunity of saying no.

Under the current NLRB secret ballot election process, all employees designated as an appropriate unit get to vote, even though some may not exercise that right. Under the card check system in H.R. 800, apparently all a union organizer has to do is define a unit of employees appropriate for collective bargaining—for example, a group of employees who share a community of interest—and then solicit authorization cards from a majority of employees in that unit. Once the organizers reach signatures from 50 percent plus one, all they do is then take the signed cards to the NLRB for certification, regardless of what the other 50 percent of the employees really feel about the process.

As under current law, of course, the NLRB may make a determination that the unit is an appropriate unit for bargaining, although not necessarily the appropriate unit. However, under the card check process of H.R. 800, the other 49 percent of the employees may not even know until after the fact that they were part of a petitioned-for-bargaining unit since they would never have been given an opportunity to vote or even asked to sign union authorization cards. At least under the current system, they are notified that they are part of a petitioned-for-bargaining unit and given the opportunity to vote for or against the union in a secret ballot election.

There are many victims of H.R. 800—employees, employers, the NLRB and its career employees and, most importantly, sound national labor public policy. The only winners under H.R. 800 would be the union leaders and those who slavishly do their bidding in exchange for political support.

Of course, I believe those who vote against cloture on the motion to pro-

ceed to H.R. 800 will be the true political winners since we will have joined the majority of Americans for protecting the rights of employees through a secret ballot election and against fear, coercion, and intimidation by union organizers to have employees sign union authorization cards. We will have stood by employees and not the union bosses. By defeating cloture on this radical legislation, we will have prevented the economic catastrophe of having federally appointed arbitrators impose wages, benefits, and terms of employment.

Ultimately, the employees will be the winners by stopping this antiemployee legislation.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. 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. DORGAN. Mr. President, the debate we are having in the Senate on the Employee Free Choice Act is about workers' rights. It is about the plight of the American worker. It is about workers being able to organize. And my guess is that the Senator from Illinois, the Presiding Officer, perhaps even the Senator from Utah, was in the Chamber of the House some years ago when a man from Poland came to speak to us. I want to recount that today because I want to recount how strongly our country felt then and how much we admired the man from Poland who spoke to a joint session of Congress and what it means symbolically for workers to be able to organize.

It was interesting to watch from afar an organization called Solidarity in Poland, a group of workers organized under the banner of Solidarity. Well, one day, in a joint session of Congress, we heard from a foreign leader.

The joint session is full of pageantry. The House and the Senate are gathered together in the Chamber of the House, and the Doorkeeper announces the Supreme Court, then announces the Cabinet Secretaries, then the Senate Members, and then everyone is in the Chamber. And usually they announce the President of the United States as he comes to give a State of the Union Address, or perhaps, on rare occasions, a special message. On even rarer occasions, they will announce a foreign leader.

On this day, the Doorkeeper of the House of Representatives announced Lech Walesa from Poland, and this rather short, chubby man came forward, with a handlebar mustache. He came to the dais in the House of Representatives. The applause began and continued and continued and continued. This man, Lech Walesa from Poland, began speaking, and he gave an enormously powerful speech. Here is what he said.

He reminded us that it had been 10 years prior to that time, on a Saturday morning in a shipyard in Gdansk, Poland, that this man had been fired as an electrician in that shipyard. He was leading a strike of Polish workers in that shipyard against the Communist government.

He recounted that on that Saturday he was seized by the Communist secret police and beaten, and he was beaten badly. He was taken over to the side of the shipyard and was hoisted on top of and thrown over the barbed-wire fence, and he lay on the ground face down, bleeding, outside of that shipyard wondering what to do next.

What should this man, this unemployed electrician who had now just been beaten by the Communist secret police and thrown over the barbed-wire fence at the shipyard in Gdansk, Poland, what should he do next? He lay face down on the ground wondering.

The history books tell us what he did next. He pulled himself up off the dirt, brushed himself off, and climbed back over the fence into the same shipyard to continue leading the strike. And 10 years later, he was announced at the back door of the House of Representatives as the President of the country of Poland. This man, Lech Walesa, was not an intellectual, not a soldier, not a businessman, and not a diplomat. He was an unemployed electrician leading an organization called Solidarity, which is an organization about working people.

These workers risked everything in pursuit of one central idea—that people ought to be free to choose their own destiny. And because of Solidarity and because of the work they did, they threw off the yoke of communism, the heavy boot of communism that existed in Poland, and Poland became free. Then it happened in Czechoslovakia, and then Romania, and East Germany. They lit the fuse that caused the explosion that got rid of communism in Eastern Europe.

Here is what Lech Walesa said about what happened inside that shipyard and the years following. He said: You know, we didn't have any guns—the Communist government in Poland had all the guns. We didn't have any bullets—the Communist government had all the bullets. We were a bunch of workers armed with an idea that people ought to be free to choose their own destiny.

And he said: My friends, ideas are more powerful than guns.

This country loved Solidarity. Ronald Reagan, the American people, the Congress—we embraced these workers of Poland—Lech Walesa and the courageous workers who followed him, workers organizing under a banner called Solidarity. The ability to form labor organizations, the development of what those organizations mean to people, was key to defeating communism and to the cause of freedom. Think of what labor meant to Eastern Europe. It was

the spark. Yes, workers organizing represented the spark that defeated communism in Eastern Europe. These were ordinary people with extraordinary courage, uncommon valor.

When Lech Walesa spoke from the dais in the House of Representatives 10 years after he was beaten in that shipyard, 10 years after laying face down in the dirt wondering what to do next, he showed up at the door of our legislative Chamber as the President of this country saying: Ideas are more powerful than guns.

Now, fast-forward to today, a time when workers in this country all too often are left behind, especially workers who are working hourly jobs. Workers who are going to work wondering whether they will have a job tomorrow because their employers are becoming bigger and stronger and more powerful. Employers that have decided that the bottom line is what is important and that they can actually increase their profits by moving jobs overseas. So, they think, we will just tell our workers: You know what. You are just like wrenches. We can use you and throw you away, and we will move the job to Sri Lanka, to Bangladesh, to India, or to China. So American workers are told: You don't matter much.

I have been on the Senate floor 100 times talking about all of these companies that have decided they want all the benefits America has to offer, but they don't want to hire Americans. They want to produce their products elsewhere, where they can pay pennies an hour. What has happened in recent years to the American workers is downward pressure on their income, fewer retirement benefits, fewer health care benefits, the threat of seeing their jobs moved overseas. One might ask, if labor organizing is so effective, why is this occurring in this country? Why can't workers get together to represent the countervailing power against big companies so workers get their fair share of the income?

The answer is the deck is stacked against them at this point. That is why there is legislation on the floor of the Senate today being considered to try to see if we can't give people the opportunities to organize effectively once again.

Do you know that in nearly one-half of the cases in this country, 2 years after workers have already voted to form a union they still don't have a contract because the employer refuses to bargain with the union—2 years after the employees voted to form a union and they have not yet been able to form a union. Let me say that again. In almost one-half the cases where they have already decided to vote to form a union, 2 years later workers do not have a contract. Why would that be the case? Because there are a dozen ways for employers to fight it and prevent it. This legislation is legislation that says let's try to even up the score a little bit, provide some balance, provide some opportunity for workers to get together to organize.

The evidence is pretty overwhelming. The income of workers who have the capability of organizing is significantly different. Cashiers at grocery stores and other stores earn 46 percent more if they are union than if they are non-union. Union food preparation workers earn nearly 50 percent more than non-union workers. Union maids and housekeepers earn 31 percent more than their nonunion counterparts. Union workers are twice as likely to have employer-sponsored health benefits and pensions at work. They are four times more likely to have a secure defined benefit pension plan than nonunion workers. Those facts are pretty clear—they are the benefits of workers being able to organize.

The legislation we have before us is legislation that says we think the right of people to organize is very important.

I have talked at length on the floor about these issues as well. I spoke about James Filer many times. James Filer died, I said, of lead poisoning. He was shot 54 times, I guess that is lead poisoning. In Ludlow, CO, shot 54 times. Do you know why James Filer was shot 54 times? Because he believed people who were sent down underground to dig for coal, to mine for coal, ought to be able to have two things: No. 1, work in a safe workplace and, No. 2, be paid a fair wage. Because James Filer spent his life working for that, believing that workers who go underground ought to get a fair day's pay and ought to work in a safe mine, he was killed.

I could give you other names of those who have fought for workers' rights, risked their lives fighting for workers' rights. This country has been better and moved forward as a result of workers being able to organize.

Yes, we need entrepreneurs, we need capitalists, we need investors, we need incentives—we need all the things that come together in this society to succeed. But we need workers. Workers are not disposable. The American worker is not disposable. Workers represent one of the significant building blocks of progress in this country.

In recent years, what has happened to us is we have decided American workers should compete against a different standard. The standard is someone in China working for 30 cents an hour. If you can't compete against that, tough luck, you lose your job.

I will not go through all the stories. I could stand here for hours telling stories, company after company, about that. But the fact is, American workers have struggled. The struggle in this country has taken place for a century, to lift our standards up: Safe workplace, child labor laws, wage-and-hour laws, minimum wages, the right to organize. For a century, we went through that process and we lifted America up and expanded the middle class dramatically. That has been the success of this great country.

Now we are seeing, brick by brick, that foundation being taken apart.

This legislation is one piece of the remedy. It says, if we care about and stand for and believe in the right of workers to organize, then that right has to be a right we expect to be available to workers, rather than a right that is abrogated by employers who do not want to have anything to do with workers who organize.

The stories are endless about the bad things that happen to workers who try to organize. One in five active union supporters is illegally fired during union-organizing campaigns—20 percent are fired. In 78 percent of the elections, employers require supervisors to deliver anti-union messages to the workers whose jobs they pay and control. In 51 percent of the elections, employers force workers to attend closed-door, anti-union meetings, and they threaten to close the workplace if employees vote for union representation.

These are a few of the one-sided election rules that tilt the playing field in favor of the management of the company. The worker hardly stands a chance. That is what is happening.

For all of the hyperbole that is trying to scare people about it, this legislation is very simple, and it is very democratic. If the majority of employees in a workplace sign up to decide they want to organize as a workplace, then this country ought to respect that. That is why we need legislation.

I started by talking about Lech Walesa and Solidarity. It is not only foreign workers who organize whom we should respect. We should respect the right of workers in this country who organize as well.

I would like to hear someone on the floor of the Senate stand up—I have not heard that yet—but stand up and say Circuit City is a wonderful example of where we ought to head in this country. Circuit City announced one day, in a newspaper account, that they decided to get rid of some 3,400 of their workers. Their CEO apparently authorized that announcement to be made. The CEO was making \$10 million a year and 3,400 workers were to get fired because they were making \$11 an hour, and that was too much money to be paying American workers. So Circuit City said—again with a CEO and other executives making millions of dollars a year—we will fire 3,400 people and rehire people at \$8 an hour and save money.

I suppose you can save money that way. I am not sure that is a particularly good message to American workers: Come work here, get some experience here and by the time you get some experience, we think we can find somebody who will work for less money than you. That's the message: we prefer to have inexperienced workers rather than experienced workers, we think \$11 an hour is too much for you and your family. What kind of a message is that? I didn't hear anybody talk about that much. It was one big yawn around here with that sort of thing.

That kind of approach, that I think devalues the workforce in this country,

is something I think we ought to care about. The underlying legislation we are talking about is something we ought to care about as well because it stands up for American workers. It says, in this country, we live free. If you want to organize, you have a right to organize and the rules ought to be fair. The deck ought not be stacked against you. That is why we have legislation being considered today and I am pleased to support it.

I yield the floor.

The PRESIDING OFFICER (Mr. SALAZAR). The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent that Senator BOND be given the floor immediately after my remarks and I be granted up to 5 minutes.

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

Mr. HATCH. Mr. President, I listened very carefully to my friend from North Dakota. He is a friend and very fine man and good Senator, but I have been a little bit amazed at some of the things he said. First, I have only been here 31 years, but I was one of those who did a lot to help Lech Walesa. My dearest friend in the labor movement happened to be the international vice president of the AFL-CIO, Irving Brown. Irving Brown headed our tripartite representation at the International Labor Organization in Geneva, Switzerland. He was probably the most respected labor leader in the world. He took on the Soviets and their phony trade union organization that was trying to take over the French docks and he beat them. He risked his life every day of his life for free trade unionism, internationally.

When he died I was, as far as I could see, the only Republican invited to his memorial service. He went into Paris at the end of the Second World War—before the end of the Second World War—through the underground, and stayed there and helped topple the Nazis and then stayed there and defeated the Communists who tried to take over the French docks. If they had been able to do that, they would have had a worldwide trade union that would have been anything but in the best interests of the workers. He was the one who came up with the idea for the National Endowment for Democracy, and I worked very hard to get that enacted here and also was one of the first members of the board of directors of the National Endowment for Democracy.

I think he would have been horrified with what this bill does, taking away the right of workers to have a secret ballot election and replacing it with the ability of 50 percent of the workers plus one, who sign cards, mandating a union for every other employee. The fact of the matter is, doing away with secret ballot elections is anything but Democratic.

I have to say I am amazed they are trying to sell this to the American public. I don't think they can. They can't

sell it to the union members out there, roughly 70 percent of whom are against doing away with secret ballot elections—and for good reason. Once they start down that road, then you can have Government interference and a whole bunch of other interferences that will take away people's freedoms and rights.

This bill is a disgrace. Even worse is the mandatory arbitration this bill imposes on employers and employees for up to 2 years if they do not agree within 90 days of collective bargaining, which usually always takes longer, and 30 days of mediation. Then the Federal Government can step in and determine the wages, terms, and conditions of employment.

That is a ridiculous approach. That is even more dangerous than the card-check part of this. I can tell you this, as one who helped Lech Walesa, who met with him in Gdansk, who had dinner with him over in Gdansk, and also with Father Jankowski, who was the Catholic priest who held mass on the docks with guns trained upon his back, all I can say is I do not think their belief in free trade unionism consisted of having a card check system. A system that would bind 100 percent of employees to a union when only 50 percent plus 1 decided to unionize through a coerced and nontransparent signing of a card.

I yield the floor.

The PRESIDING OFFICER (Ms. STABENOW). The Senator from Missouri.

Mr. BOND. Madam President, I rise today to express my strong opposition to H.R. 800, the misleadingly named Employee Free Choice Act or card-check bill. As Americans, we cast secret ballots when we vote for the President, Congress, Governors, mayors, and city council members. Yet this bill would take away that essential right within the workplace.

It reminds me of the story from my home country, Audrain County, Missouri, often called the "heart of little Dixie" in Missouri, because it was settled by Democrats. The folklore has it that in the 1864 election, when President Lincoln was running for reelection and everybody had to stand up on the courthouse steps and announce for whom they were voting, one brave or foolhardy soul got up and said he wanted to cast a vote for Abraham Lincoln. To show you how kind and generous and hospitable the people of Audrain County were, they gave him a full 24 hours to get out of town. While I cannot document that story with the names of the specific individuals involved, that is an example of why a secret ballot is important.

A secret ballot allows people to exercise a free choice without fear of coercion from either side, either management or fellow workers who support management or fellow workers who support a union and union organizers.

Rather than enhancing and enabling secret ballots within the workplace,

this bill would eliminate that choice. Under the so-called card-check bill, an employer would no longer carry the right to demand a secret ballot election in order to certify a union as the employee's bargaining unit. The reauthorization of the National Labor Relations Act of 1947, the original benchmark for secret ballot union elections, was enacted to safeguard the rights of workers and the companies they worked for, to promote collective bargaining, and to restrain certain private sector labor and management practices, which could pose a threat to the general welfare of workers, to business, and to our Nation's economy.

Now, as we all know, NLRA allows for an exception to the rule of a secret ballot election. If an employer is willing to accept union authorization cards that have been signed from a majority of the employees represented, the organized union becomes the bargaining unit for that specific group of workers.

Therefore, as you see under existing law, there are exceptions which allow for authorization cards to be accepted. But to remove completely the ability of workers to have a confidential and private vote on whether they choose to become a part of a union is utterly objectionable and goes against all of the principles we hold so dear in this democracy.

I feel that this ill-advised legislation will replace a federally supervised secret ballot election process with a system that would open the door for harassment, intimidation, coercion, forgery, and fraud. If enacted, this bill would permit union organizers to gain signatures from workers wherever they feel free to do so. Therefore, as a result, a worker could see an organizer choose to show up at the place where he or she eats, at their residence, or at a family outing just to obtain a signature for representation.

Might I say also my constituents, who are small businesses, who know their employees on a first-name basis, are violently opposed to this kind of working operation. The small businesses are the dynamic engine that keeps this economy growing. They are creating the jobs, they are the ones that grow. If they thought they could have a union imposed upon them by card check, without going through a secret ballot, it would kill the ability of those small businesses to grow and hire more workers.

In fiscal year 2005, the National Labor Relations Board conducted 2,745 elections. It is interesting to note that 1,504 secret ballot elections were won by organized labor. Therefore, the total percentage of elections won by labor unions was 55 percent.

In 2004, organized unions won 51 percent out of 2,826 total elections conducted that year. During the Clinton administration in 1994, organized labor won only 44 percent of the total secret ballot elections.

According to a polling report conducted in January of this year, out of

the many individuals who were asked whether they would prefer an authorization card over secret ballot, 89 percent of those polled overwhelmingly chose the secret ballot.

As you see from the numbers, employees who have a real free choice of confidentially deciding whether to become part of the union have freely been able to employ their given right for union representation if they choose. In the last few years, under the secret ballot election, a majority of workers have decided to join a union. If a majority of prospective union employees does not wish to join, then they have a right, by secret ballot, to decline.

If labor unions are continuously increasing their election win margin each fiscal year, why prefer to use a system that threatens the protective rights of the confidential vote for each employee? Why not leave the ultimate decision to the employees where support for the secret ballot continues to remain strong?

The answer to that question may be in the fact that while secret ballot elections recently produced a victory of 55 percent in 2005, it does not match the success of a 90-percent win rate that the card-check system produces.

Many small businesses back home in Missouri have come to me and expressed concern with this bill, from machinists to mechanics to food distributors, and many other small companies. They have all voiced their resistance, distrust, and strong opposition to this bill.

We must understand that over 93 percent of our Nation's businesses have fewer than 100 employees. This bill would place a heavy burden on the livelihood of these small businesses, since they are the least likely to have experience in labor negotiations or have experienced legal counsel to represent them. They have to work on a first-name basis with their employees. They know what their challenges are. They know who they are, and they are in the best position to be able to help their workers. But they don't want to have the threat of a nonsecret ballot imposing a union on them.

Passage of the bill will mean that unions could unfairly target considerably smaller businesses, more than before, given that the amount of resources necessary to organize a business would be significantly less. Prohibiting a secret ballot for the purposes of assisting organized labor with efforts to bolster membership is not the remedy needed to ensure every worker's right to a safe, confidential, union election, where their God-given rights to a secret ballot, which we hold dear in the United States, would be denied.

I urge my colleagues not to permit this bill to go forward.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

IMMIGRATION REFORM

Mr. SESSIONS. Madam President, I thank my able colleague from Missouri. He is one of our most valuable and able members in the Senate. I value his thoughts on that and share his thoughts, actually.

I want to move off of that and some of the comments that Senator DORGAN had about working Americans and what they are facing today.

I remember addressing this point last year in the debate on immigration. I think it was at night when not many people were on the floor. Senator KENNEDY was here. I raised the question of what was happening to wages of working Americans as a result of large-scale immigration, and quoted professors and experts who had demonstrated that where those areas—where immigration reached its highest levels, wages had gone down for workers; they hadn't gone up.

Now we are told that businesses cannot get workers, and we are told we are at full employment, but apparently something is awry if wages are not going up in many areas.

I want to mention to you what we have with regard to the immigration bill that is coming before us. We will have cloture vote on it in the morning. This is what I want to say to my colleagues. The legislation promises that it will bring legality to the system. They say we have an illegal system and we have got a comprehensive plan to fix it.

What does our own Congressional Budget Office say? They just did an analysis of it. The Congressional Budget Office looked at the legislation that is proposed. They made an opinion about how much it would cost the U.S. Treasury. It was about \$30 billion over the next 10 years; not for the cost of enforcement, just the cost of additional social and welfare benefits provided to those who are here illegally, who will be made legal.

They made that analysis, and they also made one more analysis that is so stunning and so remarkable that I remain baffled that my colleagues have not picked up on it. What the Congressional Budget Office, our own budget office—a budget office that answers to the House, answers to the Senate, answers to the majority leader, HARRY REID, answers to the Speaker, NANCY PELOSI—the Congressional Budget Office concluded that net illegal immigration, after the passage of this bill, would only be reduced 13 percent.

Now what kind of reform is that, I ask my colleagues? I submit to you this is not a reform. A fix that is supposed to bring legality to a system that only reduces illegality by 13 percent. Last year we arrested 1 million people entering our country illegally. These are huge numbers. I would have thought we would want to see an 80 or 90 percent reduction of illegality at our border. This is a bill that by our own evaluation does not bode well.

There is another factor that many of my colleagues probably do not know,

have never understood. My staff has worked very hard to account for the actual flow of legal immigration into the country. In the next 20 years, this country, if this bill is passed, will see a doubling of the legal permanent residents in America. That is the number of people who are given a green card. That is the next step to citizenship. Anybody with legal permanent residence can move on to citizenship. It will double the number of legal permanent residents, which is what we call green card holders.

So we are not going to have any reduction in illegality, and we are going to have a major increase—a doubling of legal immigration. I am worried about that. We have been talking here about this debate about card check and unions. What it is about is wages and fairness for American workers, is it not?

Mr. Tonelson testified at one of our hearings before the Senate Judiciary Committee. This was a hearing I requested and asked for. We were able to get him, and he testified about areas in construction, in meat packing, in restaurant work, where there was high level of immigration from 2000 to 2005. Wages went down. You bring into this country more wheat, the price of wheat will go down. You bring into our country more cotton, the price will go down. Bring in more iron ore, the price of iron ore will go down. You bring in more labor, the price of American labor will go down. That is a fact.

I support a legitimate guest worker program. I believe we do have certain needs in certain industries and situations such as Hurricane Katrina where the need was so dramatic on the gulf coast. I know there are needs for some guest workers, temporary workers. I am prepared to help write legislation which would meet that need. I believe in immigration into America in general. I am not asking that we slash the amount of legal immigration into the country. But I doubt most Americans, when they hear about the great group I affectionately call the "masters of the universe" who met in secret and wrote this bill, had any understanding that their promise of comprehensive reform of the illegal immigration system we have today—and that is a fair way to describe it—they had no idea this bill would only reduce illegal immigration by 13 percent. I don't believe they had any idea it would double the numbers who were coming in legally.

That brings me to my point. The longer this legislation has been out for review, the less the public has liked it. I can see why. If you remember, Senator REID first called the bill up. He actually called up the old bill that the House wouldn't even look at last year. He let it sit for about a week and then plopped down, on a Tuesday, an entirely new bill, over 700 legislative pages, and wanted us to vote on it by Friday of that week. Why? That is what they attempted to do. We pushed back and said: No, this is a big issue;

we can't vote on Friday; we are not going to vote this week. We fought that, and they backed off. We had a week's break and came back. We got back on the bill and proceeded with it and had some amendment votes and were moving along, and then Senator REID pulled the bill off the floor on a Thursday night. So we thought maybe that was the end of it.

But after working on it, they decided to bring it back up. It is going to be brought back tomorrow. The bill is filed. Cloture was filed. We now find ourselves prepared to vote tomorrow on whether to invoke cloture on the motion to proceed, go to this bill, and actually discuss it on the floor. We know there are probably 51 Senators who have committed to vote for final passage of the bill. I think they have made a mistake. Some probably didn't understand it fully. I am sure some are uneasy about that commitment. But more than 50, I am confident, are committed to voting for the legislation. Some really think anything is better than the current system. Maybe this is better, they say. They are prepared to vote for it. So by going to the bill, we are setting ourselves on a pathway that leads to final passage of legislation I believe is not worthy of the U.S. Senate.

More than that, I urge my colleagues to think about this. We have been told—and if I am mistaken, I ask the majority leader to tell me I am wrong—that an unprecedented procedure will be utilized to eliminate as much time of debate as possible and to completely control the amendment process to this legislation in a way that has never been done before in the history of the Senate. It has never been done this way. The majority leader is going to fill the tree. He is going to file a second-degree amendment. That amendment will be divisible into a number of different amendments so he can say which amendments will be voted on and which will not, and other amendments will not be allowed to be voted on. It is complete control of the process. They will say: We adopted some of your amendments, you complain. We have some of your amendments in that group.

This process has been prepared with the care and precision of the Normandy invasion. This has been prepared meticulously for weeks, how they are going to move this bill through and how they are going to control the amendments. The amendments that will be allowed, I am confident, will be amendments they are confident they have the votes to defeat or amendments they don't care if passed. But they will not allow amendments to go to the core of this agreement by those masters of the universe who put it together, anything that would actually threaten this legislation's agreement they put together.

Some have been told: Don't worry, Senator, vote for cloture tomorrow, and we will let your amendment be

voted on. If your amendment is selected, it is likely that they have the votes to vote it down or the crowd that put this bill together doesn't object if it passes. But anything that really goes at this mechanism, this special agreement they have put together in secret without committee hearings of any kind, will not be allowed to be voted on. That is a big mistake.

I say to my colleagues on the other side of the aisle, I have been in the Senate 10 years, most of which Republicans had the majority. This procedure was never used against the Democrats when Republicans were in the majority. This is the first time it has been used in the Senate. What if it is used against Senators in the future on both sides of the aisle? The great free debate this Senate is so proud of would be eroded.

So for two reasons I urge my colleagues tomorrow to vote against cloture. First, we need to have this bill pulled down. We need to go back and review what it is that has caused the American people to reject it so overwhelmingly. We need to find out why the Congressional Budget Office has concluded that it will reduce illegal immigration by only 13 percent. My goodness. We need to ask ourselves, do we really want to double on top of that the legal immigration into America?

What are we afraid of? Why is there this obsession to move this flawed piece of legislation through, utilizing the unprecedented procedural gambit to do so? I ask why?

Three weeks before we had the final vote and Senator REID pulled it down, after the debate continued a couple of weeks ago, a Rasmussen poll showed support for the bill in the high 20s. Then fell to 23 percent, and the last poll showed only 20 percent of Americans supported this bill. Only 20 percent of the American people said we should pass this bill. A decent respect for the opinions of the people who elect us, I suggest—if nothing else, maybe for our own self-interest—would call on us to say: What is it that people are worried about? Why don't we pull this bill and see if we can't make a decent piece of legislation that we could be proud of and move it forward? What possible reason is there to be obsessed with just ramming it through this Senate? I am amazed. It takes my breath away. There is every kind of reason to suggest that we should pull the bill down and work on it.

I will conclude with these thoughts. Let's don't go forward tomorrow. Let Members of the Senate say to those who are promoting the legislation—one former law officer called them mandarins; I jokingly called them the masters of the universe—this legislation will not work. They are good people. They think they were doing good. But the product they produced won't work, and the American people don't like it. I say vote against cloture tomorrow because a vote for cloture is a vote ultimately to move this bill passage.

No. 2, I say vote against cloture tomorrow because unless the majority leader declares otherwise, we will have to assume that what we have been hearing is correct, and he will use an unprecedented procedure—a procedure dubbed “the clay pigeon”—to completely control the amendment process and to bring this bill up for final vote with amendments only he has approved in a minimal amount of time that can be expended on such legislation. Any legislation this big deserves time. Any legislation this big or with this many flaws deserves a lot of work.

I urge my colleagues, in light of these factors and others they may personally care about—and there are many more problems—to reject cloture tomorrow. It would be a clear message to the leadership that is trying to move this legislation that we are not going to have it. We want better legislation, if you want us to pass it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. SANDERS. Madam President, there is a widespread perception among the people of our country that things are getting worse, not better. Polls seem to indicate that people feel that life for the middle class in the last 10 years is not as good as it used to be. By very strong numbers, the people of our country believe the economy is getting worse, not better. We are the greatest country in the history of the world, but there is something wrong when, if current economic trends continue, the young people in our country will have a lower standard of living than their parents. We are moving in many respects in exactly the wrong direction, and it is our job as Members of the Senate to turn that around and to begin making government work for all people rather than just the wealthy and the powerful who have so much power over what goes on in this institution.

I rise in strong support of the Employer Free Choice Act. I commend Senator KENNEDY for his leadership on this issue.

Year after year, millions of American workers have been working longer hours for lower wages. In Vermont, it is not uncommon for people to work two jobs and on occasion work three jobs in order to cobble together an income in order to cobble together some health insurance.

Consider the facts: Since 2001, median household income has fallen by nearly \$1,300; wages and salaries now make up their lowest share of the economy in nearly six decades; the number of Americans who lack health insurance has grown by 6.8 million since 2001, to over 46 million Americans without any health insurance today; the number of Fortune 1,000 companies that have frozen or terminated their pension plans has more than tripled since 2001. Indeed, the middle class itself has shrunk. Over 5 million more Americans have slipped into poverty since the

year 2000. So what we are seeing is the average American worker working longer hours for lower wages.

Today there are millions of Americans who work who scarcely have any vacation time whatsoever. People are losing their health insurance, they are losing their pensions, and they are sitting around looking at the reality that if we do not turn this around, their kids will be even worse off than they are—all at the same time technology is exploding and worker productivity is increasing.

Meanwhile, while the middle class shrinks and poverty increases, corporate profits today make up their largest share of the economy since the 1960s. While the middle class is shrinking, millionaires and billionaires in this country have never had it so good since the late 1920s.

Today, the wealthiest 1 percent of Americans own more wealth than the bottom 90 percent. The CEOs of our largest corporations now earn 400 times as much as the average worker. This is not just an economic issue, this is a moral issue. Is this what America is supposed to be about, the wealthiest 1 percent owning more wealth than the bottom 90 percent, and the gap between the rich and the poor growing wider every day, as the middle class continues to shrink. I do not believe that is what America is supposed to be.

At the same time, workers are seeing a decline in real wages, are being forced to pay more for their health insurance, and are seeing their pensions slashed. The CEOs of large corporations are making out like bandits.

Just one simple example: Several years ago, the former CEO of ExxonMobil, Lee Raymond, received a \$400 million retirement package—while we are paying over \$3 for a gallon of gas, and ExxonMobil, last year, enjoyed the highest profits of any corporation in the history of the world.

But it is not just CEOs such as Mr. Raymond. At a time when big banks are ripping off American consumers by charging outrageous interest rates and sky-high fees, Richard Fairbank, the CEO of Capital One Financial, received over \$300 million in total compensation over the past 5 years.

While consumers have been getting ripped off at the gas pump, Ray Irani, the CEO of Occidental Petroleum, raked in over \$500 million in total compensation over the past 5 years. And on and on it goes, CEOs making out like bandits, workers paying \$3 for a gallon of gas, losing their health insurance, losing their pensions, losing their homes.

The middle class is shrinking, poverty is increasing, and millionaires and billionaires have never had it so good. It is our job to turn that around. There are a lot of reasons for the growing inequality in our economy, and economists may differ, but there is clearly agreement on some of the basic reasons the gap between the rich and the poor is growing wider and the middle class is shrinking.

The failure, up until very recently, to raise the minimum wage is an obvious example. Millions and millions and millions of workers today—before the new minimum wage goes into effect—are making \$5.15 an hour. Yes, the U.S. Congress has provided hundreds of billions of dollars in tax breaks for the wealthiest 1 percent, but we could not raise the minimum wage until a few weeks ago. That is certainly one of the reasons poverty in America is increasing.

Another reason is that unfettered free trade, which forces American workers to compete against desperate workers in China, Mexico, and Vietnam, is also responsible for an increase in poverty and a lower standard of living for millions of American workers. No, American workers should not be forced to compete against desperate workers in China who are making 30 cents an hour. That is not a level playing field. That is wrong, and that is another reason the middle class in this country is in decline.

But perhaps the most significant reason for the decline in the middle class is the rights of workers to join together and bargain for better wages, better benefits, and better working conditions have been severely undermined over the years.

Today, if an employee is engaged in a union organizing campaign, that employee has a one in five chance of getting fired.

Today, half of all employers threaten to close or relocate their business if workers choose to form a union.

Today, when workers become interested in forming unions, 92 percent of private sector employers force employees to attend closed-door meetings to hear antiunion propaganda; 80 percent require supervisors to attend training sessions on attacking unions; 78 percent require supervisors to deliver antiunion messages to workers they oversee; and 75 percent hire outside consultants to run antiunion campaigns.

In 2005 alone, over 30,000 workers were discriminated against, losing wages or even their jobs, for exercising their constitutional right of freedom of association—a right guaranteed under the Constitution of the United States.

Further, Human Rights Watch has said:

Freedom of association is a right under severe, often buckling pressure when workers in the United States try to exercise it.

The right to come together to form a union is a constitutional right. It is under severe, unprecedented attack today.

Even when workers—who are faced with all of these enormous obstacles—win union elections, more than one-third of the victories do not result in a first contract for workers.

Today, corporate executives are routinely negotiating obscenely high compensation packages for themselves, but then they deny their own employees their ability to come together to create

better wages and working conditions and better lives for themselves. That is wrong. This Senate has to stand up for those workers.

It is time to turn this around. It is time to stand up for the working people of this country. That is what the Employee Free Choice Act is all about.

The House of Representatives did the right thing when it passed the Employee Free Choice Act by a vote of 241 to 185 earlier this year. Now it is time for the Senate to act.

This legislation is very simple. The Employee Free Choice Act would simply allow workers to join unions when a majority sign valid authorization cards stating they want a union as their bargaining representative. As Senator KENNEDY has correctly pointed out, card check recognition was the law of the land in the United States from 1941 to 1966. In other words, all this legislation does is give workers the same rights they had 41 years ago.

More than half of the U.S. workforce—nearly 60 million workers—say they would join a union right now if they had the opportunity. Yet only 12 percent of the workforce has a union. This is much different from other industrialized countries around the world.

In Canada, where card check is the law of the land, twice as many workers belong to unions than in the United States. In Britain, where card check recognition is the law of the land, 60 percent of workers belong to unions.

What has strong union participation meant for workers in other countries? This is an important point to be made because it is terribly important we in the Senate see what is going on in the rest of the industrialized world, see and note the benefits workers around the world are receiving that our workers are not.

Just a few examples. In Finland, where two-thirds of workers belong to unions—guess what—unlike college graduates in the United States who are graduating \$20,000 in debt, Finland provides a free college education, including law and medical schools, to all qualified citizens. That is pretty good. They encourage young people to go to college and graduate school tuition free.

While the cost of childcare in the United States is skyrocketing—millions of American families cannot afford quality childcare—in Finland, day care is free to all citizens.

Unlike the United States, where the 2-week vacation is becoming a thing of the past, in Finland, workers are guaranteed 30 days of paid vacation and 60 days of paid sick leave.

In Norway, where the union participation rate is about 60 percent, women receive 42 weeks of maternal leave at full pay—full pay—while U.S. workers only receive 12 weeks of unpaid maternal leave.

In Belgium, France, and Sweden over 90 percent of workers belong to unions. Workers in those countries all have

much stronger pensions, health care, childcare, and vacation benefits than American workers.

In addition to the card check provision, the Employee Free Choice Act would also stiffen penalties against employers who illegally fire or discriminate against workers for their union activity during an organizing or first contract drive.

Perhaps most importantly, this legislation will make it easier for workers who win union elections to negotiate a first contract. We will end the situation where, when workers decide to form a union—they go to negotiate—the employer simply refuses to negotiate.

In order to strengthen America's middle class, we have to restore workers' rights to bargain for better wages, benefits, and working conditions.

After all, union workers in this country earn 30 percent more, on average, than nonunion workers who are performing the same jobs.

Madam President, 80 percent of union workers have employer-provided health insurance; only 49 percent of nonunion workers do.

Madam President, 68 percent of union workers have a guaranteed pension through a defined benefit plan; only 14 percent of nonunion workers do.

Madam President, 62 percent of union workers have short-term disability benefits; only 35 percent of nonunion workers do.

Union workers have, on average, 15 days of paid vacation; while nonunion workers, on average, have fewer than 11 days of paid vacation.

Again, I thank Senator KENNEDY for his leadership on this issue. We have to do everything we can from a moral perspective to reverse the decline of the middle class, to lower our poverty rates, to improve the standard of living of American workers, and passing the Employee Free Choice Act is an important step in that direction.

Madam President, thank you very much.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. KENNEDY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 40 minutes remaining.

Mr. KENNEDY. Mr. President, I think we have had a very good discussion over the course of the afternoon and earlier. As I mentioned in my opening comments, a number of our colleagues spoke about this issue during the last week. So this is a matter of importance. It is a matter of economic justice and economic fairness. It is an extremely important issue, I

think, a defining issue in terms of what is happening to the middle class in this country. Are they going to have voices and votes that are going to be taken seriously? Are they going to be able to participate in a meaningful way in terms of our economy? This involves their families and their future, their own personal future, their economic future, the future of their retirement, the future of their health care, and the future of their ability to be able to educate their children. So it is a very important matter.

I have been listening to the debate and the discussion. It is an interesting fact that the bill itself is only three pages long. It is only three pages long. But the difference it would make for working families is enormously significant and incredibly important. So this legislation, although it is written in some technical language, is understandable and should be. Basically, what it does is it gives the worker the kinds of expression and the rights in the workplace which increasingly they have been denied.

I wish to go over very briefly exactly how this legislation works, because if you were someone back home listening to the discussion and the debate, I think you would wonder what this legislation is all about. I thought I would take a few moments to go through this. As I mentioned, a majority sign up in a workplace for employee free choice requires the employer to recognize the union if a majority of the employees sign valid authorization cards; if the employees want to have an election, then there can be an election. The idea that has been suggested around here is that this eliminates the opportunity for free elections and that, of course, is not so. But what it is saying is that the people who are going to be the most affected by it will be able to make the decision as to whether it is going to be an open election or whether it will be the card check-off.

Then we have the instructions by the NLRB to make clear and fair rules for how that sign up is to protect the workers' rights.

Then, this says, the Employee Free Choice Act brings the employers to the table within 10 days to start bargaining. The majority has indicated through the card check that they want to form a union and this is a process spelled out in this legislation about getting the employer to the table within 10 days and provides a reasonable timetable for negotiations and creates an incentive for both parties to reach an agreement and provides for mediation and binding arbitration as a last resort.

This idea we have heard during the course of the afternoon that this is going to require Government imposing a judgment and decision on companies is, of course, completely fallacious.

This is the timeline. Although it may be somewhat difficult to see, it is not enormously complicated. The union is certified, requests to bargain, it takes

10 days, and the bargaining begins. It goes on for 90 days. It can be extended. As long as there is a demonstration on both sides that they want to continue to move ahead, they will go ahead. If not, either party may request they go to mediation.

What we have found out, and history demonstrates, that 86 percent of the cases that go to mediation are actually settled. This is an extraordinary achievement and a record. So it gives full opportunity for the 90 days, continued opportunities for the sides, if they think they are making progress. If one or the other sides requests the mediation, they go to mediation. Then, only at the very end, if they are unable to get, through the mediation, if they are unable to resolve their questions in collective bargaining, then there is going to be 30 days after that which will be for the arbitration.

Now, a point that has been missed during this debate and discussion is that on the issue of arbitration, it is not in the interest of the union to put the employer out of business because they wouldn't have jobs, and it isn't in the interest of the employer to be so arbitrary that they will find they are not going to have a workforce. So there are forces that are out there to bring the situation together, and that is how it has worked in the past and is working.

The example that has been used, of course, is in our neighboring country of Canada, where it has met with great success. This is not enormously complicated, but the impact this will have in terms of permitting the 60-odd million individuals across this country who want to participate in a union to be a member of a union is dramatic.

I wish to reiterate for the membership what is happening in the real world. I explained earlier the kinds of activities employers have had to discourage, effectively to demean the workers themselves and destroy their economic life by firing them, even after there is a successful outcome in favor of a union. I wish to show what the numbers are. This is in 2005, when over 30,000 workers received backpay after the National Labor Relations Board found that employers had violated their rights—30,000 workers across the country. This isn't 5 or 6 workers, where it is happening in New England, or 4 or 5 workers down in Los Angeles or in another part of the country; this is 30,000 across the country. Thirty thousand across the country are receiving the backpay in one particular year. It demonstrates what is out there and the difficulty. That means they have been fired or their rights have been violated for being involved in union activity, to try to get an expression in their workplace, and they get fired or their rights are violated. What happens is they get fired or somehow their rights are violated, and it can be 2, 3, 4, or 5 years, luckily, if they ever get a reinstatement, so many of them become discouraged and completely drop out of the market.

Now let's see, after the National Labor Relations Board says they have been harshly and illegally treated, what is the burden then on the employer to pay them? Look at this. The average backpay of those 30,000 workers, many of whom are out 1, 2, 3, 4, or 5 years, is \$2,660. That is the backpay. That is the average backpay for those 30,000 workers. Talk about a slap on the wrist. It is not even a slap on the wrist. This is the cost of doing business. Compare this to the unauthorized reproduction of Smokey the Bear. The penalty is \$10,000 and up to 6 months in prison. This is the unfairness to American workers when they have been unfairly treated or fired, risking their family's future and their future, reinstated by the National Labor Relations Board and receiving the average pay of \$2,660. So you can understand very easily why these many unscrupulous—not all, and we have given examples of informed and enlightened employers—but we can understand why many employers say go ahead, give me those firms that you have a list of, and we will take these kinds of penalties any time, rather than going ahead with the union. That is what is out there, in terms of its impact, by failing to move ahead.

We illustrated earlier in the day when it wasn't this way—when we had strong unions, speaking for working families, increase in productivity, increase in wages, and the result was that America was growing together. America was growing together toward being the strongest economy with the strongest national security in the world. The opportunities for those families to continue their being a part of what I call the march for progress, being a part of an America that was offering better opportunities than these families had or that their parents had. That was the promise of America. That isn't where we are today. We have gone through that earlier in the afternoon.

Since there have been a number of references to the National Labor Relations Board, I wish to include a letter from an extraordinary former Secretary of Labor. His name is Ray Marshall. He was an extraordinary Secretary of Labor under President Carter. He now continues to be a professor at the Johnson School of Public Affairs. He wrote, on March 21—and I will include his letter in the RECORD. I wish to mention briefly the relevant and very important part of his letter pointing out numerous studies, including those by the Commission on the Future of Worker-Management Relations, the Dunlop Commission. The Dunlop Commission was led by John Dunlop, who taught at Harvard Business School, a Republican, a Secretary of Labor for a number of Republican Presidents, and generally perceived to be one of the most thoughtful Secretaries of Labor we have had, in fact, over the last 50 years, and there was a Dunlop Commission which he took great pride in, in reviewing labor-management relations. That is what Ray Marshall is referring to.

He pointed out the Dunlop Commission documented the failure of American labor law to adequately protect workers' rights, bargaining rights. The National Labor Relations Act's major weaknesses include: Giving employers too much power to frustrate workers' organizing efforts through unlawful means.

This is the Dunlop Commission, former Republican Secretary of Labor, included in a letter from Ray Marshall.

No. 1: Giving employers too much power to frustrate workers' organizing efforts, often through unlawful means.

No. 2: Weak penalty for illegal actions by company representatives.

We gave an example of both of those.

No. 3: Employers' refusal to bargain in good faith after workers vote to be represented by unions.

The letter goes on. I ask unanimous consent that it be printed in the RECORD.

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

LYNDON B. JOHNSON SCHOOL OF PUBLIC AFFAIRS, THE UNIVERSITY OF TEXAS AT AUSTIN,

Austin, TX, March 21, 2007.

Hon. TED KENNEDY, Chair,

U.S. Senate Committee on Health, Education, Labor and Pensions, Washington, DC.

DEAR SENATOR KENNEDY: I regret very much that a scheduling conflict precludes the opportunity to accept your invitation to testify on the Employee Free Choice Act (EFCA), which I strongly support.

There is abundant evidence that free and democratic societies and broadly shared prosperity require strong and democratic organizations to represent employees at work and in the larger society. This is one reason all democratic countries, including the United States, have declared the right of workers to organize and bargain collectively to be fundamental human rights.

Unfortunately, despite our support of this declaration, U.S. labor law actually makes it very difficult for American workers to bargain collectively, even though polls show that nearly 60 million of them wish to do so. Indeed, unlike most other advanced democracies, the United States requires workers to engage in unfair high-stakes contests with their employers to gain bargaining rights. Numerous studies, including those by the Commission on the Future of Worker-Management Relations (the Dunlop Commission) have documented the failure of American labor law to adequately protect workers' bargaining rights. The National Labor Relations Act's (NLRA) major weaknesses include: giving employers too much power to frustrate workers' organizing efforts, often through unlawful means; weak penalties for illegal actions by company representatives; and employers' refusal to bargain in good faith after workers vote to be represented by unions.

By strengthening the right of workers to select bargaining representatives without going through lengthy and unfair election processes, facilitating first contracts, and creating stronger and more equitable penalties, the EFCA would cause the NLRA to be much more balanced.

The EFCA is important to all Americans, not just to workers. We are not likely to have either sound public policies or fair and effective work practices if millions of American workers' voices remain unheard. It is significant that stagnant and declining real

wages for most workers, along with growing and unsustainable income inequalities, have coincided with declining union strength.

Good luck with this important legislation. Please let me know if I can help in any way.

Sincerely,

RAY MARSHALL.

Mr. KENNEDY. Mr. President, I think these summarize the challenge and the problem and what we are trying to do to address them.

There have been comments about who will benefit—that it is going to be the union bosses who will coerce the people; the union representatives have no power over workers; the employer can fire you. He can hire you and fire you. He can decide whether you are going to have any kind of health insurance, or vacation, or paid sick leave. They are the ones who hold the whip, and we should not forget it. There is the claim that this is a payback for union leaders. It is the people who care about the workers who support this.

That brings me to this point. We have a letter from 124 religious leaders. I will read quickly part of this excellent letter:

As religious leaders, we will continue to work to disseminate within our communities of faith this message: That the right of workers to freely organize in a democracy, and families and communities are strengthened when workers can bargain for fair wages, adequate benefits, and safe working conditions.

We, as leaders of faith communities that represent the entire spectrum of U.S. religious life, call upon the U.S. Senate to bring the Employee Free Choice Act to the floor of the Senate as soon as possible. We urge that the Senate vote to pass this historic legislation as a public representation that this bill offers the best remedy to the egregious violations of workers' rights and best hope to restore to workers a voice in the workplace free from fear and harassment.

I ask unanimous consent that this letter be printed in the RECORD.

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

AN OPEN LETTER FROM RELIGIOUS LEADERS TO THE U.S. SENATE TO SUPPORT THE RIGHT OF WORKERS TO ORGANIZE

We, the undersigned religious leaders and representatives of faith-based organizations, are deeply concerned about the pervasive violation of the rights of working people when they attempt to exercise their basic freedom to form unions and bargain collectively for a better life.

Over the past 30 years, workers' living standards have declined in well-documented ways—stagnant or low pay, longer hours spent at work, unaffordable or no health care benefits, and increasing insecurity. Increasing income inequality is the hallmark of our time.

U.S. labor law protects the legal right of workers to form unions, yet employers regularly and effectively block that right. Employer violations of workers' rights are routine and illegal firings of union supporters in labor organizing drives are at epidemic levels. In 2005 National Labor Relations Board (NLRB) annual report 31,358 people—or one worker every 17 minutes—received back pay because of illegal employer discrimination for activities legally protected by the National Labor Relations Act. But the perpetrating corporations pay no effective price.

This routine and flagrant violation of workers' rights has created a climate of fear and intimidation in the workplace. The results are that too many workers do not try to exercise their freedom for fear of losing their jobs. They quietly suffer hazardous working conditions, falling wages, and declining benefits.

America's faith traditions are nearly unanimous in support of the right of workers to organize, and by using sacred text and tradition, our faith communities have developed social statements supporting the freedom of workers, too vulnerable to systemic injustices in the workplace, to organize and collectively bargain.

The Employee Free Choice Act is the first step to fixing this badly broken system by strengthening penalties for companies that break the law by coercing or intimidating employees. It will also establish a third-party mediation process when employers and employees cannot agree on a first contract, and enable employees to form unions when a majority expresses their decision to join the union by signing authorization card. It makes real the principle that the free choice about whether to form unions should belong to workers.

As religious leaders, we will continue to work to disseminate within our communities of faith this message: That the right of workers to freely organize their workplaces is required in a democracy, and families and communities are strengthened when workers can bargain for fair wages, adequate benefits, and safe working conditions.

We, as leaders of faith communities that represent the entire spectrum of U.S. religious life, call upon the U.S. Senate to bring the Employee Free Choice Act to the floor of the Senate as soon as possible. We urge that the Senate vote to pass this historic legislation as a public representation that this bill offers the best remedy to the egregious violations of workers' rights and the best hope to restore to workers a voice in the workplace free from fear and harassment.

Sincerely, (Signed by 124 leaders)

Mr. KENNEDY. That isn't just the Senator from Massachusetts, the Senator from Vermont, or others who have spoken in favor of this. This is an open letter from 124 religious leaders, representing all of the great faiths, who are urging us as a matter of social consciousness and morality to give a voice and expression in the form of support for that legislation.

I also include a letter from 16 Governors from around the country. In part, they say:

The freedom to form and join unions is a fundamental human right protected by our constitutional freedom of association, our Nation's labor laws, and international human rights laws . . . it is a right for which millions of Americans have struggled. The freedom to form unions is of special importance to the civil and women's rights movements because unions help ensure adequate wages, health care coverage, and retirement security. It was the right to form a union that Dr. Martin Luther King, Jr. was supporting during the Memphis sanitation strike when he was assassinated in 1968. Unions also helped to reduce the wage gap for women, people of color, and can prevent arbitrary and discriminatory employer behavior.

So 16 Governors are recommending that we move ahead with this legislation.

I ask unanimous consent that this letter be printed in the RECORD.

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

June 21, 2007.

Hon. HARRY REID,
Senate Majority Leader, U.S. Capitol Building,
Washington, DC.

Hon. MITCH MCCONNELL,
Senate Minority Leader, U.S. Capitol Building,
Washington, DC.

DEAR MAJORITY LEADER REID AND MINORITY LEADER MCCONNELL: As governors, we ask for your support of the "Employee Free Choice Act," introduced by U.S. Senator Edward Kennedy and U.S. Representative George Miller. This legislation provides for recognition of a union when the majority of employees voluntarily sign authorizations, offers mediation and binding arbitration to resolve first contracts, and strengthens penalties for violations during organizing and first contract efforts.

The freedom to form and join unions is a fundamental human right protected by our constitutional freedom of association, our nation's labor laws, and international human rights laws, including the 1948 Universal Declaration of Human Rights. It is a right for which millions of Americans have struggled. The freedom to form unions is of special importance to the civil and women's rights movements because unions help ensure adequate wages, health care coverage and retirement security. It was the right to form a union that Dr. Martin Luther King, Jr. was supporting during the Memphis sanitation strike when he was assassinated in 1968. Unions also help to reduce the wage gap for women and people of color, and can prevent arbitrary and discriminatory employer behavior.

The National Labor Relations Act of 1935 has long allowed employers to recognize a union when the majority of workers sign authorization cards, designating the union as their bargaining agent. The right to form a union, however, has been eroded over the last several years, resulting in increasing employer harassment, discrimination, and sometimes termination for workers taking initial steps toward forming a union. Twenty-five percent of private-sector employers illegally fire at least one worker for union activity during organizing campaigns. Even where workers successfully form unions, employers often refuse to bargain fairly with the workers. Moreover, 92% of employers illegally force employees to attend mandatory, closed-door meetings against the union. The Employee Free Choice Act will protect workers from these abuses, provide for first contract mediation and arbitration, and establish meaningful penalties when employers violate workers rights.

When workers try to form unions, all too often they are harassed, intimidated, and even fired for their support of the union. These attacks on workers' rights, for which there are only weak—if any—remedies, occur all too frequently among the most vulnerable workers of our society, including women, the working poor or all races, and recent immigrants. As a result, those workers who need unions the most are often those who have the least chance of achieving the benefits of unionization.

We strongly urge you to support the Employee Free Choice, legislation that would begin to reinstate the right to form unions that Congress protected for America's workers over 65 years ago.

Sincerely,

Governor Bill Ritter, Jr., Colorado; Governor Chet Culver, Iowa; Governor John Baldacci, Maine; Governor Jennifer Granholm, Michigan; Governor Bill Richardson, New Mexico; Governor

Ted Strickland, Ohio; Governor Edward G. Rendell, Pennsylvania; Governor Joe Manchin III, West Virginia; Governor Rod Blagojevich, Illinois; Governor Kathleen Sebelius, Kansas; Governor Martin O'Malley, Maryland; Governor Jon Corzine, New Jersey; Governor Eliot Spitzer, New York; Governor Ted Kulongoski, Oregon; Governor Chris Gregoire, Washington; Governor Jim Doyle, Wisconsin.

Mr. KENNEDY. Finally, we have a letter from the Leadership Conference on Civil Rights. Two hundred civil rights groups are endorsing this legislation.

In part, their letter says this:

This bill will reform the current system for selecting a union to give all working people the freedom to make their own decision about whether to choose a union and bargain for better wages and benefits. LCCR strongly believes that a healthy labor movement invests America's diverse working people with a powerful voice with which to challenge workplace discrimination and demand equality.

I ask unanimous consent that this letter also be printed in the RECORD.

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

LEADERSHIP CONFERENCE
ON CIVIL RIGHTS

Washington, DC, June 18, 2007.

DEAR SENATOR: On behalf of the Leadership Conference on Civil Rights (LCCR), the nation's oldest, largest, and most diverse civil and human rights coalition, with nearly 200 member organizations, we urge you to support the Employee Free Choice Act (EFCA) (S.1041). [The bill will reform the current system for selecting a union to give all working people the freedom to make their own decision about whether to choose a union and bargain for better wages and benefits. LCCR strongly believes that a healthy labor movement invests America's diverse working people with a powerful voice with which to challenge workplace discrimination and demand equality.]

Under the current system, where the National Labor Relations Board (NLRB) conducts polling after a long and bitter campaign period, employers are given ample opportunity to intimidate and coerce employees to vote against unions. Until workers can exercise a free choice, they will continue to lose power in our country, living standards will continue to suffer, and our middle class will continue to decline. LCCR urges the Senate to vote yes on cloture for the EFCA, and to promptly join the House in passing the bill.

The EFCA levels the playing field for employees by: (1) certifying union representation when a majority of workers sign cards designating the union as their bargaining representative; (2) strengthening penalties against companies that illegally punish employees for supporting a union; and (3) bringing in a neutral third party to settle a contract when a company and a newly certified union cannot agree on a contract after three months.

A recent analysis of NLRB data reveals the necessity of reform. One in five active union supporters is illegally fired for union activity during NLRB election campaigns; workers are fired for union activity in 25 percent of campaigns; in 78 percent of NLRB campaigns, employers require supervisors to deliver anti-union messages to the workers whose jobs and pay they control; in 92 percent of NLRB campaigns, employers force

workers to attend closed door anti-union meetings; and in 51 percent of NLRB campaigns, employers threaten to close the workplace if employees vote for union representation.

LCCR and the civil rights community care deeply about this bill. The labor movement has long been a forceful advocate for equal opportunity and equal dignity in our nation. The critical role played by labor in achieving passage of Title VII of the Civil Rights Act is well-known. But unions also facilitate enforcement of civil rights laws by policing the workplace and using the grievance process to halt discriminatory practices. Moreover, unions raise the wages and benefits of women and people of color. Workers who belong to unions earn 30 percent more than non-union workers, and enjoy substantially better health care. These improvements are even more pronounced for women and people of color.

Labor unions today are in crisis. Union membership in the private sector continues its precipitous decline of the past several years. Fierce, concerted resistance to unions by employers and the weakening of existing labor protections have made union organizing extraordinarily difficult. Surveys demonstrate that American workers want unions. Yet the campaigns of intimidation and coercion mounted by employers during organizing drives and the lack of an adequate legal remedy for such employer conduct have reduced existing polling procedures to a farce. The EFCA presents an important opportunity to guarantee workers a free, uncoerced choice in choosing union representation.

The Senate should seize this opportunity and vote for the EFCA. Should you require further information or have any questions, please contact Paul Edenfield, Counsel and Policy Analyst, at 202-263-2852, regarding this or any issue.

Sincerely,

WADE HENDERSON,
President & CEO.
NANCY ZIRKIN,
Deputy Director.

Mr. KENNEDY. So there it is. The outstanding religious leaders, the Governors, those who have been speaking out to protect and advance the cause of women and minorities in the workplace, all see this legislation as being a major consequence to economic justice to workers' rights in this country. That is why we are in such strong support of this legislation. We are hopeful we will get a strong vote on tomorrow.

I reserve the remainder of my time.

Ms. MIKULSKI. Mr. President, as a U.S. Senator, I am fighting for jobs today and jobs tomorrow. Unions play a vital role in ensuring safe and fair working conditions. That is why I support the right to form and join unions and I will continue to fight to preserve the rights of workers.

It is time to get behind the working people's agenda. That is why I am proud to stand with the labor movement. I wear the union label on my clothes, on my heart, and on the floor of the Senate. I am proud of union members. You all work hard. You work three shifts: one at your jobs to make a living, then with your family to make that living worthwhile, and a third with your union to make a difference.

I know the importance of unions, and that is why I am an original cosponsor

of the Employee Free Choice Act. With union membership at its lowest point in more than 60 years, this bill takes several steps to make it easier to unionize without employer coercion. Workers understand the benefits of joining a union—53 percent say they could join one today if they could. But the right to organize is deliberately denied by many employers.

Unions raise wages, improve working conditions, and ensure fair treatment on the job. In many jobs they make the difference between living in poverty and making ends meet or the difference between just getting by and making enough to make a better life for a family.

Workers face three obstacles when trying to unionize: unfair union election rules, meaningless penalties, and employers' refusal to bargain with employees. This bill would level the playing field by letting workers choose how to form a union, establishing meaningful penalties, and guaranteeing both sides bargain in good faith.

Workers organize themselves by signing a document saying they want to join a union. Once a majority of workers sign up, they can ask their employers to be recognized as a union and collectively bargain for a contract. However, employers often refuse to recognize the union and require workers to go through an intimidating anti-union campaign that ends in an unfair election.

The Employee Free Choice Act makes it easier to form a union by not allowing employers to veto employees' decisions about how to organize and force an unfair election. Workers could still request an election, but it would be their choice—not the employers.

The other big problem for workers who want to unionize is that the penalties for companies that break the laws are too low. Employers who break union election rules only have to post a sign saying that they won't do it again. Employers who fire a worker for being pro-union are only required to pay wages they would have owed if they had followed the law minus whatever the fired employee earned since his or her firing. And because cases can be tied up in court for years, employers are able to fight dirty against unions and workers with near impunity.

The Employee Free Choice Act raises penalties for unfair labor violations to \$20,000, requires employers to pay workers who were unfairly fired three times backpay, and requires the NLRB to seek an injunction when they have evidence that an employer has violated a union election law.

Even when unions are able to overcome these slanted rules, employers still undermine the will of their employees by refusing to negotiate in good faith. Today, if a union and an employer can't agree on a contract within a year, the employer can call an election to disband the union and another unfair antiunion campaign begins. While not bargaining in good

faith is prohibited by law, the NLRB has set the standard of proof too high to ever be met except in the most blatant cases. This gives antiunion employers every reason to stall during negotiations, and that is why one-third of unions formed through elections don't get a contract within a year.

This bill ensures fair negotiations by establishing reasonable time tables for negotiation and mediation. In the rare cases when that fails to produce an agreement, this would also require arbitration so that parties have incentives to compromise and find a middle ground that benefits everyone.

Unfair rules, lax enforcement, and insincere negotiating has crippled union organizing and threatened the middle-class lifestyle that was once the economic pride of our country. The Employee Free Choice Act gives workers the rights they deserve, restores integrity to our Nation's labor laws, and lays the foundation for working and middle class Americans to once again share in our country's economic prosperity.

America's economy continues to grow but working class economic security and opportunity have gone in the opposite direction. Wages are lower today than they were 30 years ago, employers no longer offer good benefits, and workers don't make enough to save for retirement or send their kids to college. Despite working longer and being more productive, American families find it harder to break into the middle class and families in the middle class are finding it harder to stay there. This bill is a step in the right direction for working Americans. I strongly urge my colleagues to join me in supporting it.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. BURR. Mr. President, I have the deepest respect for the Senator from Massachusetts, and this is one Senator who makes no accusations that this is payback. I proudly say the Senator from Massachusetts believed before that this is the right thing, he believes it today, and he will believe it tomorrow; and no one could convince me he could change his mind. It is refreshing in this institution to find somebody who is so entrenched that the press, public opinion, or anything cannot move him.

But acknowledging that about Senator KENNEDY, I have to express my strong disagreement from the standpoint that he says this is easy to do. I hope it is not easy to do. I hope it is not easy in America, in a democracy, to do away with the private ballot. I believe it is something we cherish, something we protect, something we understand is part of the tenets of democracy.

I think it is important that we look back. We have heard a lot about where we are. But how did we get to the point that we have a system where if 30 percent of the employees sign a sheet to have an election—30 percent, not 50 percent—in fact, they get that right. It

was in 1947 when they changed the National Labor Relations Act. Why did they change it? Because through the 1930s and 1940s, there was widespread intimidation by the labor unions on workers and on employers. Rather than to have that intimidation that mobilized one's commitment to unionize a business, they rewrote the law and they provided the right of a private ballot in this infant democracy—what we did for elections we adopted for employees, a secret way for every employee not to be bullied or intimidated as to how they wanted to be represented by their employer or by a union.

Employee Free Choice Act. That sounds easy, and I think that is why he suggested it is. The reality is Americans will give up the private ballot. But the Employee Free Choice Act violates that tenet of our democracy because it would prevent every worker's vote from counting. I will say that again. It would prevent every worker's vote from counting. We have had battles over the last 10 years in this country about every vote counting. Not only would it prevent every vote from being counted, it would deny the right to vote to some employees, because now just with 50 percent plus one additional worker there would be no need for a vote. He is right. You would enter into a 10-day process that would accelerate, in all likelihood, to mediation because you have a union that shot for the stars and an employer that can only pay X. The history of the country is that we split the difference and the employer decides if they can even stay in business.

Under current law, the most frequent form of union organizing is a private ballot, with 30 percent of the employees signing their name on a dotted line, which initiates an election process where employees will decide by private ballot as to whether the union represents them. I cannot think of anything more fair than 30 percent initiating and 50 plus 1 making the final decision. In Winston-Salem in the past year and a half, I had a good friend whose company was forced to have a ballot—or at least they pushed it as far as they could. You see, at the end of the day, I am not sure they had 30 percent of the employees sign. But if you had seen what happened in that community, if you had seen the posters that were put on telephone poles about the owner of this business, the fliers mailed to his neighbors—it had nothing to do with his business or employees. It was a character assassination on the individual who owned the business because the labor unions thought if they could break his character, he would give in to a vote and they would have a chance of organizing his business.

The great news out of that story is he didn't break; he fought them and he won. In fact, they didn't have 30 percent who signed. They didn't have an election because the employees decided they didn't want to be represented by

the union. I can tell you that in the town I live in, they make pretty good money. They may not make as much as they would like to, but they make as much as the industry they represent can bear and that the town they live in can afford to pay.

When we talk about intimidation, I assure you that there is intimidation against the employer. It is happening every day in communities across this country. If there are any examples of what I saw as to what would happen if we did away with the private ballot, I would hate to see what would happen to employees in this country if unions had the ability to bully and intimidate them into agreeing to sign on because there was no longer the secrecy of a private ballot.

In the last 10 years, we have seen increased effort by unions to seek union recognition outside of the secret ballot process already—the so-called use of card check. It has become a critical component of big labor's organizing strategy. Card check circumvents workers' rights to private ballot to union certification elections. The legislation would instead force workers into a union once union organizers have obtained those 50 percent plus 1 signature.

This invites worker intimidation and character assassination by the union. I believe all votes should be counted. Under card check, that would not happen. Many individuals will be denied access to vote. Many votes will go uncounted because no votes would take place.

Do you find it odd that in 2001, the authors of this bill demanded private ballots in Mexico? As recently as 2001, the cosponsors of card check legislation urged Mexico to guarantee secret ballots to their workers voting in union-recognized campaigns. So they will propose private ballots in Mexico, but they won't support their continued existence in the United States. Unions know private ballots prevent coercion when it comes to making a choice about unions. Even the AFL-CIO has called the secret ballot the surest means for avoiding decisions that are the result of group pressure and not individual decisions. That statement was made in a legal brief regarding union decertification elections.

The Employee Free Choice Act is, quite frankly, antiworker legislation. Unions should not be enhancing their power by weakening workers' rights. I cannot think of a more important right than the right to vote, the right to a secret ballot, the right to make sure that your vote is cast, that it is counted, and that it counts. The authors of this bill suggest that we throw that away.

I will end with this story. We all had the opportunity—"all" meaning the entire world—to see the first free elections in Iraq in a number of decades. We saw people with purple fingers acknowledging the fact that they had risked their lives to travel to a polling

place to cast a private ballot for a slate of candidates to elect their representatives.

In my office today is a ballot from one of those polling places in Iraq. It is framed next to a flag that a pilot, who patrolled over that polling site protecting those Iraqi people, brought back and was told by the Iraqis: Give this to a Member of the U.S. Senate who represents you and tell them how much it means to us.

If this is, in fact, how we see democracies emerge and the importance of an individual's right to vote, to elect their representatives, to decide their future, and yet we, the strongest democracy in the world, throw out private ballots, disregard this important piece of democracy because it is easy, if we neglect history and we forget what happened in 1930 and 1940 and why we changed it in 1947, and we fall prey to what seems easy, then what example do we set for the rest of the world? How hard will people fight in the future for democracy and freedom? Will people be willing to risk their lives when they see the ability to weigh in on who represents them? I seriously doubt it.

I think the worst example we can send to the world is that there is a piece of American democracy where private ballots are no longer needed, where we just disregard that part of the rights of the American people.

I am hopeful that tomorrow we will vote not to proceed, that this legislation will not be considered, and we can assure the American people we have protected their rights with the private ballots and not accept what is easy, and that is to throw it away.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I rise today to also voice my opposition to the Employee Free Choice Act. It is a House bill which has been sent over to the Senate, H.R. 800. It is commonly referred to as the card check legislation. I am not concerned about the rights or about unions. I am not particularly concerned how the members of a union or how employees decide they want to organize. I am not concerned about corporations or businesses or how those businesses may decide they want to organize themselves. But what I am concerned about is the individual, and I am concerned about whether this is the best way to move forward in a democratic process where the individual is so very important. If we talk about a democratic process, we simply talk about free elections, which assures us the privacy of the ballot box.

My home State of Colorado continues to maintain a low unemployment rate, far below the national average. According to the Bureau of Labor Statistics, only 3.5 percent of Coloradans are currently unemployed. This is significant when compared to the national average of 4.5 percent. This is something about which Colorado should be proud to

boast. This is the type of information businesses review when they mull over starting up or expanding in the great State of Colorado. This low unemployment rate is the result of Colorado's strong economy and highly productive workforce.

So when we consider the so-called and wildly misnamed Employee Free Choice Act, I know it threatens to turn the clock back on progress we have made. In fact, this is an issue which Colorado has already rejected. This year, our newly elected Democratic Governor vetoed an attempt to enact a similar measure into State law. That vetoed bill would have repealed the Colorado law requiring that once a company's employees approve a union, they have a second secret ballot vote on how dues will be assessed with a 75-percent supermajority required for approval.

Governor Ritter's vote put a stop to the rushed efforts by Democrats in the State legislature who tried to ram the bill through, not unlike those here today. Governor Ritter's efforts protected the 92 percent of Colorado workers who are not members of unions.

Union leaders responded to Governor Ritter's actions with threats to move the Democratic convention from Denver if they don't get their way. If unions are able to make such threats on State governments and State legislatures and State Governors, I question what keeps them from intimidating workers who choose not to join their labor organizations.

Similar rushed efforts are being made at the Federal level, hiding under the deceptive name of the Employee Free Choice Act. It is advertised as an effort to restore economic opportunity for working families. In fact, this legislation threatens the fundamental right of workers to hold democratic elections in the workplace. Private ballot elections would be replaced with publicly signed card check elections. This would invite coercion from both employers and union activists.

Secret ballots guarantee the confidentiality of an employee's wishes without fear of exploitation, ostracism, or retribution. Common sense tells us that if corporate intimidation was a problem, private elections would do more to protect the true wishes of the employee.

History recognizes this democratic system as suitable for electing America's leaders, including every Member of Congress who serves today. Workers deserve the same rights at work as they do when they cast their ballot on election day. Only private ballot elections ensure democracy in the workplace. Ask yourself: Do publicly signed cards reliably reveal a worker's true intentions? Workers should be able to express their true desire about joining a union without pressure or fear of reprisal. Just as undue employer pressure is unacceptable on an employee, so is union pressure.

We speak of big business, but most union elections over the past several

years involve employers with less than 30 eligible employees. Compare that to the massive organization labor has built to advance its agenda.

What we are really talking about is big labor versus small business. Secret ballot elections, in my view, must be preserved, not eliminated. So I am asking my colleagues to join me and others in opposing the Employee Free Choice Act because, in my view, it is not about unions. It is not about corporations or big business. This is about the democratic process. It is about free elections and the privacy of the ballot box.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DEMINT. 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. DEMINT. Mr. President, I would like to speak for a few minutes about a couple of bills that are going to be offered this week. There are two bills that probably make a good point about where we are as a Senate, and particularly I think where my Democratic colleagues are. We have one bill that takes away almost a sacred right of American workers, and then we have a second bill that will be offered tomorrow that gives new rights and benefits to non-Americans who came to this country illegally.

The first bill has been given lots of names today. I think it is S. 1041. Some call it card check. I call it the "Worker Intimidation Act." One of the most central parts of our whole free society, whether you are talking about local school board elections, elections to Congress, or where workers decide whether to become part of a union, has always been the secret ballot. The very fact that this Congress is considering eliminating that secret ballot should give all of us pause as to where we are as a country.

The very thought that we would call this in some way worker protection is amazing, and that we are saying this bill will somehow help unemployment in this country, when we know it would not. Unions have been declining for years in the private sector because, in an age of lean manufacturing, continuous quality improvement, and just-in-time inventories, it is becoming increasingly impossible to have a third-party decisionmaker involved in that whole process.

I spent years consulting for continuous quality improvement, and it is hard enough, with your customers and workers and your company, to figure out how to make that dynamic work profitably. But when a third party is involved with collective bargaining in decisions about how your operations work it is almost impossible to make a company competitive in this global economy.

We have seen in our own country the companies and industries we are proudest of—our auto industries, and we have seen it in the airlines where, basically, unionization and the union contracts have brought these companies either to bankruptcy or close to it.

There is a reason that unions are not prospering in the private sector. The only place they are prospering is in government. As the government grows, it doesn't have any competition. The inefficiencies are very well known, the incompetencies. Third-party decision-making does nothing but make us more and more inefficient and inept as a government, which we see in everything from Katrina to almost everything we do.

As we look at this other bill that we are going to bring up, where we add 128,000 new border agents who will be unionized and part of collective bargaining, we will continue to see dysfunction at the border. We are not helping workers when we take away their right to vote as to whether to become a union. We have heard a lot of explanations of what this bill does, but it is really a desperate attempt to try to salvage unionization and union bosses in this country. It is just not right to tell a worker they can be intimidated to join a union, and that is basically what it comes down to.

So I am here to encourage all my colleagues to vote this bill down tomorrow. I am very surprised the majority leader is even willing to bring it up.

That brings me to the second bill where, on one hand, we are willing to take rights away from American workers—and I think America is increasingly concerned as it sees our laws and justice system seeming to work against them. It seems to work for the criminals rather than the victims. It tends to take rights away from Americans and give them away and send our money overseas. I hear that from everyone I talk to. But one of the most emotionally charged issues of our day is this immigration bill, which many call the amnesty bill, that will also be brought up.

We all know there are millions of people all over the world who have been waiting years to come to this country and work legally, to be a part of this country and to share our values. At the same time, we also know for many years, millions and millions of folks have snuck in illegally and continue to be here to this day, and the bill we are talking about this week is going to reward those who came here illegally while basically putting at a disadvantage those who have been trying to work the system legally for years.

All of us in Congress have tried to help people for many years, whether it is to get their passports or green cards, to try to get their citizenship, or to help people who want to get visas to come here because industry needs them to come, and it is difficult working within this legal system. We make it so

hard for people to come here legally, and we have made it easy for them to come here illegally.

We have talked about—during the debate today and we will a little more tomorrow—how back in 1986 we saw we had a problem with 2 or 3 million illegals who were here, and we passed a bill that was going to secure our borders and get a verifiable worker ID system, and we were going to grant amnesty to those who were here but then no more. We were just going to do it that once. But what we did was send a signal all over the world that if you can get here illegally, we are eventually going to make you legal. And so here we are again, except this time with 12 to 20 million illegals who have come to this country, breaking our laws as their first act of coming across our border.

This bill—and I know there are a lot of good intentions behind it—is holding hostage the reforms we need to secure our borders, to develop a workable immigration system. We are holding that part hostage, which we really need, to this whole idea of amnesty. They are telling those of us who want to make a system that works to get in the guest workers our farmers and hotel operators need, to get in the skilled workers in our high-tech industries, that in order to do that and to develop an enforcement system to make that work, we have to give 12 million people who came here illegally permanent residency and a pathway to citizenship.

I don't buy that grand bargain, and I don't think America has either. In fact, I know America hasn't. Our offices have had thousands of calls from all over the country from people who are desperate and wondering why we are not willing to enforce our laws. And what would make them think we are going to enforce this new law if we have not even shown an inclination to enforce the laws that have already been passed—not just in 1986 but last year we passed a stronger border enforcement bill than is in this current amnesty bill. Yet we have done very little to move ahead with it. We are holding it hostage to this brandnew amnesty program.

It is not fair to Americans because the American worker will have to pay for this in their taxes. We know these illegals who are here are going to continue to use government services: health care, and emergency rooms, free education for children, day care, free lunch programs, housing programs, and eventually Social Security and Medicare. We don't even know how we are going to keep these promises to our own citizens. Yet we are being asked to give permanent legal residency and a path to citizenship to those who came here illegally.

Tomorrow, we are going to bring up two bills. One is to take away a right of American workers to a secret ballot when it comes to whether they are unionized. The second is to give new benefits and rights to millions of peo-

ple who disobeyed our laws, who came to this country illegally, and who jumped in front of those trying to obey our laws. Both bills should be voted down.

I encourage my colleagues to respond to the American people on this one, to show them we can listen, that we are not as callous as we appear. Their concerns go far beyond just this immigration bill or this secret ballot bill. They believe they are being sold out. They think they are being betrayed. They think we are just moving from whim to whim in the Senate, and we are refusing to go by the rule of law and enforce the laws we have actually passed in Congress. They are concerned at a level and alienated at a level I have never seen.

At a time when the trust and favorable ratings of Congress and the President are at historical lows, we have chosen to stick down the throats of the American people legislation they do not trust and they do not want.

I appeal to the President, I appeal to the leaders on the Democratic side and the Republican side to take this a step at a time and allow us to earn the trust of the American people, to show them that we will enforce our laws and secure our borders, to show them we will follow through on a worker ID program that is verifiable so we will know who is legal and who is not. And if we develop a legal immigration system that works, then the decisions about what to do with the illegals who are here will become easy because we will have a workable system we can work with.

To vote for the bill, the motion to proceed tomorrow on this immigration bill, is a vote to pass it. Every Senator here knows, regardless of how this bill ends up, that there are 51 Senators who will vote for it. So moving this bill along tomorrow by voting for this cloture motion to proceed is voting to pass this bill.

I have heard some say: I am going to vote for the motion to proceed, but I will vote against the bill. America will see through it because they are looking at this one. We did the same thing last week on the Energy bill, where some folks said: Well, I am going to vote for the cloture motion, but I am going to vote against the bill, when they knew if they helped pass cloture they were passing the bill. The same is happening with this immigration bill. There are some who think the American people will not notice they pushed this bill all the way to final vote. Even if they vote against the final bill, they voted to pass it.

Tomorrow will reveal who wants to listen, who is going to listen to the American people, by voting against this cloture motion to proceed. This bill has come up and been voted down three times already in the last month. It is unprecedented in Congress after a failure of that magnitude to bring a bill back in a couple of weeks and try to stuff it down the American people's throats again.

This is the wrong bill. It is a flawed bill. It is the wrong time to ask the American people to trust Congress when we have not proven to be trustworthy in the past. We need to take this a step at a time, and we need to stop this cloture motion tomorrow. I encourage my colleagues to listen to the American people, to vote against the elimination of a secret ballot for unions, and to vote against the amnesty bill that will follow it tomorrow.

Mr. President, I yield the floor, and 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. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

IMMIGRATION

Mr. SESSIONS. Mr. President, I want to share some thoughts about immigration and the situation in which we currently find ourselves and offer a bit perspective, I think fairly, on where we are.

We are the world's most free nation and are having one of the strongest periods of economic growth—maybe our strongest ever. Billions of people all over the world, however, are in poverty and live in countries that are corrupt and backward. One expert has said that all would live a better life if they came to the United States. I think that is a true fact.

We are indeed a nation of immigrants, and that heritage has caused us to continue one of the most generous legal immigration systems of any nation in the world. I submit, however, that immigration policy is an issue of national sovereignty, as Canada, Mexico, Spain, Japan, England—all nations understand and respect. This is an acknowledged fact. I chaired the Mexican-American Senate Interparliamentary Group for 2 years. We talked about those things. Everybody understands setting immigration policy is your nation's prerogative.

It is amazing to me that our majority leader—in this case, our Democratic leader—will use the power of first recognition to call up an immigration bill again, just two weeks after the American people have basically rejected it. In fact, the polling numbers show that support for the Senate bill is dropping further and further. He then will use, I understand, an unprecedented, never-before-used procedure that would block amendments. This is the so-called clay pigeon procedure others have described. He will file a first degree amendment, and then file a second degree to it to fill the tree, so no other second-degree or unapproved amendments will be allowed votes. He will divide his own second degree into 20 or so amendments and then work every procedural trick in the book to ensure that the underlying bill and its 20 hand picked amendments move the

legislation through this Senate as fast as possible. The mandarins who are managing this piece of legislation want it out of here. They don't want any more calls from their constituents. They don't want any more talk show people explaining some of the things that are in it. They want it off their plate. Good policy? Well, they say, that is for another day. We just want the bill out of here.

Well, the opposition to this bill is gaining momentum. Thoughtful Senators who wanted to vote for something are analyzing the fine print of the bill and realizing that the "vision" bill supporters describe is not supported by the text. Senators are announcing that they will be voting no. Senators who participated in the debates and wanted to vote for something and hoped to be able to vote for this bill after examining it in more detail are indicating that they are going to vote against it.

It is quite clear that the same special interest forces who produced the 1986 bill are the ones who worked behind the scenes to produce this one. It was produced in secret meetings of politicians without any public hearings. It did not go through a single committee markup. But you can be sure the activist open border immigration forces, and the business interests, were having their voices heard in these meetings. Does anybody doubt that? What about the American public? Were they in the room? Were their opinions sought after? What about experts in law enforcement, were their opinions sought after? I suggest not.

The mandarins, in their faux wisdom, treated this as a political problem that could be solved by compromise. We have to pass something, they said. That was the mantra. So in the end it seems that passing something means passing anything, regardless of whether, in the end, it will work to end illegality or establish good policies that will serve our long-term national interest.

This Senator will never support a bill that will fail as spectacularly as the 1986 legislation failed. I have to tell my colleagues, my best judgment, and we looked at this hard, is that this one will fail. Even the Congressional Budget Office, our investigative analysis arm, in its June 4—just a few weeks ago—cost estimate, says that illegality after the passage of this bill would be reduced a mere 13 percent. Mr. President, 8.7 million illegal aliens would be expected over the 20-year period instead of 10 million under current law. That is what their estimate is.

So our masters—and I say that affectionately; I call them masters of the universe. These are good friends and good Senators. They have tried to do something. They got it in their head that if they just all met and they just put out the realpolitik and they worked out the political deals and split the babies and all this, they could do a bill that served America's interests. I

watched with interest. I thought some of the things they said they wanted to accomplish were good improvements over last year's bill. But I have to tell you, I don't believe it worked. I don't believe they got there.

They don't want to pay attention to those of us who question what they have done, you see. They believe they are wonderful and bright and thoughtful and love America and are compassionate. The rest of us, they say you see, we are nativists. They say we just oppose immigration—despite the fact that we don't oppose immigration. They say we don't like immigrants. They say we don't have courage. How many times have I heard that? You have to have courage to vote for this turkey, I guess. That is supposed to be something that would be good. But sometimes I think hanging in here and opposing the machinery of this process takes a little gumption on the part of those of us who oppose it.

They say we do not believe in immigration or we lack compassion. I want to reject those charges flatout. They are false. I believe in immigration. I believe in a guest worker program. But I want a guest worker program that will work, will not be an avenue of expanded illegality, as the CBO said this one will.

In fact, because of the guest worker program, the Congressional Budget Office has said visa overstays, those people who come in legally but do not go home when they are supposed to, will increase under this bill, not decrease.

I thought we were supposed to be fixing illegality not enhancing illegality. So I wish to say to my colleagues, first, it is indisputable that the passage of this bill will not create a lawful system of immigration. This bill does not live up to their promises. Our good friends the masters came out of their secret meeting, and they announced they had fixed immigration; they announced that they had a comprehensive plan that is going to fix immigration, and that we are finally going to end this illegality.

But their own Congressional Budget Office that responds to them, that responds to the Democratic leaders, Senator REID or Speaker PELOSI, it is pretty much a nonpartisan group, but they are under the control of the Congress. This group under the control of the Congress says it will not work, says visa overstays will increase and the net impact on illegal immigration only be to reduce illegal immigration by 13 percent.

Now, I consider that one event so significant, so earth shaking, that I cannot see how the Majority Leader could still take up this legislation and jam it down the throat of this Senate through an unprecedented procedure to pass it, especially when the American people do not like it either.

So it will not create a lawful system. We can be sure of that. We felt that when we analyzed it. My chief counsel, Cindy Hayden, and others looked at it,

we found loophole after loophole. I made a speech of about 20 loopholes that were in the legislation. There were many more than the specific 20 I talked about. But we knew it was not going to be an effective law enforcement bill. It was not going to secure the border. So what does the CBO say? They agreed with our analysis.

Secondly, what else is fundamentally in here? The legislation fails to move to a merit-based system and, in fact, triples low-skilled and chain migration over the next 8 years. The promise was made that the bill would move us to a system more like Canada has, which makes so much sense; a system that Canada is very proud of. They believe it serves the Canadian interest.

They still have the same number of refugees and humanitarian immigrants that they always did, but they have—with regard to the rest of their immigration policy—reached a point where 60 percent of the people who enter into Canada have to come through a point system. If you are admitted and come in, you can bring your wife and children, but to do that, you basically have to first demonstrate that you can contribute to Canada.

One of the things they gave you points for, in an objective evaluation, is education. We know that if an immigrant has had any college courses, they do much better economically. They ask if you speak English or French. You get extra points if you do that.

You even get extra points if you are younger. You get extra points if you have skills Canada needs. They even give you points if you move to areas of Canada that are underpopulated and have a particular job shortage.

That is the way the deal works. They promised we would have that in this legislation. That was part of the announcement. But when you read the fine print, you see that was eroded away in the political compromise. The bill's merit based system will not have any substantial effect until 8 years after this date. So I don't know what will happen in 8 years. You never know. But we would like to see this kind of thing in the bill.

I congratulate the people who produced it, that they began to discuss it because last year it was not even discussed. I talked about it on the floor repeatedly. I asked how we could debate comprehensive immigration reform and nobody even ask what they are doing in Canada. So they put the Canadian system in here. But it is so weak that it is a great disappointment.

Well, I indicated that illegal immigration would only drop 13 percent. What about the proposal for legal immigration on the legislation? Well, it is going to go up 100 percent. Legal immigration will double in the next 20 years.

Now we have looked at the numbers. I think this is indisputable. We will have twice as many people getting legal permanent residence over the

next 20 years as we would under current law. I am not sure when the average citizen listened to our colleagues and they announced on that big day, the grand bargain, that we were talking about a proposal that would hardly limit legal immigration at all and would double legal immigration, I don't think that is what they had in mind when comprehensive reform was discussed.

What about cost? The Congressional Budget Office dealt with that issue. They have to score legislation. Well, what does the cost factor say? Under the CBO analysis, the cost to the taxpayers of the United States—now I wanted to make this clear, this is not for border enforcement, Border Patrol acts, barriers or anything such as that—this is costs that will be incurred by the recipients of amnesty, who will be given amnesty under this bill, because all of a sudden they will be entitled to welfare, Medicare, and other types of tax credits and other types of benefits.

They concluded this legislation will add to the taxpayers of America an additional \$25 billion in cost over the next 10 years. They have admitted, without any hesitation, those costs will greatly increase in the outyears, because the way this thing is staggered, people's benefits do not come immediately. But as the years go by, they are entitled to more welfare and social benefits.

So they have admitted we are going to have an increase significantly in the future because, in fact, the persons who are here illegally, for the most part, have little education. Approximately half, maybe even more, do not have a high school diploma at all, and their skill levels are low.

We have statics and scientific data on that. I am not disparaging anyone. I respect anyone who works hard and wants to come to America and work hard. I respect that. But I can say with certainty these are basically low-wage workers that are going to be legalized.

My fifth point is, that the way the bill is written, it will reduce the wages of working Americans. We bring in more cotton in this country, the price of cotton goes down. You bring in more iron ore, the price of iron ore goes down. If you reduce the amount of oil coming into the country, the price of oil goes up. You bring in more laborers, the price of labor goes down.

I would submit that if one of the charges I have made out of these five is true, this legislation should be pulled from the floor; it should not become law. But I am going to take a few moments now to demonstrate, I believe with hard evidence, all of these charges are true. The legislation, in effect, will not end the unlawfulness of our current system and will shift the balance against American workers and create another amnesty that will encourage even more illegals in the future.

The effect will be to continue the erosion of confidence by the American

people in Congress, and in the Government overall, which is at an all time low, virtually. I am not sure since I have been in the Senate, we have such a large number of people who believe this country is on the wrong track.

I have to believe, and experts have told me, that their distrust and dissatisfaction over immigration is a big part of the way, the cause of this cynicism. Let me take some points here, one by one.

Will this grand bargain we are presented with create an honest, legal, fair system for the future? The answer is no. That was our conclusion after we studied the bill. But let's look at what others might say. I mentioned the CBO study. They said specifically that the bill would limit the amount of illegal flow across our border by 25 percent but would increase illegal visa overstays significantly.

The net result was only a 13-percent reduction in illegals, from 10 million illegals projected to come into our country under current law over the next 10 years, to 8.7 illegals coming in over the next 10 years. That is a 13-percent reduction only. That is not good enough. We should be at the 80, 90 percent of increased lawfulness. Aren't we trying to create a system of law?

I was a Federal prosecutor for 15 years, 12 years as U.S. attorney. This is not acceptable. People come to America because they believe we are a Nation of laws; their rights will be protected. I happened to be at a birthday party reception for a friend of mine. A lady from England there came up to me and she said: I hope you stand up for this. She had a distinct British accent. She said: I thought you ought to play right by the law and people shouldn't come in illegally. I tried to do the right thing.

Well, what about others? What do they say? What experts are out there who know something about immigration? What do they think of this bill? What about Border Patrol officers, people who carry out their daily responsibilities to enforce the border, who have lived with this illegality for so long? They are real experts. I assure you they were not in the meeting with the masters of the universe when they crafted this legislation.

They know what is happening. A group of them, a prominent group of retired Border Patrol officers held a press conference at the National Press Club on June 4. Their purpose was to express their opinion about the legislation. I have to tell you, their opinions are not a pretty sight. I am going to quote from them and show you what they said; not what this Senator said but what they said.

Hugh Brien, the former Chief of the Border Patrol from 1986 to 1989, after the 1986 failed bill became law—He was appointed by former President George H.W. Bush. He is himself an immigrant to America. He came here as a young man. This is what he had to say about the bill. It is, he said:

A complete betrayal of the Nation.

Is that harsh? It was his job. That is what he said about it. He went on to say:

It is a slap in the face.

To the millions who came here legally, such as the lady I met today, such as a lady from India who was written up in the Montgomery Advertiser, I believe, yesterday, who talked about having to hire a lawyer and filing all of the paperwork and taking several years, but she was proud to be here legally, and she did not appreciate people coming illegally, or such as the lady I met at a funeral not long ago who had come into this country after a number of years who said: I hope you make the law enforced for everybody equally; I did it right.

Now don't tell me that when you ignore law there are no consequences. In a real sense, as my experience as a prosecutor says, when you don't enforce the law, you make chumps of the guys who do it right, and when you provide benefits to those who cheat, it is not a good thing for a Nation who respects its legal system.

What else did Mr. Hugh Brien, former head of the Border Patrol say? He said:

It is a sell-out.

He went on to note that in 1986, when this same debate was occurring and he was about to take office as the head of the immigration system, and these are the words he used—it is not funny, he said: Our masters, our mandarins, promised us their bill would work. These are tough words, but these are people who are entitled to express them. They are not my words.

Powerful politicians who are unaware of the reality of what it takes to actually create a legal enforcement system without experience in these matters have arrogantly cut a political deal and they have cut one, unfortunately, that doesn't work. I guess that is not too far from the definition of a mandarin.

Mr. Hugh Brien added these final important words:

Based on my experience, it's a disaster.

He has the experience to say so. He was charged with enforcing the 1986 immigration law which proved to be a disaster and he did, as chief of the Border Patrol from 1986 to 1989.

What about the national chairman of the Association of Former Border Patrol Agents, Kent Lundgren. This is what he had to say. He had some harsh words, too. With regard to the promise that the system will do 24-hour back-ground checks, he said, after studying the bill, there are "no meaningful criminal or terrorist checks" in the bill. That is a bad thing. We have been told this bill will make us safer. He says there are no meaningful criminal or terrorist checks in the bill. He knows how the system works and how this 24-hour check will occur. He is scoring the screening procedure set forth in the bill saying "the screening will not happen, period." He added:

“There’s no way records can be done in 24 hours.”

As to the promise that this bill will work, he concluded—these are not my words; he is presently the associational head of the former Border Patrol Officers, the national president: “Congress is lying about it.”

On a separate issue, the provision that allows gang members, even members of the very violent international MS-13 gang, to become lawful permanent residents if they check a box to renounce their gang membership, he said, “What planet are they from,” talking about us. Why would our colleagues write a bill that allowed for this?

These are real views, harsh views of a man who led the border patrol association and had a press conference a few weeks ago to express deep concern.

Another one at the press conference was Jim Dorsey, a former Border Patrol agent, who served 30 years. He served as inspector general with the Department of Justice. He was promoted up from the Border Patrol, which is a part of the Department of Justice, to the Department of Justice, and was given responsibility to investigate serious allegations of corruption. That is quite a responsible position to be chosen for that as investigator. He had these things to say: “The 24-hour check is a recipe for disaster.”

As to the overall legislation, Mr. Dorsey said at the National Press Club: “I call it the al-Qaida dream bill.”

Roger Brandemuehl, chief of the Border Patrol from 1980 to 1986 under President Reagan—this is another chief of the Border Patrol for 6 years under President Reagan—he said: “We have fallen into a quagmire.” He added: “The so-called comprehensive reform is neither comprehensive nor reform. It’s flawed.”

What about the current Border Patrol Association, the Border Patrol union? It is not just the retired patrol officers who oppose the bill; the current ones do as well. In May, the National Border Patrol Council, affiliated with the AFL-CIO, sent out a press release titled “Senate Immigration Reform Compromise is a Raw Deal for America.” These are the people who are out doing it every day. The press release stated:

Every person who has ever risked their life securing our borders is extremely disheartened to see some of our elected representatives once again waving the white flag on issues of illegal immigration and border security. Rewarding criminal behavior has never induced anyone to abide by the law, and there’s no reason to believe that the outcome will be any different in this case.

I spent the better part of my professional career as a prosecutor. If you make it clear that you are not going to enforce laws, people assume the laws won’t be enforced. In fact, when law enforcement officers don’t enforce the law, they de facto wipe out legislative actions and eviscerate policy. You have to enforce the laws.

He goes on to say:

Passage of time has proven the 1986 amnesty to be a mistake of colossal proportions. Instead of wiping the slate clean, it spurred a dramatic increase in illegal immigration.

He goes on:

Rather than the meaningless triggers of the additional personnel and barriers outlined in the compromise, Americans must insist that border security be measured in absolute terms.

That is a strong, crystal-clear condemnation of this act by the officers whose lives are on the line this very moment on our border trying to enforce our laws. Are we going to listen to them? Or are we going to listen to our mandarins, our masters meeting in secret, who plopped a bill down here, 700 pages long, that they say will make the system work? I wish it would. I even had hopes this spring, and I said so publicly. I was hoping they might make real progress. But I am afraid we haven’t. Talk to the experts. Talk to CBO.

This is another very significant, but discrete issue that I believe we should think about, and it is a weakness I had not fully comprehended until I read a piece in the Washington Times by Michael Cutler on June 21. He also participated in a press conference, a different one than the Border Patrol one, at the National Press Club on June 19. The event focused on the grave threat to national security the immigration bill represents. Mr. Cutler authored an op-ed in the Washington Times last Friday entitled “Immigration Bill Is a No Go” that focused on security issues raised by the bill. People are going to be invited to come in who are here illegally, give their name and so forth, and within 24 hours they will be receiving a legal status in the country, a probationary visa. It will soon be converted into this Z visa that people will have, but immediately within 24 hours, they will be provided that, unless something shows up of a serious nature in their background. But as these experts have told us, it is not possible to do a very effective check in 24 hours, as you can imagine. Even though you can do a computer run, it still has great weaknesses in it. So he focuses on this whole issue and says this:

If a person lies about his or her identity and has never been fingerprinted anywhere in our country, what will enable the bureaucrats at the USCIS—

that is the agency that will be handing out the immigration benefits—

to know the person’s true identity? If the adjudicators simply run a fictitious identity through a computerized database, they will simply find the name has no connection to any criminal or terrorist watch lists.

I am quoting him now.

What is the true value? Remember, we are talking about a false name.

Let me continue quoting:

There is absolutely no way this program would have even a shred of integrity and the identity documents that would be given these millions of illegal aliens would enable every one of them to receive a driver’s li-

cense, Social Security card, and other such official identity documents in a false name.

Undoubtedly, terrorists would be among those applying to participate in this ill-conceived program. They would then be able to open bank accounts and obtain credit cards in that same false name. Finally, these cards would enable these aliens to board airliners and trains even if their true names appear on all of the various terrorist watch lists and “no fly” lists. That is why I have come to refer to this legislation as the “Terrorist Assistance and Facilitation Act of 2007.”

There has been a lot of talk in this Senate about Mexico’s consulates throughout the United States issuing matricula cards and that these matricula cards are given based on documents that nobody knows for sure how good they are. Therefore, the cards they have are not really guaranteed to be a valid identity, but they are being utilized around the country as legitimate identification. What Mr. Cutler says is the identification documents we will be giving out under this bill will not be any better than matricula cards. It is going to prove nothing more than what the person said to get the card. He may come here, be one of those people who planned to hijack our airplanes and crash them on 9/11. Several of them were apprehended by state and local police. But, under this act, unless we had their fingerprints on record—and I am sure none of those fingerprints were on record—they would be given an official ID from the United States government, giving them complete freedom to go anywhere in the country.

That is why he calls it “the Terrorist Assistance and Facilitation Act of 2007.” That is a very serious professional criticism of a core part of this legislation.

How about this? Mr. Kris Kobach, a former Department of Justice attorney under Attorney General Ashcroft and a specialist on terrorism and immigration, agrees with Mr. Cutler. He posted an article on the Heritage Foundation Web site titled “The Senate Immigration Bill, a National Security Nightmare.” The article states:

The bill will make it easier for alien terrorists to operate in the United States by allowing them to create fraudulent identities with ease.

Wow, is that a charge? Should we be hell bent to go forward tomorrow and move on to a bill that the American people reject and that could be called a terrorist dream bill that would actually allow and make it easier for terrorists to obtain fraudulent identity in this country?

Mr. Kobach, a fine lawyer, now professor, goes on to write:

Supporters of the Senate’s comprehensive immigration reform bill have revived it under the guise of national security. However, the new public relations campaign is a farce. The bill offers alien terrorists a new pathway to obtain legal status which will make it easier for them to carry out deadly attacks against American citizens.

priority in this bill is extending amnesty as quickly and easily as possible to as many illegal aliens as possible. The cost of doing so is to jeopardize national security.

That is a statement from a former Assistant Attorney General of the United States of America charged with these kinds of issues, now a professor.

Well, we know this: We know the sheriffs along the border have absolutely been in an uproar over our failure to back them up in their efforts to create a lawful border. Is anybody listening to them? The truth is, the Senate bill is not going to stop illegal immigration or even substantially reduce it. According to the Congressional Budget Office, the new Senate bill will only reduce net annual illegal immigration by 13 percent. There will be additional visa overstays: 550,000 by 2017 and up to 1 million 10 years later, according to the CBO.

Now, I mentioned that it promised, at the beginning, a move to a more merit-based point system for evaluating those applying for citizenship instead of the much-criticized chain migration policy we now have. The Canadians have adopted such a policy, after a very careful study over a period of years, and they are very happy with it. I talked to the head of the Canadian immigration system—Monte Goldberg—about it. He said they are very happy with it. They would like to take it even further toward a merit-based system than the current law by which they now admit 60 percent of the immigrants in their country based on a competitive skills-based system.

But, unfortunately, the bill fails to meet this goal. For the next 8 years—almost a decade—instead of moving to a merit-based system and ending the chain-based system, chain migration will increase. After that, merit admissions will reach just more than one-third of all immigrants entering our country. So we will continue this system that, in effect, favors lack of education and low-skill workers, and denies entry to those who have higher skills, education, speak English, and have college degrees.

How does that chain migration work? You see, if you are here, you got amnesty last time, or if you came here legally, you are then allowed to bring your wife and children. I think we should always have that. So I am not opposing wives and children. But under current law, you are allowed to also immigrate your parents, and your brothers and your sisters. You can bring a brother, and the brother can bring his wife and their children; and your sister, likewise. These would come based on their family connection only and not based on any skills they might offer to our country. So I am worried about that. I do not think we have accomplished a large enough move in the direction the drafters indicated they would. I thank them for at least dealing with the issue this year, which was not dealt with last year.

This is very important—very, very important. I will just say, you see, it is a zero-sum game. We cannot admit everybody who would like to be an American citizen. That is a fundamental

principle. That is a fundamental principle. In the year 2000, 11 million people applied for the 50,000 lottery slots. There are 50,000 slots in America where they draw your name out of a hat. You send your name in, they put it in there, and they draw the names. Mr. President, 11 million applied. That gives an indication of how many people would like to come to America.

So if you have an overall cap on how many people can come legally and you are allowing parents and brothers and sisters—without any reference to whether they have any skills or not—then you are denying slots to people. Let's say two people apply from Honduras. One was valedictorian of his high school class. He wants to come to America and learn English. He has 2 years of college and technical training. That person applies. Another one is a brother of somebody who is in the United States. That brother maybe does not have a high school diploma, maybe is basically illiterate even in the language of which he was raised. Who is going to get in? The brother gets in and denies, therefore, a slot, an entry right to somebody who has a better chance, statistically speaking, of flourishing in the great American experience.

So I do not think it is a harsh thing for America to say: If you leave your community and you come to America and we agree to allow you to be an American citizen, what obligation do we, then, have to you to say you get to bring your parents and your brothers and sisters, whether or not they will provide and be able to be successful in America?

I just do not get it. I think the country has a right to say: Let's have people compete for those slots, and the best persons—the ones who are likely to prosper the most and be most successful—ought to be the ones who get the benefits.

My fine staff people, Cindy Hayden and Jenny Lee, have examined the details of this legislation. They have consulted others and concluded that over the next 20 years the law will provide twice as many persons with legal permanent status in our country as we would under current law. I do not believe the American people understand this. I do not believe they think that is what reform is about.

Of course, as I noted, illegal immigration is not going to go down but 13 percent. So I would pose this question to my colleagues: How can you call this a "grand bargain"? It is more like a Faustian one, to me. Just like in 1986, there is a grant of amnesty to virtually everyone here—no illegal alien left behind, and a lack of enforcement.

In fact, this amnesty will be another incentive for illegals to believe they will be given amnesty in the future once again. Indeed, no one has promised to not give amnesty again. I thought a most interesting speech—I happened to catch it—was by CHUCK GRASSLEY, the Senator from Iowa, who

was here in 1986. He said he is not supporting this bill. He said: I was here in 1986, and everybody said this is a one-time amnesty. It will not happen again. We are going to fix this system. Trust us.

Of course, we did not fix the system, and they gave 3 million people amnesty then. Now we are looking at 12 million. But the key thing in Senator GRASSLEY's speech that I thought went to the core of what we are about and why we ought to have a pause here is, he said: Nobody has come on this floor and said we won't give amnesty again in the future. He said: You will not hear them say it. Why? Because we moved into a pattern of ignoring the law and not enforcing it.

What about costs? You have heard the talk: If given amnesty, our illegal population will pay taxes. They are hard working. This will help America. It will help increase our population. The Medicare and Social Security systems are in long-term jeopardy. These new workers will help us save Medicare and Social Security.

You have heard those arguments. I have to tell you, I wish that were true. I even myself thought it might be several years ago. But the fact is, nothing could be further from the truth. Out of 12 million people who would be given amnesty—I call it amnesty. Different people have different words. It is not a loaded question to me. I have said repeatedly that persons who are here unlawfully now, who came here wrongly, who have been here a number of years, who have worked hard, who have obeyed the law, have children, perhaps, deep roots in our society—I do not think we can ask all those people to leave. I am not asking for that to be a part of my proposal to fix immigration. But when you give people an absolute status, I guess I think amnesty is a fair word for it.

My personal view is we should never, ever, after 1986, give people who come to our country illegally all the benefits we give to people who come to our country legally. That is my view of it. We will make a mistake if we do it again this time. But some sort of lawful process where people can stay and be legal and not have these burdens—for those who have earned it and done well—I am willing to accept it. But of the 12 million who are here, half do not have a high school diploma. Most have lower skills. They overwhelmingly are lower income workers. They will immediately be treated like green card holders—legal permanent residents—and be entitled to all the benefits that low-income American workers get, which are paid for by the U.S. taxpayers. As low-income workers, they will pay little, if any, income taxes—we know that—while gaining the child tax credit for their children, food stamps, subsidized housing, education, and health care at our emergency rooms.

So in one part of the analyses, the Congressional Budget Office adds up all

these numbers, and they conclude that the cost over the next 10 years to the taxpayers of this country—not including enforcement, fences, border patrol, all that stuff; just the cost from legalizing those who are here illegally—will be over \$30 billion.

Now, with my amendment I offered to delay the earned-income tax credit payments to illegal immigrants who are here, and to delay it until at least they became a legal permanent resident, we would reduce that to maybe \$25 billion. That passed by a narrow margin, which I was pleased to have passed, but all the rest of the benefits are there, so we are looking at perhaps a \$25 billion net drain on the U.S. Treasury, according to the Congressional Budget Office. They admit it will be much greater in the future.

In the outyears, the costs will increase because the way the bill is written, certain benefits are not made available initially to those who are given legal status, but their benefits will increase in the years to come. How much will those increases be? When asked if it would be a substantial increase in the future, the Congressional Budget Office—which did not score beyond the 10 years—said certainly, absolutely, it would be a substantial increase.

One institution has looked at this figure: the Heritage Foundation. The Heritage Foundation's senior fellow, Robert Rector, has spent months on this very issue. He used the best available statistics in calculating the costs to the American Government—State, Federal, and local treasuries—of amnesty. It is a picture that I think, as responsible legislators, as representatives of our own constituents, we have to think about, we have to acknowledge. The number he came up with is so large that many people have just tried to dismiss it without any thought. But Robert Rector is one of the foremost experts in this country on welfare and social programs. He was the architect of the welfare reform President Clinton vetoed two or three times and finally signed and took credit for for the rest of his tenure. How wonderful it was. It did work exceedingly well. Mr. Rector's analysis cannot be lightly dismissed. He concludes that the cost to Federal, State, and local governments from just retirement of the 12 million to their death would be \$2.6 trillion.

It is clear any short-term benefit—whatever the exact number is out there, whatever the exact number is—any short-term benefit provided to American businesses who would enjoy these low-skilled workers would be more than offset by the lifetime costs of tax credits, welfare, food stamps, Social Security, Medicaid, and Medicare that will be picked up by the American public—the taxpayers.

Mr. Rector said: "This is a fiscal disaster."

Finally, I believe this legislation, because it will not reduce illegal immi-

gration and will double—only a 13-percent reduction—and will double legal immigration, will put even more stress than we currently have on working middle-class Americans. It will have a tendency to pull down wages of American workers. That is their asset: their labor. But workers are more than a mere asset; they are human beings. They are created with inalienable rights, according to our Declaration, and they are citizens who are the ultimate shareholders of America. Citizenship carries responsibilities for them and for us. We pay taxes. We serve in the military to the point of giving our lives for our country.

I have talked to a lot of mamas and fathers in the last several years who have had their sons—middle-class Americans who are serving our country in Iraq and Afghanistan who have lost their lives in service to our country.

We have an obligation to obey the law. We accept court rulings even if they are silly and absurd. That is what we do. We grumble, but we follow what the court says. We obey laws passed by this Congress, whether we like them or not, whether they make sense or not. That is the responsibility of citizenship in this Nation we have inherited.

Those of us now in Congress I submit have an obligation to those dutiful citizens who serve every day doing the right thing. We owe them something. One thing we owe them is consistent and fair application and enforcement of the law. Another is to make sure those who do the right thing are rewarded or allowed to prosper and those who do not are disadvantaged. This is the definition of a morally ordered society. We are a community of people, voluntarily bound together in many ways. It is the uniqueness of America. It is our strength. But do not ever doubt that that moral order, that proper balance, can be eroded if we are irresponsible in this body. It can even be lost.

Labor is more than barrels of oil, tons of iron ore, bales of cotton, or kilowatts of electricity. Our workers are our citizens, created beings of infinite worth. They have every right to expect, to demand, that their elected representatives protect their interests, their country's legitimate national interests, not just what might be seen as an immediate benefit to that abstraction we might refer to as "the economy."

So I believe in immigration. I support immigration. I do not want to end it. I support an effective temporary worker program. But let's tell the truth about immigration and wages in this country. The elites are doing very well in this boom period, corporations are making record profits, but what about our citizens of this Republic who are less skilled? What have their wages done?

We have had a series of witnesses, including Dr. Chiswick from the University of Illinois. We had Professor Borjas of the Kennedy School at Harvard. We had Alan Tonnel at a Senate

hearing. We had a hearing and all of them testified and all of them agreed that large numbers of immigrants are, in fact, reducing wages of American citizens.

I left this Senate Chamber Friday after talking about this issue, and I mentioned wages. I went out, and right on the corner there was a gentleman with a homemade cardboard sign. He had white hair and gray in his beard.

I said: Well, what brings you here?

He said: Well, I wanted to come up and have my say about this immigration bill. He told me he was a master carpenter and that he was from Melbourne, FL, and that in the 1990s he made \$75,000 a year. He said he can hardly stay in business today because of the large flow of immigrant workers that has pulled down his ability to have the kind of income he would like.

Now, some may think that is too much money for a carpenter. I don't, not if he works hard and not if he is good. Don't think there are not millions of Americans who have given their lives to developing a skill and a craft and that, in the blink of an eye, can be made less valuable by an unwise, ineffective, inappropriate immigration policy.

So there is a lot we need to think about as we debate this bill. I am absolutely convinced it will not do what it promises, and what it will do may be adverse to our country. I am very worried about it. There is no reason whatsoever in the face of overwhelming public opposition that we should be bringing it up, and there is no reason whatsoever that the majority leader should be utilizing this clay pigeon procedure which, apparently, he will execute tomorrow, that will allow us to vote only on the amendments he chooses and to craft this procedure for handling this bill to minimize to the *n*th degree the amount of time we have available to debate it. I think that is a mistake. I object to that and urge my colleagues to vote tomorrow not to proceed to the legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

MORNING BUSINESS

Mr. DURBIN. Mr. President, I ask unanimous consent there now be a period for the transaction of morning business with Senators permitted to speak therein.

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

IMMIGRATION

Mr. DURBIN. Madam President, before making my closing procedural remarks and turning the floor over to the Senator from Indiana, I would like to use morning business for a brief moment to respond to the Senator from Alabama.

Our views on the immigration issue are much different. I happen to believe

the current immigration system is a disaster. It is unfair to the people of America to allow 800,000 or more undocumented people to come into our country each year, three-fourths of whom will remain in our country, as they have over the last 20 years.

Today there are about 12 million undocumented people. We have to stop the flow of undocumented across the border. The underlying immigration bill focuses on enforcement. The version that will be before us this week for the very first time invests \$4 billion in enforcement. Those who argue we need to have stronger borders instead of broken borders, those who argue we should have enforcement in the workplace, should support this bill. It creates the laws and the tools to do that.

I might also add I don't believe the procedural arguments are valid. First, let me say this bill has been on the floor pending, available for scrutiny for weeks—4 weeks, 5 weeks, at least. Anyone who argues they haven't had a chance to look at this bill, it isn't for lack of opportunity, as everyone should for a bill of this consequence.

The second argument that somehow this process we are about to embark upon is so unusual as to be unfair, what the Senator failed to note is that the amendments which will be considered this week are an agreed-upon list of amendments on a bipartisan basis. Democratic leaders, Republican leaders came together and are offering over 20 amendments which will be debated on and considered this week. There are amendments offered by Senators who are going to oppose this bill no matter what it says and amendments offered by those who support it.

There will be ample opportunity for more debate on a bill that has already been debated for weeks—a bill which has been subjected to almost 40 amendments. I think most people understand the gravity of this bill, the importance of this bill, and the complexity of this bill. It is the effort of the majority leader, HARRY REID, to finally bring this matter to closure and a vote.

There are some, who for a variety of different reasons, oppose this bill who have said: We will do everything within our power to stop this matter from coming to a vote. That is their right as Senators in this Chamber. It is the right of those who want to bring it to a vote to use the rules for their purposes. That is the nature of this body. That is what the Senate is all about. So I think it will be a fair process.

At the end of the week, we will have considered this bill in its entirety and subjected it to amendment and debate. That is what the Senate should be about, and that is what this bill is concerned with.

SUPREME COURT RULING

Mr. MCCONNELL. Mr. President, 6 years ago I took to this floor to express the view that any campaign finance law must be written within the boundaries of the first amendment. It states:

Congress shall make no law, respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people to peaceably assemble, and to petition the Government for a redress of grievances.

This very amendment adorns the facade of the yet-to-open Newseum a few blocks from here on Pennsylvania Avenue—a building constructed, both philosophically and physically, upon the cornerstone of our first amendment rights.

Today the U.S. Supreme Court decided that the U.S. Congress went too far 5 years ago in legislating restrictions on First Amendment rights. In its ruling this morning in Wisconsin Right to Life vs. FEC, the Court righted that wrong.

It took an important first step toward restoring the rights of organizations to petition the government and members of Congress.

The court rejected an intent-and-effect test for advertisements and instead went with a susceptible of no other reasonable interpretation than an appeal to vote for or against a candidate.

However, and most importantly, in a debatable case the tie is resolved in favor of protecting speech.

As the Chief Justice noted in his decision for the majority:

Where the First Amendment is implicated, the tie goes to the speaker, not the censor:

It is fitting that this opinion should come down as we approach the Fourth of July recess, when we return home to celebrate those freedoms for which our forefathers fought and died.

What better tribute to their efforts than the affirmation of our right—not just ability—but right of freedom to speech and the right to petition the government for a redress of grievances.

This afternoon, we will witness our new colleague from Wyoming be sworn, reminding us of the oath we all took upon election to this body to, "Preserve, protect and defend the Constitution of the United States of America."

Chief Justice Roberts summed up this case and, in fact, the entire campaign finance debate so well that I would like to close with his words. He wrote:

These cases are about political speech. The importance of the cases to speech and debate on public policy issues is reflected in the number of diverse organizations that have joined in supporting Wisconsin Right to Life before this Court: the American Civil Liberties Union, the National Rifle Association, the American Federation of Labor and Congress of Industrial Organizations, the Chamber of Commerce of the United States of America, Focus on the Family, the Coalition of Public Charities, the Cato Institute, and many others.

In his closing paragraph, the Chief Justice reminded us what lies at the heart of this issue. After quoting the language of the first amendment, he wrote:

The Framers' actual words put these cases in proper perspective. Our jurisprudence over

the past 216 years has rejected an absolutist interpretation of those words, but when it comes to drawing difficult lines in the area of pure political speech—between what is protected and what the Government can ban—it is worth recalling the language we are applying: when it comes to defining what speech qualifies as the functional equivalent of express advocacy subject to such a ban—the issue we do have to decide—we give the benefit of the doubt to speech, not censorship. The First Amendment's command that "Congress shall make no law . . . abridging the freedom of speech" demands at least that.

It is a good day for the first amendment.

I yield the floor.

FURTHER CHANGES TO S. CON. RES. 21

Mr. CONRAD. Mr. President, last week, pursuant to section 309 of S. Con. Res. 21, I filed revisions to S. Con. Res. 21, the 2008 Budget Resolution. Those revisions were made for Senate amendment No. 1704, an amendment pending to Senate amendment No. 1502, an amendment in the nature of a substitute to H.R. 6, the energy bill.

The Senate did not adopt Senate amendment No. 1704. As a consequence, I am further revising the 2008 Budget Resolution and the adjustments made last week pursuant to section 309 to the aggregates and the allocation provided to the Senate Energy and Natural Resources Committee for Senate amendment No. 1704.

I ask unanimous consent that the following revisions to S. Con. Res. 21 be printed in the RECORD.

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

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2008—S. CON. RES. 21; FURTHER REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 309 DEFICIT-NEUTRAL RESERVE FUND FOR COUNTY PAYMENTS LEGISLATION

(In billions of dollars)

Section 101:	
(1)(A) Federal Revenues:	
FY 2007	\$1,900.340
FY 2008	2,015.841
FY 2009	2,113.811
FY 2010	2,169.475
FY 2011	2,350.248
FY 2012	2,488.296
(1)(B) Change in Federal Revenues:	
FY 2007	- 4.366
FY 2008	- 34.955
FY 2009	6.885
FY 2010	5.754
FY 2011	- 44.302
FY 2012	- 108.800
(2) New Budget Authority:	
FY 2007	2,376.348
FY 2008	2,495.957
FY 2009	2,517.006
FY 2010	2,569.530
FY 2011	2,684.693
FY 2012	2,719.054
(3) Budget Outlays	
FY 2007	2,299.749
FY 2008	2,468.215
FY 2009	2,565.589
FY 2010	2,599.173
FY 2011	2,691.657
FY 2012	2,703.260

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2008—S. CON. RES. 21; FURTHER REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 309 DEFICIT-NEUTRAL RESERVE FUND FOR COUNTY PAYMENTS LEGISLATION

(in billions of dollars)

Current Allocation to Senate Energy and Natural Resources Committee:	
FY 2007 Budget Authority	5,016
FY 2007 Outlays	5,484
FY 2008 Budget Authority	5,636
FY 2008 Outlays	5,322
FY 2008–2012 Budget Authority	29,583
FY 2008–2012 Outlays	28,475
Adjustments:	
FY 2007 Budget Authority	0
FY 2007 Outlays	0
FY 2008 Budget Authority	–565
FY 2008 Outlays	–565
FY 2008–2012 Budget Authority	–3,745
FY 2008–2012 Outlays	–3,745
Revised Allocation to Senate Energy and Natural Resources Committee:	
FY 2007 Budget Authority	5,016
FY 2007 Outlays	5,484
FY 2008 Budget Authority	5,071
FY 2008 Outlays	4,757
FY 2008–2012 Budget Authority	25,838
FY 2008–2012 Outlays	24,730

REMEMBERING SENATOR CRAIG THOMAS

Mr. VOINOVICH. Mr. President, all of us in the Senate will miss Craig Thomas. I got to know Craig when we both served on the Senate Ethics Committee. During that time, I came to admire him as a wonderful human being, a man of character and integrity, and someone who spoke plainly on how he felt about things.

I also admired Craig for speaking up in policy lunch and at the steering committee on so many occasions. He always got to the nub of the problem and never failed to tell it just as he saw it. On many occasions, I sensed he had a great frustration with the system, but he stayed in there and was an encouragement to many.

When he got sick, Janet and I put him on our prayer list. I also looked at some health care alternatives for him in Cleveland, but he felt he had great care at the Bethesda Naval Hospital. The last time I saw him, he looked like the old Craig, full of vim and vigor. We were shocked when we heard of his passing. It is said that it is not the number of years one lives that counts but what one does with those years that matters. We will all miss Craig but know that he is in heaven with our father eternally happy.

POSITIVE ENERGY DIRECTION

Mr. FEINGOLD. Mr. President, last week this body passed energy legislation that finally sets the U.S. energy policy in a new, positive direction. In 2005, I opposed the Energy bill because it did not establish a sound and fiscally responsible energy policy. The Renewable Fuels, Consumer Protection, and Energy Efficiency Act of 2007 will help wean the United States of oil dependence, encourage the development of renewable energy, and promote energy efficiency, and I was pleased to support it.

The bill includes many important provisions. A renewable fuel standard of 36 billion gallons of renewable fuel by 2022 will help spur the development of advanced fuels such as cellulosic ethanol, which holds a lot of promise for my home State of Wisconsin. The bill also includes anti-price gouging language, based on Senator CANTWELL's bill that I cosponsored, to protect consumers from price gouging by sellers and distributors of oil, gasoline, or petroleum distillates during natural disasters and abnormal market disruptions.

The bill also includes a proposal of mine that supports local renewable energy—an issue I am committed to advancing and hear a lot about during the listening sessions I annually hold in every county of Wisconsin. My amendment, cosponsored by Senators SANDERS and MENENDEZ, guarantees that a new energy and environmental block grant program would provide resources to cities and counties nationwide to reduce fossil fuel emissions, reduce energy use, and improve energy efficiency while ensuring these improvements do not harm the environment and retain the benefits of activities within the local community, such as encouraging local or cooperative ownership of bioenergy efforts.

Our Nation's addiction to oil poses a significant threat to our economy, our security, and our environment. The Federal Government should allow and encourage State and local governments to improve their energy policies while creating opportunities for rural Americans to produce and benefit from renewable energy. My amendment is based on my larger effort to increase opportunities for rural America outlined in my Rural Opportunities Act. Introduced in February 2007, the Rural Opportunities Act helps sustain and strengthen rural economies for the future and create more opportunities in rural communities. A crucial component of the bill is ensuring that the potential benefits from domestic renewable energy are gained in an environmentally responsible manner that benefits local communities.

During debate on this important bill, I also supported several efforts to improve it. I was pleased to cosponsor several successful amendments including one offered by the senior Senator from Wisconsin, Mr. KOHL, to make oil-producing and exporting cartels illegal, and make colluding oil-producing nations liable in U.S. court for violations of antitrust law. I also cosponsored the amendment from the Senator from Colorado, Mr. SALAZAR, that states the sense of Congress that America's agricultural, forestry, and working lands should provide 25 percent of the total energy consumed in the United States from renewable sources by the year 2025 while continuing to produce safe, abundant, and affordable food, feed, and fiber.

I supported an amendment offered by the Senator from Indiana, Mr. BAYH,

that sets aggressive targets for reducing oil consumption by 10,000 billion barrels a day by 2030. The language is simple—it sets our goal, and we have to figure out how to get there. We are a country of innovators. Whether it is wind, solar, biodiesel, or a technology we still have not dreamed of yet, we can—and we must—break our addiction to oil. This bold, aggressive amendment can help ensure that we meet our goal of real energy independence and security.

Any plan to move away from our dependence on oil needs to address fuel efficiency standards for our vehicles. In the last few years, I have joined a majority of my Senate colleagues in supporting legislation requiring the administration to increase fuel efficiency, but we have so far been unsuccessful in getting this requirement enacted. I supported a proposal from several of my colleagues, including Senators PRYOR and LEVIN, that was crafted to increase fuel efficiency standards substantially without jeopardizing the jobs of many hard-working Wisconsinites. It is unfortunate this amendment was never offered. I will be following the House and Senate conference closely to ensure that the final bill strikes the right balance on this issue.

I am also disappointed that the Senate was unable to muster the necessary votes to overcome Republican objections to a tax package reported by the Finance Committee that would boost energy efficiency and renewable energy programs. The cost of these new or extended tax incentives was fully offset. It is also unfortunate that the Senate could not once again pass a renewable portfolio standard to ensure that all States' utilities are producing a minimum percentage of renewable energy. My home State of Wisconsin is one of about 20 States that currently have such a standard, but a Federal standard would help level the playing field.

It is encouraging, however, that the Senate soundly rejected proposals to mandate the use of and direct Federal money to develop coal-to-liquid facilities. Private investors have not been willing to invest in this technology in the United States because of significant capital costs and risks, not to mention the unproven technology to capture and store greenhouse gas emissions.

Energy security is an important issue for America and one which my Wisconsin constituents take very seriously. I am pleased this bill rejects the efforts of some of my colleagues to insist on drilling for oil and gas in the Arctic National Wildlife Refuge. Drilling in the Arctic National Wildlife Refuge would sacrifice one of America's greatest natural treasures for a supply of oil that would not significantly enhance our energy security. The supply of oil in the Arctic Refuge may not last more than a year, would not be available for many years to come, and would decrease gas prices by only a penny when the Refuge is at its highest

rate of production. Drilling in the Arctic Refuge does nothing to address the immediate need of the Federal Government to respond to fluctuations in gas prices and help expand refining capacity. Those who offer the Refuge as the solution to our need for energy independence are pointing us in the wrong direction.

This year's Energy bill finally moves past this misguided debate and other fiscally and environmentally irresponsible proposals. The United States is at an important juncture. By supporting the Energy bill, I am supporting a new direction for our Nation's energy policy: one that encourages renewable energy, conservation of the resources we have, and American innovation.

GREAT LAKES SHORT SEA SHIPPING ACT

Ms. STABENOW. Mr. President, I speak in support of the Great Lakes Short Sea Shipping Act of 2007. This legislation will exempt from the harbor maintenance tax certain commercial cargo loaded or unloaded at U.S. ports in the Great Lakes Saint Lawrence System.

In recent years, transportation planners have been struggling to identify ways to move people and goods more efficiently. Congested highways, particularly at the Detroit, Michigan/Windsor, Ontario border crossing, the busiest border crossing in North America, acts as a huge constraint to economic growth.

The purpose of the Harbor Maintenance Tax, HMT, is to generate revenue from port users for port maintenance conducted by the U.S. Army Corps of Engineers. The Corps maintains Federal shipping channels by conducting periodic dredging, which is necessary to remove sand and silt that occur naturally in shipping channels. HMT receipts are placed in the harbor maintenance trust fund, which serves as a source of revenue for the Corps' dredging budget. The HMT is assessed on cargo transported between U.S. ports and cargo imported to U.S. ports from other countries. Exports are not assessed a tax. More specifically, the tax is not paid by the vessel owner, nor the port, but by the owner of the cargo in each ship. The bill would provide a narrow exemption to the HMT for the movement of nonbulk only commercial cargo by water in the Great Lakes region, which includes the movement of freight and people between the U.S. ports on the Great Lakes and between Canadian and U.S. ports on the Great Lakes.

This very narrow exemption would remove the current disincentive to moving freight by water and allow the region's transportation planners to develop new shipping services to not only relieve highway congestion, but to improve air quality as well. Moreover, the legislation could open up new shipping services to be offered on the Great Lakes, thus creating jobs in the mari-

time sector. One of the other benefits is that this exemption will offer options for trucks that may choose to use the bridges, tunnels, or now ferry service. Because the Detroit/Windsor border crossing is the busiest border crossing in North America, any alternative mode of transportation that allows for commerce to flow more smoothly, quickly, and efficiently is beneficial not only to the Great Lakes region, but to the country. Also, in this time of us working to be more responsible and have a cleaner environment for our children, allowing trucks off of the congested highways and onto ferries where they can cut off engines and not idle, will reduce air emissions, improve air quality, and cut down on gasoline usage.

Moreover, since trucks currently use roads rather than ferries to move around the Great Lakes region, the Federal Government does not HMT on their cargo. Under this proposed legislative exemption, if a truck boarded a ferry, the Federal Government would still not collect a tax.

HONORING OUR ARMED FORCES

STAFF SERGEANT ROY P. LEWSADER, JR.

Mr. BAYH. Mr. President, with a heavy heart and deep sense of gratitude, I honor the life of a brave soldier from Clinton. Roy P. Lewsader, Jr., 36 years old, was killed on June 16 while deployed in Tarin Kowt, Afghanistan, when a rocket-propelled grenade detonated near his vehicle. With a promising future ahead of him, Roy risked everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

Roy was killed while serving his country in Operation Enduring Freedom, his second tour of duty in the ongoing war against terrorism. He was assigned to the 1st Brigade, 1st Infantry Division, stationed in Fort Riley, KS.

Today, I join Roy's family and friends in mourning his death. While we struggle to bear our sorrow over this loss, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is his courage and strength of character that people will remember when they think of Roy, a memory that will burn brightly during these continuing days of conflict and grief.

Roy was known for his dedication to his family and his love of country. Today and always, Roy will be remembered by family members, friends and fellow Hoosiers as a true American hero, and we honor the sacrifice he made while dutifully serving his country.

As I search for words to do justice in honoring Roy's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg: "We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled

here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here." This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Roy's actions will live on far longer than any record of these words.

It is my sad duty to enter the name of Roy P. Lewsader, Jr. in the official record of the United States Senate for his service to this country and for his profound commitment to freedom, democracy, and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Roy's can find comfort in the words of the prophet Isaiah who said, "He will swallow up death in victory; and the Lord God will wipe away tears from off all faces."

May God grant strength and peace to those who mourn, and may God be with all of you, as I know He is with Roy.

TRIBUTE TO ROBERT E. STURM

Mr. HARKIN. Mr. President, at the end of this week Robert E. Sturm will retire following a long and distinguished career of exemplary service to the U.S. Senate, most recently as chief clerk of the Committee on Agriculture, Nutrition and Forestry. We could not have had a more capable, conscientious and dedicated chief clerk for these many years. More important, though, we will miss Bob's friendly helpfulness to each member of our committee, to all of the staff who work on and with our committee and to the many members of the public who follow the work of our committee.

Bob Sturm began his service to the Senate 33 years ago in 1974, shortly after graduating from college, as a mail room clerk for Senator Birch Bayh of Bob's home State of Indiana. He served as mailroom clerk and mailroom manager for Senators Dick Clark of Iowa, Donald Stewart of Alabama, and Russell B. Long of Louisiana. For 2 years he was an office systems consultant for the Senate Computer Center where he assisted 14 Senate offices and helped lay the groundwork for today's Senate-wide computer network.

Bob served as Senator PATRICK LEAHY's office manager before he became the financial clerk and systems administrator for the Committee on Agriculture, Nutrition and Forestry in 1987, when Senator LEAHY became chairman. Bob was promoted to chief clerk for the committee under Chairman DICK LUGAR in 1995 and has held the position under several succeeding chairmen. Of course, I was pleased have Bob continue as chief clerk when I became chairman in 2001. He then continued in that position when Senator COCHRAN and Senator CHAMBLISS chaired the committee and when I once again became chairman earlier this year. It is a tremendous testament to

Bob's abilities, professionalism and dedication that he has served as chief clerk for such a number of chairmen of both parties.

For all of these years, we could always count on Bob to take care of all types and any number of details to make sure our committee functioned smoothly. He took responsibility for everything from stocking supplies, to covering the front office, to troubleshooting the computer system, to handling the whole range of committee finances, rules and legislative documents and reports. Bob starts the day early and on many occasions, without hesitation, has stayed late into the night, or even overnight, to do what needed to be done. Thanks to this high level of dedication, we could always be sure that the paperwork and other details were in order for hearings and committee meetings. Also, of special note, Bob very successfully oversaw the recent renovation of our beautiful committee hearing room in the Russell Building.

Former Senator Margaret Chase Smith of Maine once said, "Public service must be more than doing a job efficiently and honestly. It must be a complete dedication to the people and to the Nation." Those words perfectly capture the extraordinary dedication of Bob Sturm.

We all congratulate Bob on the milestone of his retirement from the Senate. I also thank him for all of his great work and express my gratitude for his friendship and invaluable help to all of us over the years. I am but one of many who wish Bob all the best, with many years of health and happiness, as he begins this new phase in life.

ADDITIONAL STATEMENTS

NATIONAL GRASSLANDS WEEK

• Mr. DOMENICI. Mr. President, while many may not know, last week was National Grasslands Week. I would like to join Secretary Johannes and the U.S. Department of Agriculture to celebrate and recognize the legacy represented by the establishment and maintenance of our national grasslands and to honor all of the individuals that have worked so diligently over the years to preserve New Mexico's precious grassland ecosystem.

In my home State of New Mexico we enjoy the luxury of hosting two officially designated national grassland areas. Those are the Kiowa and the Rita Blanca National Grasslands. These grassland reserves, located near the towns of Clayton and Roy, in the northeastern part of the State, are chartered under the Cibola National Forest System. They are both ongoing ecosystem restoration projects that were implemented following the Dust Bowl in the 1930s.

While the Kiowa and Rita Blanca National Grasslands started as a means to

preserve the environment and wildlife, they are rich in cultural significance as well. The lands were once inhabited by a number of Native-American tribes, including the Comanche, Kiowa, and Kiowa-Apaches. They were nomadic tribes whose culture depended heavily on hunting Buffalo and gathering food from the areas vast array of native plants. The area also plays a significant part in the history of the Wild West as the Homestead Act of 1862 brought thousands of settlers out West, many of which settle in the grasslands of eastern New Mexico. They contain over 100 individual grazing permits, which incorporate the use of a wide variety of grazing management techniques, a large range of piñon-juniper management programs, which includes prescribed burning and mechanical treatment along with a personal use fuel wood program, and many active partnerships with State and local governments, and other entities such as Quail Unlimited and New Mexico State University's Clayton Livestock Research Center.

The National Grasslands of north-eastern New Mexico provide thousands of acres of wildlife habitat, livestock forage and even serve as centers for recreation and clean energy initiatives. The Kiowa and Rita Blanca National Grasslands also attract many visitors who get to see firsthand the biological wealth, culture, and heritage the grasslands preserve and maintain. Visitors can participate in a wide range of activities like camping, picnicking, fishing, and wildlife viewing and get a taste of our western heritage.

The New Mexico's Grasslands provide a place of peace, quiet, and beautiful sunsets. Next time you are in my home State, I invite and encourage you to visit these great places in northeast New Mexico. I commend USDA, which has managed public grasslands to meet the needs of the American people for over seven decades, and salute the staff of the Cibola National Forest and the people of New Mexico who work so hard to help administer these grasslands in a way to maintain and preserve sustainable use.●

HONORING COACH TERRY HOEPPNER

• Mr. BAYH. Mr. President, today Senator LUGAR and I, with heavy hearts, honor the life of a great Hoosier from Woodburn, IN, Terry Hoepfner. Coach Hoepfner died last week after battling brain cancer for several years.

He graduated from Franklin College in 1969. After graduation, he began his career as a coach, spending time coaching high school football in Indiana, South Carolina, and Alabama until he was hired by his alma mater's football program in 1980.

He was the defensive coordinator for 6 years at Franklin College until he was hired by Miami University in Oxford, OH. He spent 13 years as an assistant coach until 1999, when he was pro-

moted to head football coach, a position he held for 6 years.

Coach Hoepfner came to Indiana University in 2004 as the new head football coach and brought with him a new energy to Bloomington. At his first press conference, he stated that, "Our goals are simple—100 percent graduation rate, and the Rose Bowl. We will shoot for perfection, and we can settle for excellence."

In March, doctors were forced to hold Coach Hoepfner out of spring practices, and on June 19, 2007, he finally succumbed to the disease. He is survived by his wife, Jane; his children, Drew, Amy, and Allison; and his grandchildren, Tucker, Spencer, Tate, and Quinn.

Coach Hoepfner was held in high esteem by both colleagues and former players. Pat Fitzgerald, Northwestern University football coach said, "He was one of the great role models in our coaching profession."

Ben Roethlisberger, Pittsburgh Steelers quarterback, who played for Hoepfner at Miami said, "He has been a second father, a teacher and a friend. He believed in me and I owe everything to him for where I am in life. I hold the deepest love and respect for him, his wife Jane, and their family. He has been a role model for so many young men. I aspire to be as honorable and touch as many lives as Coach Hep. I will miss him more than words can describe."

It is our sad duty to add the name of Terry Hoepfner in the official record of the Senate for the role he played in the lives of so many young athletes. May God grant strength and peace to those who mourn.●

HONORING POLICE OFFICER FRANK C. DENZINGER

• Mr. BAYH. Mr. President, with a heavy heart and deep sense of gratitude I honor the life of a dedicated police officer from Indiana. Frank Denzinger, 32 years old, died on June 18, 2007, from a gunshot wound he suffered in the line of duty as a Floyd County sheriff's deputy. Frank risked his life, every day, to serve and protect Hoosiers in order to make Indiana a better place.

Frank was a good man and was well loved by the Floyd County community. He was best known for his devotion to his family as a loyal father, husband, son, and brother. He was a loving husband to Tara, who said their 2-year-old daughter, Avery, was his "pride and joy." He is also survived by his parents Frank W. and Patricia, as well as his sisters, Sara Rowe and Amy Cook.

Frank was a graduate of Floyd Central High School, and also graduated with honors from Vincennes University and Eastern Kentucky University. He was a 4-year veteran of the Floyd County Sheriff's Department. The former Floyd County Sheriff who hired him, Randy Hubbard, described him as being an "excellent, high-quality" deputy, who was always willing to lend a

hand to families, "helping them work out problems, little things."

Frank's last action was one of incredible heroism. After being shot in the back, he pushed a woman out of the line of fire and into safety. This final act of bravery not only encompassed his dedication to his job and duty to protect, but also illustrated his extraordinary character. His friend and fellow deputy, Jeff Firkins, said, "He was a hero to the end. He took every care to make sure everybody else was safe. He was a great person and he had a heart of gold."

Today, I join Frank's family and friends in mourning his death. While we struggle to bear sorrow over this loss, we can also take pride in the example he set, bravely serving to make America a safer place. It is his heroism and strength of character that people will remember when they think of Frank, a memory that will burn brightly during these continuing days of conflict and grief.

When I think about Frank's profound commitment to protect and the pain that accompanies the unjust loss of this outstanding officer, I hope that some comfort can be brought to all the loved ones Frank left behind through the words of Peter 3:14, "but even if you should suffer for what is right, you are blessed." Both Frank's final heroic act, as well as his everyday lifestyle, epitomized doing what is right. May God be with all of you who mourn this tragic loss, as I know He is with Frank.

It is my sad duty to enter the name of Frank C. Denzinger in the official record of the United States Senate for his service to the State of Indiana and the United States of America.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a nomination and a withdrawal which were referred to the appropriate committees.

(The nomination and withdrawal received today are printed at the end of the Senate proceedings.)

MEASURES DISCHARGED

The following measure was discharged from the Committee on Health, Education, Labor, and Pensions, and referred as indicated:

S. 1615. A bill to provide loans and grants for fire sprinkler retrofitting in nursing facilities; to the Committee on Banking, Housing, and Urban Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Ms. LANDRIEU, from the Committee on Appropriations, without amendment:

S. 1686. An original bill making appropriations for the Legislative Branch for the fiscal year ending September 30, 2008, and for other purposes (Rept. No. 110-89).

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. HATCH (for himself, Mr. KENNEDY, Mrs. FEINSTEIN, and Mr. SPENCER):

S. 1685. A bill to reduce the sentencing disparity between powder and crack cocaine violations, and to provide increased emphasis on aggravating factors relating to the seriousness of the offense and the culpability of the offender; to the Committee on the Judiciary.

By Ms. LANDRIEU:

S. 1686. An original bill making appropriations for the Legislative Branch for the fiscal year ending September 30, 2008, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. BIDEN (for himself, Mr. HAGEL, Mr. KENNEDY, and Mr. CASEY):

S. 1687. A bill to provide for global pathogen surveillance and response; to the Committee on Foreign Relations.

By Mr. CASEY:

S. 1688. A bill to amend title 10, United States Code, to extend the time limit for the use of education assistance by members of the Selected Reserve and members of the reserve component supporting contingency operations and certain other operations; to the Committee on Armed Services.

By Mr. BINGAMAN (for himself and Ms. COLLINS):

S. 1689. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes; to the Committee on Finance.

By Ms. SNOWE (for herself, Mr. KERRY, and Mr. BENNETT):

S. 1690. A bill to establish a 4-year pilot program to provide information and educational materials to small business concerns regarding health insurance options, including coverage options within the small group market; to the Committee on Small Business and Entrepreneurship.

By Mr. SCHUMER:

S. 1691. A bill to amend title 18, United States Code, to restrict the public display on the Internet of all or any portion of social security account numbers by State and local governments, and for other purposes; to the Committee on the Judiciary.

By Mr. CARDIN (for himself, Mr. BAYH, Mrs. CLINTON, Mr. ISAKSON, Mr. KENNEDY, Mr. KERRY, Mr. LAUTENBERG, Ms. MIKULSKI, Ms. MURKOWSKI, and Mr. VITTER):

S. 1692. A bill to grant a Federal charter to Korean War Veterans Association, Incorporated; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

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

S. Res. 253. A resolution expressing the sense of the Senate that the establishment of a Museum of the History of American Diplomacy through private donations is a worthy endeavor; to the Committee on Foreign Relations.

By Mr. COLEMAN (for himself and Mr. REED):

S. Res. 254. A resolution supporting efforts for increased healthy living for childhood cancer survivors; to the Committee on Health, Education, Labor, and Pensions.

ADDITIONAL COSPONSORS

S. 38

At the request of Mr. DOMENICI, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 38, a bill to require the Secretary of Veterans Affairs to establish a program for the provision of readjustment and mental health services to veterans who served in Operation Iraqi Freedom and Operation Enduring Freedom, and for other purposes.

S. 41

At the request of Mr. BAUCUS, the name of the Senator from Mississippi (Mr. LOTT) was withdrawn as a cosponsor of S. 41, a bill to amend the Internal Revenue Code of 1986 to provide incentives to improve America's research competitiveness, and for other purposes.

S. 479

At the request of Mr. HARKIN, the names of the Senator from Alaska (Mr. STEVENS) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 479, a bill to reduce the incidence of suicide among veterans.

S. 573

At the request of Ms. STABENOW, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Maryland (Mr. CARDIN) were added as cosponsors of 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.

S. 616

At the request of Ms. COLLINS, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 616, a bill to promote health care coverage parity for individuals participating in legal recreational activities or legal transportation activities.

S. 648

At the request of Mr. CHAMBLISS, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 648, a bill to amend title 10, United States Code, to reduce the eligibility age for receipt of non-regular military service retired pay for members of the Ready Reserve in active federal status or on active duty for significant periods.

S. 691

At the request of Mr. CONRAD, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 691, a bill to amend title XVIII

of the Social Security Act to improve the benefits under the Medicare program for beneficiaries with kidney disease, and for other purposes.

S. 793

At the request of Mr. KENNEDY, the names of the Senator from Rhode Island (Mr. REED), the Senator from Iowa (Mr. HARKIN), the Senator from Connecticut (Mr. DODD), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Illinois (Mr. OBAMA), the Senator from New Mexico (Mr. BINGAMAN) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 793, a bill to provide for the expansion and improvement of traumatic brain injury programs.

S. 829

At the request of Ms. MIKULSKI, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 829, a bill to reauthorize the HOPE VI program for revitalization of severely distressed public housing, and for other purposes.

S. 849

At the request of Mr. LEAHY, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of S. 849, a bill to promote accessibility, accountability, and openness in Government by strengthening section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), and for other purposes.

S. 911

At the request of Mr. COLEMAN, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 911, a bill to amend the Public Health Service Act to advance medical research and treatments into pediatric cancers, ensure patients and families have access to the current treatments and information regarding pediatric cancers, establish a population-based national childhood cancer database, and promote public awareness of pediatric cancers.

S. 961

At the request of Mr. NELSON of Nebraska, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 961, a bill to amend title 46, United States Code, to provide benefits to certain individuals who served in the United States merchant marine (including the Army Transport Service and the Naval Transport Service) during World War II, and for other purposes.

S. 968

At the request of Mrs. BOXER, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 968, a bill to amend the Foreign Assistance Act of 1961 to provide increased assistance for the prevention, treatment, and control of tuberculosis, and for other purposes.

S. 1011

At the request of Mr. BIDEN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1011, a bill to change the name of the

National Institute on Drug Abuse to the National Institute on Diseases of Addiction and to change the name of the National Institute on Alcohol Abuse and Alcoholism to the National Institute on Alcohol Disorders and Health.

S. 1163

At the request of Mr. AKAKA, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 1163, a bill to amend title 38, United States Code, to improve compensation and specially adapted housing for veterans in certain cases of impairment of vision involving both eyes, and to provide for the use of the National Directory of New Hires for income verification purposes.

S. 1175

At the request of Mr. DURBIN, the names of the Senator from Rhode Island (Mr. REED) and the Senator from Kansas (Mr. ROBERTS) were added as cosponsors of S. 1175, a bill to end the use of child soldiers in hostilities around the world, and for other purposes.

S. 1233

At the request of Mr. AKAKA, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1233, a bill to provide and enhance intervention, rehabilitative treatment, and services to veterans with traumatic brain injury, and for other purposes.

S. 1259

At the request of Mrs. CLINTON, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1259, a bill to amend the Foreign Assistance Act of 1961 to provide assistance for developing countries to promote quality basic education and to establish the achievement of universal basic education in all developing countries as an objective of United States foreign assistance policy, and for other purposes.

S. 1266

At the request of Mr. CRAIG, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1266, a bill to amend title 38, United States Code, to increase assistance for veterans interred in cemeteries other than national cemeteries, and for other purposes.

S. 1295

At the request of Mr. FEINGOLD, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1295, a bill to amend the African Development Foundation Act to change the name of the Foundation, modify the administrative authorities of the Foundation, and for other purposes.

S. 1346

At the request of Ms. MIKULSKI, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1346, a bill to amend conservation and biofuels programs of the Department of Agriculture to promote the compatible goals of economically

viable agricultural production and reducing nutrient loads in the Chesapeake Bay and its tributaries by assisting agricultural producers to make beneficial, cost-effective changes to cropping systems, grazing management, and nutrient management associated with livestock and poultry production, crop production, bioenergy production, and other agricultural practices on agricultural land within the Chesapeake Bay watershed, and for other purposes.

S. 1430

At the request of Mr. OBAMA, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1430, a bill to authorize State and local governments to direct divestiture from, and prevent investment in, companies with investments of \$20,000,000 or more in Iran's energy sector, and for other purposes.

S. 1494

At the request of Mr. DOMENICI, the names of the Senator from Mississippi (Mr. COCHRAN), the Senator from Pennsylvania (Mr. CASEY), the Senator from California (Mrs. BOXER) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 1494, a bill to amend the Public Health Service Act to reauthorize the special diabetes programs for Type I diabetes and Indians under that Act.

S. 1502

At the request of Mr. CONRAD, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 1502, a bill to amend the Food Security Act of 1985 to encourage owners and operators of privately-held farm, ranch, and forest land to voluntarily make their land available for access by the public under programs administered by States and tribal governments.

S. 1519

At the request of Mr. SPECTER, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1519, a bill to amend title XVIII of the Social Security Act to provide for a transition to a new voluntary quality reporting program for physicians and other health professionals.

S. 1593

At the request of Mr. BAUCUS, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 1593, a bill to amend the Internal Revenue Code of 1986 to provide tax relief and protections to military personnel, and for other purposes.

S. 1606

At the request of Mr. LEVIN, the names of the Senator from Colorado (Mr. SALAZAR) and the Senator from Minnesota (Ms. KLOBUCHAR) were added as cosponsors of S. 1606, a bill to provide for the establishment of a comprehensive policy on the care and management of wounded warriors in order to facilitate and enhance their care, rehabilitation, physical evaluation, transition from care by the Department of Defense to care by the Department of

Veterans Affairs, and transition from military service to civilian life, and for other purposes.

S. 1621

At the request of Mr. CONRAD, the names of the Senator from North Dakota (Mr. DORGAN), the Senator from Nebraska (Mr. HAGEL) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of S. 1621, a bill to amend the Internal Revenue Code of 1986 to treat certain farming business machinery and equipment as 5-year property for purposes of depreciation.

S. 1681

At the request of Mr. DODD, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1681, a bill to provide for a paid family and medical leave insurance program, and for other purposes.

S.J. RES. 4

At the request of Mr. BROWNBACK, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S.J. Res. 4, a joint resolution to acknowledge a long history of official deprivations and ill-conceived policies by the United States Government regarding Indian tribes and offer an apology to all Native Peoples on behalf of the United States.

S.J. RES. 12

At the request of Mr. BROWNBACK, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S.J. Res. 12, a joint resolution providing for the recognition of Jerusalem as the undivided capital of Israel before the United States recognizes a Palestinian state, and for other purposes.

S. RES. 222

At the request of Mr. SMITH, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. Res. 222, a resolution supporting the goals and ideals of Pancreatic Cancer Awareness Month.

At the request of Mrs. CLINTON, the names of the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Vermont (Mr. SANDERS) were added as cosponsors of S. Res. 222, *supra*.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH (for himself, Mr. KENNEDY, Mrs. FEINSTEIN, and Mr. SPECTER):

S. 1685. A bill to reduce the sentencing disparity between powder and crack cocaine violations, and to provide increased emphasis on aggravating factors relating to the seriousness of the offense and the culpability of the offender; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, I rise today to introduce S. 1685, the Fairness in Drug Sentencing Act of 2007. I am joined in this effort by my colleagues, Senators KENNEDY, FEINSTEIN, and SPECTER. This bipartisan, balanced effort will adjust the existing statutory ratio for cocaine sentencing to craft a

more rational and effective sentencing policy. I must underscore that this bill continues to offer significant penalties for drug dealers and ensures that those who continue to peddle dangerous substances in our communities will endure harsh consequences for their destructive choices; at the same time, though, S. 1685 rectifies a longstanding disparity in cocaine sentencing that should have been fixed two decades ago.

Some background might be appropriate for my colleagues at this point. In 1986, Congress enacted the anti-drug abuse law to address the growing problem of drug use in our country. This legislation created the basic framework of statutory mandatory minimum penalties which are currently applicable to Federal drug trafficking offenses.

The law differentiated between powder and crack cocaine by establishing significantly higher penalties for crack cocaine offenses. It is likely this was done based on assumptions that crack cocaine was considered more dangerous and had increased levels of violence associated with its usage. Based on these assumptions, the law provided for quantity-based penalties which differed dramatically between the two forms of cocaine. Under that law, the current law, it takes 100 times more powder cocaine than crack cocaine to trigger the same 5- and 10-year mandatory minimum sentences. This penalty structure is referred to as the "100 to 1 drug ratio."

Over the last decade, public officials, lawmakers, interest groups, criminal justice practitioners, and judges have all criticized and questioned the fairness and practicality of the Federal sentencing policy for cocaine offenses created by the 1986 law. This 100-to-1 ratio is widely viewed as an unjustifiable disparity. Crack and powder cocaine are pharmacologically the same drug, and although the level of violence associated with crack is higher, it does not warrant such an extreme sentencing disparity.

It should also be noted that during the negotiations in 1986 that produced the 100-to-1 ratio law, a bill was introduced at the request of President Reagan which represented the Reagan administration's views on drug policy. This bill was described as the "culmination" of President Reagan's efforts in his commitment to fight drug abuse. The Reagan legislation utilized the same quantity of crack cocaine necessary to trigger a 5-year mandatory minimum as what is called for in the legislation we are introducing today, reducing the sentencing disparity to a 20-to-1 ratio.

While many individuals can disagree on what the appropriate ratio should be, I am completely comfortable recommending the same amount previously requested by President Reagan. I supported his proposed 20-to-1 ratio in 1986, and I support this same ratio today.

Many organizations share our concern, and the U.S. Sentencing Commission has advocated that Congress reduce the sentencing disparity on four different occasions between 1995 and 2007. The Commission has conducted a voluminous amount of research on this topic. This research has led to many conclusions by the Commission, including that the current penalties exaggerate the relative harmfulness of crack, sweep too broadly and apply most often to lower level offenders, and fail to provide adequate proportionality.

The Fairness in Drug Sentencing Act continues to recognize that crack and powder cocaine are not coequal in their destructive effects. On the contrary, the five-fold reduction in the crack-powder ratio corrects the unjustifiable disparity, while appropriately reflecting the greater harm to our citizens and communities posed by crack cocaine.

This legislation also seeks to emphasize the defendant's role in the crime and will require the U.S. Sentencing Commission to examine sentencing enhancements for all Federal drug violations, including methamphetamine. The Commission's examination should include appropriate sentencing enhancements for offenders who brandished a weapon, sold to minors or pregnant women, sold drugs near schools, were involved in the importation of the illegal drugs into our country, or have previous felony drug trafficking convictions.

Finding ways to reduce drug crime is not and should not be a partisan issue. All individuals involved in this process have tried to design a blueprint to curb the spread of drug trafficking and abuse. An easy, straightforward blueprint has unfortunately proven to be elusive. Since the 1970s, Congress has been working to improve Federal sentencing policy and has routinely made necessary changes to make our sentencing structure more just and effective. The bill we introduce today seeks to remedy mistakes of the past and will provide a rational and just sentencing schedule while continuing to reflect the fundamental and befitting goals of the criminal justice system.

Mr. KENNEDY. Mr. President, I am pleased to join Senator HATCH in support of this important legislation to reduce the difference in sentencing between crack and powder cocaine. It is important to ameliorate harsh drug laws that have discriminatory consequences.

The Sentencing Reform Act was enacted over 20 years ago to reduce unwarranted disparities and assure proportionality in punishment. Instead, the severity of crack-cocaine sentencing has had a harsh impact on low-income and African-American communities and has undermined public confidence in the fairness of the criminal justice system. Unfair sentencing feeds the perception that the criminal justice system unjustly targets the poor and minority communities.

The crack powder laws were intended to punish those at the highest levels of the illegal drug trade, such as traffickers and kingpins. But the low amount needed to trigger the harsh sentences is not associated with high-level drug dealing. As the Sentencing Commission reported in 2005, only 15 percent of Federal cocaine traffickers were high-level dealers. The overwhelming majority of defendants were low-level participants, such as street dealers, lookouts, or couriers. Harsh sentencing in such cases has only a limited impact on the drug trade because they involve low level offenders who are not at the top of the drug chain. The mass incarceration resulting from these sentences has done nothing to decrease drug use. Recent data indicate that such use has actually increased over time.

When these laws were enacted, there was widespread belief in the extraordinary dangers of crack cocaine. It was viewed as highly addictive and likely to cause violent behavior. We know much more about crack cocaine now than we did 20 years ago. The rationale that crack is more dangerous or more addictive than powder is not supported by research. In fact, research has demonstrated that the effects of crack cocaine are much like the effects of powder cocaine.

Medical experts have determined that the pharmacological effects of crack were overstated. They found that crack use doesn't incite violent behavior. As with other drugs, the violence is related to the distribution of the drug.

Changes in the drug market have also called the 100-to-1 ratio into question. Demand for crack cocaine by new users has decreased significantly, and the violence associated with crack cocaine has declined. How can Congress continue to support a policy it knows is flawed? Changes are long overdue and will be an important step in reducing the disparity that plagues drug sentencing policies.

Under the current sentencing laws, the statutory ratio for powder and crack cocaine is 100 to 1. One gram of crack cocaine triggers the same penalty as 100 grams of powder cocaine. Possession of 5 grams of crack triggers a 5-year mandatory minimum penalty. It is the only drug with a mandatory prison sentence for a first-time possession offense. This disparity results from an early attempt by the Commission to incorporate congressionally mandated minimum penalties into the guidelines, even though such harsh mandatory minimums are completely inconsistent with the structure and goals of the Sentencing Reform Act.

Judges, experts, and practitioners in the Federal criminal justice system have long opposed mandatory minimums on the ground that they undermine the goals of the Sentencing Reform Act by creating unwarranted disparities, subjecting defendants with different levels of culpability to the same punishment, and adding another

unnecessary layer of complexity to the sentencing process.

In its 2002 report, as well as an updated report to Congress in May, the commission has repeatedly recognized that the 100-to-1 ratio exaggerates the relative harm of crack cocaine and creates unwarranted disparities that are correlated with race and class. With a new sense of urgency, the Commission continues to call on Congress to eliminate the 100-to-1 ratio.

Senator HATCH's legislation takes two important steps toward this goal. It reduces the ratio from 100-to-1 to 20-to-1, and it eliminates the mandatory minimum sentence of 5 years for first-time possession. Under the new sentencing scheme proposed by this legislation, the amount of crack cocaine triggering a mandatory minimum sentence would be raised from 5 grams to 25 grams, an amount that targets the more serious traffickers. This change will make cocaine laws more consistent with the penalty structure for other types of drugs that require much greater amounts to trigger a mandatory minimum. For heroin and marijuana, it is 100 grams. Even for methamphetamine, the triggering amount is 10 grams. Congress must take action to support the recommendations of the Sentencing Commission.

Changing the ratio will also provide important benefits to the criminal justice system as a whole. The Sentencing Commission estimates that the 20-to-1 ratio could save over 3,000 prison beds in the Federal system over a 5-year period, with millions of dollars in savings each year. Resources for prosecution could also be redirected toward more serious drug offenders, whose prosecution may actually make a difference in drug trafficking. Adjusting the ratio will also help to restore public confidence and fairness in the criminal justice system. Currently, 5,000 people are convicted under the Federal crack cocaine laws every year. The Sentencing Commission recently proposed amended guidelines for crack cocaine by reducing sentencing ranges, a change that will affect 78 percent of Federal defendants. The commission's proposed amendment to the guideline will result in an average sentence reduction of 16 months.

Drug abuse and addiction are increasingly being recognized as public health issues, not just as crime problems. More resources must be directed at breaking the cycle of drug addiction, which often leads to involvement in crimes. More resources must also be directed toward drug courts, which provide nonviolent drug offenders with treatment, not punishment. We are currently working to reauthorize SAMSHA to improve substance abuse treatment, since punishment and incarceration only address one part of the overall drug problem.

The commission recognizes, however, that its efforts are only a partial step to eliminate unwarranted disparities in the Federal crack powder laws. It has

strongly urged Congress to address the problems with the 100-to-1 ratio. It is important for us to move forward on this issue without any effort to raise penalties for powder cocaine. Current law provides for 5-year and 10-year mandatory minimum sentences for offenses involving, respectively, 500 and 5000 grams of powder cocaine. There is no evidence that existing powder-cocaine penalties are too low.

Our goal is to return to the original intent of these laws and direct our limited resources to arresting and prosecuting high level drug traffickers. Our harshest punishments should be reserved for those who truly deserve them.

By Mr. BIDEN (for himself, Mr. HAGEL, Mr. KENNEDY, and Mr. CASEY):

S. 1687. A bill to provide for global pathogen surveillance and response; to the Committee on Foreign Relations.

Mr. BIDEN. Mr. President, many have called the 20th Century "the American century." The 21st Century will be one, too, provided that we understand and act on a new reality: that global interactions make each country, even the U.S., more dependent upon others. Nowhere is this more striking than in our battle against emerging infectious diseases and bioterrorism. Whether we like it or not, the very security of our Nation depends upon the capability of nations in remote regions to contain epidemics before they spread.

Today, I am introducing the Global Pathogen Surveillance Act of 2007. I am very pleased to have as original cosponsors Senator HAGEL, who is an esteemed colleague on the Foreign Relations Committee, and Senator KENNEDY, who chairs the HELP Committee. Each of these gentlemen also cosponsored earlier versions of this bill. Also cosponsoring this bill is one of my fine new colleagues on the Foreign Relations Committee, Senator CASEY.

Our action today is timely, as there is still time to prevent bioterrorist attacks on the U.S. It is urgent, because the disease surveillance capabilities in foreign countries that this act will promote are vitally needed to protect our country against not only bioterrorism, but also natural diseases such as avian influenza, which threatens to become the greatest pandemic since at least 1918. And it is long overdue, as this bill was first passed by the Senate in 2001 and was again passed in 2005. All of us hope that the third time will be the charm.

The purpose of this bill is to bolster the ability of developing countries to detect, identify and report disease outbreaks, with particular attention to outbreaks that could be the result of terrorist activity. My concern, as Chairman of the Senate Foreign Relations Committee, is that today, the many deficiencies in the capability of

developing nations to track and contain disease epidemics are the equivalent of cracks in a levee. Right now, when the epidemiological "big one" hits, whether it is a natural outbreak or a terrorist attack, the world simply won't be able to respond in time.

The odds of a major bioterrorism event are very low, but they are hardly zero. In 2001, the American news media, the U.S. Postal Service and this United States Senate learned first-hand what it is like to receive deadly pathogens in the mail. To this day, we do not know whether the murderous anthrax letters were just a criminal act or actually a bioterrorist attack. But we surely know that neither our military power nor our economic wealth or geographical distance affords us immunity from the risk that a deranged person or group will visit biological destruction upon us.

The odds of a major outbreak of a new, but natural, disease are much higher, and the possible consequences, while variable, are truly frightening. At the high end, an avian flu pandemic similar to the Spanish flu of 1918 could kill many millions of people and threaten social cohesion everywhere, including in the U.S. Viruses and other pathogens respect no borders. Increased contact between humans and animals, coupled with vastly increased travel of goods and people, has made it possible for a new and distant outbreak to become a sudden threat to every continent.

The SARS epidemic was a good example of this. Now the world watches nervously as avian flu spreads westward from Asia, occasionally striking poultry flocks in Europe and Africa. We wonder when it will reach the Western Hemisphere and whether, or when, it will mutate into a disease that is readily transmitted between humans, who lack any immunity to it.

Last month, a man with extensively drug-resistant tuberculosis, or XDRTB, flew across one ocean, twice, and drove across several national borders, reminding us how readily a disease can be spread in the modern world. We dodged a bullet this time; XDRTB is especially difficult to treat, but does not spread as readily as influenza or some other diseases. Authorities knew who the disease vector was, moreover, and they knew what he had. The risk with avian flu or a bioterrorism attack is heightened by the likelihood that the disease will spread before anybody even knows it's here.

As if that were not enough, recent advances in biotechnology that open the door to new cures for diseases could also lead to the development of new diseases, or new strains of old ones, with much greater virulence than in the past or with the ability to resist our current vaccines or medicines. Such man-made diseases have already been developed by accident, and there is a clear risk of their being developed on purpose.

The U.S., and this Senate, have acted to address the twin threats of bioter-

rorism and new pathogens. We enacted the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, introduced by Senators Frist and KENNEDY, to buttress the ability of U.S. public health institutions to deal with a bioterrorism emergency. In 2004 we enacted the Project BioShield Act to spur the development of new vaccines and medicines.

The Centers for Disease Control has a program to put electronic surveillance systems in 8 American cities as the cornerstone of an eventual national network. Delaware is developing the first State-wide, electronic reporting system for infectious diseases, which will serve as a prototype for other States. And the Department of Health and Human Services funded a 3-year, \$5.4 million program, early warning infectious disease surveillance, to assist the Government of Mexico to improve its disease surveillance capabilities near the U.S. border. Other funds were provided to U.S. States on the Mexican border.

But these efforts, as vital as they are, address the threats of disease and bioterrorism only when they are inside our house or on our doorstep. We must lift our eyes and look farther, to the places around the world where diseases and terrorism so often breed. We must battle bioterrorism not just at home, but also in those countries where lax governance and the lack of public health resources could permit both strange groups and stranger diseases to get a foothold and to get out of hand. We must not treat the threat of a massive biological pandemic the way we treated the threat of a category 5 hurricane striking New Orleans. If we do not prepare to combat realistic, once-in-a-century threats, then we will be left again to pick up the pieces after enduring massive physical and social harm.

There are precedents in current programs, moreover, for promoting disease surveillance as a means to lessen the risk of bioterrorism. For example, our programs to find useful careers for former Soviet biological weapons scientists, under the leadership of the State Department's Office of Cooperative Threat Reduction, currently fund the disease surveillance activities of anti-plague institutes in six states of the former Soviet Union, which had a major pathogen surveillance program ever since tsarist days. The Department of Defense also has programs with former Soviet scientists, as well as overseas laboratories that work with doctors in developing countries.

We need to build on those programs. We must create a world-wide disease surveillance capability that matches that of the old anti-plague institutes. We must help the rest of the world gain the capability to detect, contain, and report on disease outbreaks in a timely manner, and especially to spot outbreaks that may be the result of biological terrorism.

Part of the answer to the threat of new natural diseases is to stockpile

vaccines and medicines, and the means to deliver them quickly. But rapid detection and identification of an outbreak is equally necessary, wherever it occurs. Only disease surveillance can give us the lead time to manufacture vaccines and enable the world community to help control a disease outbreak where it initially occurs.

In 2005, two sets of researchers reported in the journals *Nature* and *Science* that, based on computer simulations, if an outbreak of human-to-human-transmitted avian flu occurred in a rural part of Southeast Asia, it might be possible to stem that dangerous epidemic by using anti-viral drugs to treat the tens of thousands of people who might have been exposed in the initial outbreak. One key requirement, however, was that the outbreak would have to be discovered, identified and reported very quickly; in one study, the assumption was that countermeasures were instituted when only 30 people had observable symptoms. That is a tall order for any country's disease surveillance system, let alone a poorly equipped one.

The National Intelligence Council, NIC, reported in January 2000 that developing nations in Africa and Asia have only rudimentary systems, at best, for disease surveillance. They lack sufficient trained personnel and laboratory equipment, and especially the modern communications equipment that is needed for speedy analysis and reporting of disease outbreaks. The NIC estimated that it would take at least a decade to create an effective world-wide disease surveillance system.

According to an August 2001 report by the General Accounting Office, World Health Organization officials said that more than 60 percent of laboratory equipment in developing countries was either outdated or nonfunctioning, and that the vast majority of national personnel were not familiar with quality assurance principles for handling and analyzing biological samples. Deficiencies in training and equipment meant that many public health units in Africa and Asia were simply unable to perform accurate and timely disease surveillance.

The poor sanitary conditions, poverty, close contact between people and animals, and weak medical infrastructure make developing countries ideal breeding grounds for epidemics.

So it is vital to give these countries the capability to track epidemics and to feed that information into international surveillance networks. Disease surveillance is a systematic approach that requires trained public health personnel, proper diagnostic equipment to identify viruses and pathogens, and prompt transmission of data from the doctor or clinic level all the way to national governments and the World Health Organization, Who.

The Global Pathogen Surveillance Act will offer such help to those countries that agree to give the United

States or the World Health Organization prompt access to disease outbreaks, so that we can help determine their origin. Recipients of this training will also be able to learn to spot diseases that might be used in a bioterrorist attack.

In drafting this bill, we worked closely with the Department of Defense and others, which have all supported the underlying goals of the bill. We also accepted several suggestions for improving the bill from the State Department and, in 2005, from the HELP Committee, all of which contributed to making this a better bill.

This bill targets U.S. assistance to developing nations in the following areas: Training of public health personnel in epidemiology; acquisition of laboratory and diagnostic equipment; Acquisition of communications technology to quickly transmit data on disease patterns and pathogen diagnoses to national public health authorities and to international institutions like the WHO; expansion of overseas CDC and Department of Defense laboratories engaged in infectious disease research and disease surveillance, which expansion could take the form of additional laboratories, enlargement of existing facilities, increases in the number of personnel, and/or expanding the scope of their activities; and expanded assistance to WHO and regional disease surveillance efforts, including expansion of U.S.-administered foreign epidemiology training programs.

Two years ago the Secretary of State, Dr. Condoleezza Rice, expressed her strong backing for this legislation:

We believe that the Global Pathogen Surveillance Act will indeed help strengthen developing countries' abilities to identify and track pathogens that could be indicators of dangerous disease outbreaks—either naturally-occurring or deliberately-released. Improved disease surveillance and communication among nations are critical defenses against both bioterrorism and natural outbreaks. We look forward to working with you in support of the Global Pathogen Surveillance Act.

Secretary Rice went on to make clear that she shares the sense of urgency that Senators HAGEL, KENNEDY, CASEY and I feel on this subject:

One of the true "nightmare" scenarios—a bioterrorist attack or a naturally-occurring disease—involves a contagious biological agent moving swiftly through a crowded urban area of a densely populated developing nation. Thus, we believe that it is critical to increase efforts to strengthen the public health and scientific infrastructure necessary to identify and quickly respond to infectious disease outbreaks—and that the Global Pathogen Surveillance Act will provide valuable support in these efforts.

The WHO also shares our concern. During the SARS epidemic, Dr. Michael Heymann, who was the highest-ranking American in the WHO, stated: "it is clear that the best defense against the spread of emerging infections such as SARS is strong national public health, national disease detection and response capacities that can identify new diseases and contain them

before they spread internationally." He went on to highlight the important role that disease surveillance plays in combating both natural and terrorist outbreaks:

Global partnerships to combat global microbial threats make good sense as a defense strategy that brings immediate benefits in terms of strengthened public health and surveillance systems. The resulting infectious disease intelligence brings dual benefits in terms of protecting populations against both naturally occurring and potentially deliberately caused outbreaks. As SARS has so vividly demonstrated, the need is urgent and of critical importance to the health of economies as well as populations.

Support to developing countries such as proposed in the Global Pathogen Surveillance Act . . . will help strengthen capacity of public health professionals and epidemiologists, laboratory and other disease detection systems, and outbreak response mechanisms for naturally occurring infectious diseases such as SARS. This in turn will strengthen WHO and the world's safety net for outbreak detection and response, of which the United States is a major partner. And finally, strengthening this global safety net to detect and contain naturally occurring infectious diseases will strengthen the world's capacity to detect and respond to infectious diseases that may be deliberately caused.

The purpose of the Global Pathogen Surveillance Act is precisely to build these partnerships. And today, with the global war on terrorism an ever-present concern and with the threat of avian flu on the horizon, we have no time to waste. I urge my Senate colleagues to once again pass this bill and, with new leadership in the other body and with the support of Secretary Rice, I look forward to its speedy enactment.

By Mr. BINGAMAN (for himself and Ms. COLLINS):

S. 1689. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes; to the Committee on Finance.

Ms. COLLINS. Mr. President, I rise in support of the Civil Rights Tax Relief Act of 2007, which I joined Senator BINGAMAN in introducing today.

The primary purpose of this bill is to continue our efforts to remedy an unintended consequence of the Small Business Job Protection Act of 1996, which made damage awards that are not based on "physical injuries or physical sickness" part of a plaintiff's taxable income. Because most acts of employment discrimination and civil rights violations do not cause physical injuries, this provision means that plaintiffs who succeed in proving that they have suffered employment discrimination or other intentional violations of their civil rights are taxed on the compensation they receive.

Until a few years ago, this problem was compounded by the fact that attorneys' fees awarded in successful civil rights actions were treated as the

plaintiff's taxable income, despite the fact that these fees were paid over to the plaintiff's attorney, who was also taxed on the money. Back in the 108th Congress, I joined with Senator BINGAMAN in offering legislation to correct this inequity, and I am glad to say that this double taxation of attorneys' fees was eliminated as part of the JOBS Act we passed in 2004.

But more remains to be done. Plaintiffs who are successful in employment discrimination or civil rights cases often receive a lump-sum award meant to compensate them for years of employment. Unfortunately, these awards are then taxed at the highest marginal tax rates, as if the award reflected the plaintiff's normal annual salary. As if that were not bad enough, successful plaintiffs can also find themselves subject to alternative minimum tax.

Let me explain how our bill eliminates this unfair taxation. First, the bill excludes from gross income amounts awarded other than for punitive damages and compensation attributable to services that were to be performed, known as "backpay," or that would have been performed but for a claimed violation of law by the employer, known as "frontpay." Second, award amounts for frontpay or backpay would be included in income, but would be eligible for income averaging according to the time period covered by the award. This correction would allow individuals to pay taxes at the same marginal rates that would have applied to them had they not suffered discrimination. Our bill also ensures that these awards do not trigger the AMT.

The Civil Rights Tax Relief Act would encourage the fair settlement of costly and protracted litigation of employment discrimination claims. Our legislation would allow both plaintiffs and defendants to settle claims based on the damages suffered, not on the excessive taxes that are now levied.

This bill is a "win-win" for civil rights plaintiffs and defendant businesses. I invite my colleagues to join in support of this commonsense legislation.

By Ms. SNOWE (for herself, Mr. KERRY, and Mr. BENNETT):

S. 1690. A bill to establish a 4-year pilot program to provide information and educational materials to small business concerns regarding health insurance options, including coverage options within the small group market; to the Committee on Small Business and Entrepreneurship.

Ms. SNOWE. Mr. President, as ranking member of the Senate Committee on Small Business and Entrepreneurship, I have long believed that it is my responsibility and the duty of this chamber to help small businesses, as they are the driver of this Nation's economy, responsible for generating approximately 75 percent of net new jobs each year.

Today, I rise with Senators KERRY and BENNETT to introduce legislation

that would address the crisis that faces small businesses when it comes to purchasing quality, affordable health insurance. This is not a new crisis. Over 46 million Americans are currently uninsured. We have now experienced double digit percentage increases in health insurance premiums in 4 of the past 6 years. Small businesses face difficult choices in seeking to provide affordable health insurance to their employees. The time to act is now.

Study after study tells us that the smallest businesses are the ones least likely to offer insurance and most in need of assistance. According to the Employee Benefit Research Institute, of the working uninsured, who make up 83 percent of our Nation's uninsured population, 60.6 percent either work for a small business with fewer than 100 employees or are self-employed. Furthermore, many of the small businesses whom we meet with tell us how they feel like the cost and complexity of the health care system has moved health insurance far beyond their reach.

That is why today we introduce the Small Business Health Insurance Options Act of 2007. This bipartisan measure would establish a pilot, competitive matching-grant program for Small Business Development Centers, SBDCs, to provide educational resources and materials to small businesses designed to increase awareness regarding health insurance options available in their areas. Recent research conducted by the Healthcare Leadership Council has found that following a brief education and counseling session, small businesses are up to 33 percent more likely to offer health insurance to their employees.

Our bill capitalizes on the well-established national SBDC framework. SBDCs are one of the greatest business assistance and entrepreneurial development resources provided to small businesses that are seeking to start, grow, and flourish. Currently, there are over 1,100 service locations in every State and territory delivering management and technical counseling to prospective and existing small business owners.

Our legislation would require the Small Business Administration to provide up to 20 matching grants to qualified SBDCs across the country. No more than two SBDCs, one per State, would be chosen from each of the SBA's 10 regions. The grants shall be more than \$150,000, but less than \$300,000, and shall be consistent with the matching requirement under current law. In creating the materials for their grant programs, participating SBDCs should evaluate and incorporate relevant portions of existing health insurance options, including materials created by the Healthcare Leadership Council, the Kaiser Family Foundation, and the National Association of Insurance Commissioners.

Enacting this legislation is an important step in the right direction towards assisting small businesses as they work to strengthen themselves, remain competitive against larger businesses that are able to offer affordable health in-

surance, and in turn bolster the entire economy.

We encourage our colleagues to join us in supporting this bill, and to continue to work to address the issues facing the small business community.

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. 1690

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 "Small Business Health Insurance Options Act of 2007".

SEC. 2. HEALTH INSURANCE OPTIONS INFORMATION FOR SMALL BUSINESS CONCERNS.

(a) DEFINITIONS.—In this section, the following definitions shall apply:

(1) ADMINISTRATION.—The term "Administration" means the Small Business Administration.

(2) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Administration.

(3) ASSOCIATION.—The term "association" means an association established under section 21(a)(3)(A) of the Small Business Act (15 U.S.C. 648(a)(3)(A)) representing a majority of small business development centers.

(4) PARTICIPATING SMALL BUSINESS DEVELOPMENT CENTER.—The term "participating small business development center" means a small business development center described in section 21 of the Small Business Act (15 U.S.C. 648) that—

(A) is accredited under section 21(k)(2) of the Small Business Act (15 U.S.C. 648(k)(2)); and

(B) receives a grant under the pilot program.

(5) PILOT PROGRAM.—The term "pilot program" means the small business health insurance information pilot program established under this section.

(6) SMALL BUSINESS CONCERN.—The term "small business concern" has the meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632).

(7) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, and Guam.

(b) SMALL BUSINESS HEALTH INSURANCE INFORMATION PILOT PROGRAM.—The Administrator shall establish a pilot program to make grants to small business development centers to provide neutral and objective information and educational materials regarding health insurance options, including coverage options within the small group market, to small business concerns.

(c) APPLICATIONS.—

(1) POSTING OF INFORMATION.—Not later than 90 days after the date of enactment of this Act, the Administrator shall post on the website of the Administration and publish in the Federal Register a guidance document describing—

(A) the requirements of an application for a grant under the pilot program; and

(B) the types of informational and educational materials regarding health insurance options to be created under the pilot program, including by referencing materials and resources developed by the National Association of Insurance Commissioners, the Kaiser Family Foundation, and the Healthcare Leadership Council.

(2) SUBMISSION.—A small business development center desiring a grant under the pilot program shall submit an application at such

time, in such manner, and accompanied by such information as the Administrator may reasonably require.

(d) SELECTION OF PARTICIPATING SMALL BUSINESS DEVELOPMENT CENTERS.—

(1) IN GENERAL.—The Administrator shall select not more than 20 small business development centers to receive a grant under the pilot program.

(2) SELECTION OF PROGRAMS.—In selecting small business development centers under paragraph (1), the Administrator may not select—

(A) more than 2 programs from each of the groups of States described in paragraph (3); and

(B) more than 1 program in any State.

(3) GROUPINGS.—The groups of States described in this paragraph are the following:

(A) GROUP 1.—Group 1 shall consist of Maine, Massachusetts, New Hampshire, Connecticut, Vermont, and Rhode Island.

(B) GROUP 2.—Group 2 shall consist of New York, New Jersey, Puerto Rico, and the Virgin Islands.

(C) GROUP 3.—Group 3 shall consist of Pennsylvania, Maryland, West Virginia, Virginia, the District of Columbia, and Delaware.

(D) GROUP 4.—Group 4 shall consist of Georgia, Alabama, North Carolina, South Carolina, Mississippi, Florida, Kentucky, and Tennessee.

(E) GROUP 5.—Group 5 shall consist of Illinois, Ohio, Michigan, Indiana, Wisconsin, and Minnesota.

(F) GROUP 6.—Group 6 shall consist of Texas, New Mexico, Arkansas, Oklahoma, and Louisiana.

(G) GROUP 7.—Group 7 shall consist of Missouri, Iowa, Nebraska, and Kansas.

(H) GROUP 8.—Group 8 shall consist of Colorado, Wyoming, North Dakota, South Dakota, Montana, and Utah.

(I) GROUP 9.—Group 9 shall consist of California, Guam, American Samoa, Hawaii, Nevada, and Arizona.

(J) GROUP 10.—Group 10 shall consist of Washington, Alaska, Idaho, and Oregon.

(4) DEADLINE FOR SELECTION.—The Administrator shall make selections under this subsection not later than 6 months after the later of the date on which the information described in subsection (c)(1) is posted on the website of the Administration and the date on which the information described in subsection (c)(1) is published in the Federal Register.

(e) USE OF FUNDS.—

(1) IN GENERAL.—A participating small business development center shall use funds provided under the pilot program to—

(A) create and distribute informational materials; and

(B) conduct training and educational activities.

(2) CONTENT OF MATERIALS.—

(A) IN GENERAL.—In creating materials under the pilot program, a participating small business development center shall evaluate and incorporate relevant portions of existing informational materials regarding health insurance options, including materials and resources developed by the National Association of Insurance Commissioners, the Kaiser Family Foundation, and the Healthcare Leadership Council.

(B) HEALTH INSURANCE OPTIONS.—In incorporating information regarding health insurance options under subparagraph (A), a participating small business development center shall provide neutral and objective information regarding health insurance options in the geographic area served by the participating small business development center,

including traditional employer sponsored health insurance for the group insurance market, such as the health insurance options defined in section 2791 of the Public Health Services Act (42 U.S.C. 300gg-91) or section 125 of the Internal Revenue Code of 1986, and Federal and State health insurance programs.

(f) GRANT AMOUNTS.—Each participating small business development center program shall receive a grant in an amount equal to—

(1) not less than \$150,000 per fiscal year; and

(2) not more than \$300,000 per fiscal year.

(g) MATCHING REQUIREMENT.—Subparagraphs (A) and (B) of section 21(a)(4) of the Small Business Act (15 U.S.C. 648(a)(4)) shall apply to assistance made available under the pilot program.

(h) REPORTS.—Each participating small business development center shall transmit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives, a quarterly report that includes—

(1) a summary of the information and educational materials regarding health insurance options provided by the participating small business development center under the pilot program; and

(2) the number of small business concerns assisted under the pilot program.

(i) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

(A) \$5,000,000 for the first fiscal year beginning after the date of enactment of this Act; and

(B) \$5,000,000 for each of the 3 fiscal years following the fiscal year described in subparagraph (A).

(2) LIMITATION ON USE OF OTHER FUNDS.—The Administrator may carry out the pilot program only with amounts appropriated in advance specifically to carry out this section.

By Mr. CARDIN (for himself, Mr. BAYH, Mrs. CLINTON, Mr. ISAKSON, Mr. KENNEDY, Mr. KERRY, Mr. LAUTENBERG, Ms. MIKULSKI, Ms. MURKOWSKI, and Mr. VITTER):

S. 1692. A bill to grant a Federal charter to Korean War Veterans Association, Incorporated; to the Committee on the Judiciary.

Mr. CARDIN. Mr. President, I rise today, on the 57th anniversary of the start of the Korean war, to introduce legislation to help honor American veterans who served our Nation during that war by granting a Federal charter to the Korean War Veterans Association, KWVA, a nonprofit fraternal veterans' organization. A companion measure is being introduced in the House by the distinguished majority leader, STENY HOYER, and Representative SAM JOHNSON, who have led this effort in previous Congresses along with my predecessor, Senator Paul Sarbanes.

The Korean war is sometimes referred to as the "Forgotten War," because it has been overshadowed by World War II and the Vietnam war, and its importance has often been overlooked in American history. But for the nearly 1.2 million American veterans of the Korean war still alive today, the war is anything but forgot-

ten. During the 3-year course of the war, some 5.7 million Americans were called to serve, under some of the most adverse and trying circumstances ever faced in wartime, for the cause of freedom. Alongside Korean and United Nations allies, our forces fought with extraordinary courage and valor. By the time the Korean Armistice Agreement was signed in July 1953, more than 36,000 Americans had died, 103,284 had been wounded, 7,140 were captured, and 664 were missing.

Granting a Federal charter to the Korean War Veterans Association would give our Nation an opportunity to honor veterans who served in that war, as well as those who have served subsequently in defense of the Republic of Korea. The KWVA is the only fraternal veterans' organization in the United States devoted exclusively to Korean war veterans and the only U.S. member of the International Federation of Korean War Veterans Associations.

Incorporated in 1985, the 20,000-member charitable association is also one of the few veterans' service organizations in America that has not been recognized with a Federal charter. These veterans are a source of strength and pride for our country. While we cannot repay the debt we owe them for the sacrifices they made, we can and should acknowledge and commemorate their service and help the association to expand its mission and further its charitable and benevolent causes.

This recognition for the KWVA is long overdue, and I am hopeful that this year, Congress will act swiftly to approve this measure. I urge my colleagues to 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. 1692

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

SECTION 1. GRANT OF FEDERAL CHARTER TO KOREAN WAR VETERANS ASSOCIATION, INCORPORATED.

(a) GRANT OF CHARTER.—Part B of subtitle II of title 36, United States Code, is amended—

(1) by striking the following:

“CHAPTER 1201—[RESERVED]”;

and

(2) by inserting after chapter 1103 the following new chapter:

“CHAPTER 1201—KOREAN WAR VETERANS ASSOCIATION, INCORPORATED

“Sec.

“120101. Organization.

“120102. Purposes.

“120103. Membership.

“120104. Governing body.

“120105. Powers.

“120106. Restrictions.

“120107. Tax-exempt status required as condition of charter.

“120108. Records and inspection.

“120109. Service of process.

“120110. Liability for acts of officers and agents.

“120111. Annual report.

“120112. Definition.

“§ 120101. Organization

“(a) FEDERAL CHARTER.—Korean War Veterans Association, Incorporated (in this chapter, the ‘corporation’), a nonprofit organization that meets the requirements for a veterans service organization under section 501(c)(19) of the Internal Revenue Code of 1986 and that is organized under the laws of the State of New York, is a federally chartered corporation.

“(b) EXPIRATION OF CHARTER.—If the corporation does not comply with the provisions of this chapter, the charter granted by subsection (a) shall expire.

“§ 120102. Purposes

“The purposes of the corporation are those provided in the articles of incorporation of the corporation and shall include the following:

“(1) To organize as a veterans service organization in order to maintain a continuing interest in the welfare of veterans of the Korean War, and rehabilitation of the disabled veterans of the Korean War to include all that served during active hostilities and subsequently in defense of the Republic of Korea, and their families.

“(2) To establish facilities for the assistance of all veterans and to represent them in their claims before the Department of Veterans Affairs and other organizations without charge.

“(3) To perpetuate and preserve the comradeship and friendships born on the field of battle and nurtured by the common experience of service to the United States during the time of war and peace.

“(4) To honor the memory of the men and women who gave their lives so that the United States and the world might be free and live by the creation of living memorial, monuments, and other forms of additional educational, cultural, and recreational facilities.

“(5) To preserve for the people of the United States and posterity of such people the great and basic truths and enduring principles upon which the United States was founded.

“§ 120103. Membership

“Eligibility for membership in the corporation, and the rights and privileges of members of the corporation, are as provided in the bylaws of the corporation.

“§ 120104. Governing body

“(a) BOARD OF DIRECTORS.—The composition of the board of directors of the corporation, and the responsibilities of the board, are as provided in the articles of incorporation of the corporation.

“(b) OFFICERS.—The positions of officers of the corporation, and the election of the officers, are as provided in the articles of incorporation.

“§ 120105. Powers

“The corporation has only those powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

“§ 120106. Restrictions

“(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

“(b) POLITICAL ACTIVITIES.—The corporation, or a director or officer of the corporation as such, may not contribute to, support, or participate in any political activity or in any manner attempt to influence legislation.

“(c) LOAN.—The corporation may not make a loan to a director, officer, or employee of the corporation.

“(d) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORITY.—The corporation may not claim

congressional approval, or the authority of the United States, for any activity of the corporation.

“(e) CORPORATE STATUS.—The corporation shall maintain its status as a corporation incorporated under the laws of the State of New York.

“§ 120107. Tax-exempt status required as condition of charter

“If the corporation fails to maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986, the charter granted under this chapter shall terminate.

“§ 120108. Records and inspection

“(a) RECORDS.—The corporation shall keep—

“(1) correct and complete records of account;

“(2) minutes of the proceedings of the members, board of directors, and committees of the corporation having any of the authority of the board of directors of the corporation; and

“(3) at the principal office of the corporation, a record of the names and addresses of the members of the corporation entitled to vote on matters relating to the corporation.

“(b) INSPECTION.—A member entitled to vote on any matter relating to the corporation, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

“§ 120109. Service of process

“The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Notice to or service on the agent is notice to or service on the corporation.

“§ 120110. Liability for acts of officers and agents

“The corporation is liable for any act of any officer or agent of the corporation acting within the scope of the authority of the corporation.

“§ 120111. Annual report

“The corporation shall submit to Congress an annual report on the activities of the corporation during the preceding fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101(b) of this title. The report may not be printed as a public document.

“§ 120112. Definition

“For purposes of this chapter, the term ‘State’ includes the District of Columbia and the territories and possessions of the United States.”.

(b) CLERICAL AMENDMENT.—The item relating to chapter 1201 in the table of chapters at the beginning of subtitle II of title 36, United States Code, is amended to read as follows:

“1201. Korean War Veterans Association, Incorporated120101”.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 253—EX-PRESSING THE SENSE OF THE SENATE THAT THE ESTABLISHMENT OF A MUSEUM OF THE HISTORY OF AMERICAN DIPLOMACY THROUGH PRIVATE DONATIONS IS A WORTHY ENDEAVOR

Mr. LUGAR (for himself and Mr. BIDEN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 253

Whereas the role of diplomacy in the foreign policy of the United States deserves recognition;

Whereas the day-to-day efforts of American diplomats serving in overseas embassies and in the United States also deserve recognition;

Whereas, in 1998, the Department of State began to explore the feasibility of establishing a Museum of the History of American Diplomacy (in this resolution referred to as the “Museum”);

Whereas the Foreign Affairs Museum Council (in this resolution referred to as the “Council”), a 501(c)(3) charitable foundation, was created subsequently to raise funds for the Museum through donations from private sector organizations, former diplomats, and concerned citizens;

Whereas no taxpayer funds will be used for the establishment of the Museum;

Whereas former Secretaries of State Henry Kissinger, Alexander Haig, George Schultz, James Baker III, Lawrence Eagleburger, Warren Christopher, Madeleine Albright, and Colin Powell serve as Honorary Directors of the Council;

Whereas experienced and noteworthy diplomats and foreign policy experts, including Elizabeth Bagley, Keith Brown, Frank Carlucci, Elinor Constable, Leslie Gelb, William Harrop, Arthur Hartman, Herbert Hansell, Stephen Low, Thomas Pickering, Richard Solomon, and Terence Todman, serve on the Board of Directors of the Council;

Whereas former members of the Senate, including the Honorable Paul Sarbanes, and of the House of Representatives, including the Honorable Lee Hamilton, also serve on the Board of Directors of the Council;

Whereas the Honorable Charles “Mac” Mathias, a former Senator and member of the Committee on Foreign Relations of the Senate, is the Chairperson of the Board of Directors of the Council;

Whereas the Council has already raised over \$1,300,000 through private donations; and

Whereas \$300,000 has been spent to complete an initial concept design for the Museum: Now, therefore, be it

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

(1) the diplomats of the United States serving overseas and in the United States are in many cases the front line of our national security policy;

(2) the people of the United States deserve a better understanding of the efforts of these brave men and women;

(3) talented young people and their families should be encouraged to consider careers in foreign affairs as an important contribution to their country;

(4) the establishment of a Museum of the History of American Diplomacy that highlights the work of these men and women throughout the history of the United States is a worthy endeavor; and

(5) the current plan of the Foreign Affairs Museum Council to fund the museum through private donations is appropriate and deserves the support of the Department of State.

SENATE RESOLUTION 254—SUPPORTING EFFORTS FOR INCREASED HEALTHY LIVING FOR CHILDHOOD CANCER SURVIVORS

Mr. COLEMAN (for himself and Mr. REED) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

Whereas an estimated 9,000 children under the age of 15 will be diagnosed with cancer in the year 2007;

Whereas oncology, the study of cancer and tumors, has made significant progress in the

prevention, treatment, and prognosis of many childhood cancers;

Whereas the number of survivors of childhood cancer continues to grow, with about 1 in 640 adults between the ages of 20 and 39 having a history of cancer;

Whereas despite this progress, cancer is the chief cause of death by disease in children under age 15, and the fourth leading cause of death in children ages 1 to 19;

Whereas childhood cancer varies from adult cancers in development, treatment, response to therapy, tolerance of therapy, and prognosis;

Whereas, in most cases, childhood cancer is more responsive to therapy, the child can tolerate more aggressive therapy, and the prognosis is better;

Whereas extraordinary progress has been made in improving the cure rates for childhood cancers, but this progress involves varying degrees of risks for both acute and chronic toxicities;

Whereas many childhood cancer survivors and their families have courageously won the fight against cancer, but continue to be challenged in their attempt to regain quality of life, and will never fully return to their pre-cancer life;

Whereas half of all childhood cancer survivors have long-term learning problems as a result of their cancer or the treatment of their cancer;

Whereas the prolonged absences or reduced energy levels that frequently occur during treatment may contribute to difficulties for a child;

Whereas recent scientific reports indicate that treatment for cancer during childhood or adolescence may affect cognitive and educational progress due to neurotoxic agents (such as chemotherapy or radiation);

Whereas cancer that may spread to the brain or spinal cord requires therapy that can sometimes affect cognition, attention and processing speed, memory, and other learning abilities;

Whereas children with brain tumors, tumors involving the eye or ear, acute lymphoblastic leukemia or non-Hodgkin's lymphoma face a higher risk of developing educational difficulties;

Whereas the educational challenges of a childhood cancer survivor may appear years after treatment is completed and are frequently misdiagnosed or ignored all together;

Whereas few educators are aware of the educational late effects related to cancer treatment;

Whereas childhood cancer survivors and their parents deserve and need neuropsychological testing to help them achieve academic success and have productive, hopeful futures;

Whereas some progress has been made, but a number of opportunities for childhood cancer research still remain under funded; and

Whereas increased recognition and awareness of neuropsychological testing for childhood cancer survivors can have a significant impact on the education and ultimately the quality of life and productivity of people with childhood cancer: Now, therefore, be it

Resolved, That it is the sense of the Senate that the United States Government should—

(1) support neuropsychological research and testing of childhood cancer survivors and their families;

(2) work with health care providers, educators, and childhood cancer advocacy and education organizations to encourage neuropsychological testing;

(3) recognize and reaffirm the commitment of the United States to fighting childhood cancer by promoting awareness about the causes, risks, prevention, and treatment of childhood cancer;

(4) promote new education programs about, research of, and expanded medical treatment for childhood cancer survivors;

(5) support research and expanded public-private partnerships to improve post-cancer life for childhood cancer survivors; and

(6) encourage the early diagnosis and access to high-quality care for childhood cancer patients and survivors.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1871. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1639, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table.

SA 1872. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1639, supra; which was ordered to lie on the table.

SA 1873. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1639, supra; which was ordered to lie on the table.

SA 1874. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1639, supra; which was ordered to lie on the table.

SA 1875. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1639, supra; which was ordered to lie on the table.

SA 1876. Mr. INHOFE (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 1639, supra; which was ordered to lie on the table.

SA 1877. Mr. INHOFE (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 1639, supra; which was ordered to lie on the table.

SA 1878. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1639, supra; which was ordered to lie on the table.

SA 1879. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1639, supra; which was ordered to lie on the table.

SA 1880. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1639, supra; which was ordered to lie on the table.

SA 1881. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1639, supra; which was ordered to lie on the table.

SA 1882. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1639, supra; which was ordered to lie on the table.

SA 1883. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1639, supra; which was ordered to lie on the table.

SA 1884. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1639, supra; which was ordered to lie on the table.

SA 1885. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 1639, supra; which was ordered to lie on the table.

SA 1886. Mrs. DOLE submitted an amendment intended to be proposed by her to the bill S. 1639, supra; which was ordered to lie on the table.

SA 1887. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1639, supra; which was ordered to lie on the table.

SA 1888. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1639, supra; which was ordered to lie on the table.

SA 1889. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1639, supra; which was ordered to lie on the table.

SA 1890. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1639, supra; which was ordered to lie on the table.

SA 1891. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1639, supra; which was ordered to lie on the table.

SA 1892. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1639, supra; which was ordered to lie on the table.

SA 1893. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1639, supra; which was ordered to lie on the table.

SA 1894. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1639, supra; which was ordered to lie on the table.

SA 1895. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1639, supra; which was ordered to lie on the table.

SA 1896. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1639, supra; which was ordered to lie on the table.

SA 1897. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1639, supra; which was ordered to lie on the table.

SA 1898. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1639, supra; which was ordered to lie on the table.

SA 1899. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1639, supra; which was ordered to lie on the table.

SA 1900. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1639, supra; which was ordered to lie on the table.

SA 1901. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1639, supra; which was ordered to lie on the table.

SA 1902. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1639, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1871. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1639, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 572, line 2, strike "may" and insert "shall".

On page 572, lines 20 and 21, strike "by the end of the next business day".

On page 573, line 19, strike "or the end of the next business day, whichever is sooner".

On page 584, line 22, strike "may" and insert "shall".

SA 1872. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1639, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 570, line 21, strike "If, during the one-year" and all that follows through page 571, line 2.

SA 1873. Mr. GRASSLEY submitted an amendment intended to be proposed

by him to the bill S. 1639, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 574, strike line 22 and all that follows through page 575, line 6.

SA 1874. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1639, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 608, strike line 3 and all that follows through "(b)" on line 7.

SA 1875. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1639, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . . . ALLOCATION OF FIELD AGENTS.

(a) IN GENERAL.—Section 103(f) (8 U.S.C. 1103(f)) is amended to read as follows:

"(f) MINIMUM NUMBER OF AGENTS ALLOCATED TO STATES.—

"(1) IN GENERAL.—The Secretary of Homeland Security shall allocate to each State—

"(A) not fewer than 40 full-time active duty agents of United States Immigration and Customs Enforcement to—

"(i) investigate immigration violations; and

"(ii) ensure the departure of all removable aliens; and

"(B) not fewer than 15 full-time active duty agents of United States Citizenship and Immigration Services to carry out immigration and naturalization adjudication functions.

"(2) WAIVER.—The Secretary may waive the requirement under paragraph (1) for any State with a population of fewer than 2,000,000 residents, according to the most recent information published by the Bureau of the Census."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date that is 90 days after the date of the enactment of this Act.

SA 1876. Mr. INHOFE (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 1639, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 582, strike line 11 and all that follows through page 584, line 4, and insert the following:

(I) REQUIREMENT AT FIRST RENEWAL.—At or before the time of application for the first extension of Z nonimmigrant status, an alien who is 18 years of age or older shall meet the requirements under section 312(a) of the Immigration and Nationality Act (8 U.S.C. 1423(a)).

(II) EXCEPTION.—The requirement under subclause (I) shall not apply to any person who, on the date of the filing of the person's application for an extension of Z nonimmigrant status—

(aa) is unable to comply because of physical or developmental disability or mental impairment to comply with such requirement; or

(bb) is older than 65 years of age and has been living in the United States for periods totaling not less than 20 years.

SA 1877. Mr. INHOFE (for himself and Mr. GRASSLEY) submitted an

amendment intended to be proposed by him to the bill S. 1639, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 580 between lines 7 and 8, insert the following:

(6) ENGLISH AND CIVICS.—An alien who is 18 years of age or older shall meet the requirements under section 312(a) of the Immigration and Nationality Act (8 U.S.C. 1423(a)).

SA 1878. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1639, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 619, strike line 3 and all that follows through “(b)” on line 7.

SA 1879. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1639, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 580, between lines 7 and 8, insert the following:

(6) MEDICAL EXAMINATION.—An applicant for Z nonimmigrant status shall, at the alien's expense, obtain proper immunizations and undergo an appropriate medical examination that conforms to generally accepted professional standards of medical practice.

SA 1880. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1639, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 5, between 11 and 12, insert the following:

(7) STAFF ENHANCEMENTS FOR INTERIOR ENFORCEMENT.—The Assistant Secretary for Immigration and Customs Enforcement has hired not less than 2,000 additional special agents to conduct investigations, including worksite enforcement.

SA 1881. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1639, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 5, between lines 11 and 12, insert the following:

(7) USCIS ADJUDICATORS.—The Director of United States Citizenship and Immigration Service has hired 300 additional adjudicators.

SA 1882. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1639, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 685, strike lines 15 through 17 and insert the following:

“(C) Of the amounts collected under this paragraph—

“(i) 14.38 percent shall be deposited in the Treasury in accordance with section 286(aa); and

“(ii) 85.72 percent shall be deposited in the Treasury in accordance with section 286(bb).”

(b) USE OF ADDITIONAL FEE.—Section 286 of the Immigration and Nationality Act, as amended by sections 2, 402(b), 623, and 714 of this Act, is further amended—

(1) by inserting after subsection (z), as added by section 2, the following:

“(aa) GIFTED AND TALENTED STUDENTS EDUCATION ACCOUNT.—

“(1) IN GENERAL.—There is established in the general fund of the Treasury a separate account, which shall be known as the ‘Gifted and Talented Students Education Account’. Notwithstanding any other provision of law, there shall be deposited as offsetting receipts into the account 14.38 percent of the fees collected under section 214(c)(15).

“(2) USE OF FEES.—Amounts deposited into the account established under paragraph (1) shall remain available to the Secretary of Education until expended for programs and projects authorized under the Jacob K. Javits Gifted and Talented Students Education Act of 2001 (20 U.S.C. 7253 et seq.); and

(2) by redesignating subsection (x), as added by section 714, as subsection (bb), and moving such subsection to the end of section 286.

SA 1883. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1639, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 478, strike line 23 and all that follows through page 479, line 23, and insert the following:

(a) H-1B AMENDMENTS.—Section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)) is amended—

(1) in paragraph (1), by amending subparagraph (A) to read as follows:

“(A) under section 101(a)(15)(H)(i)(b) may not exceed 200,000 for each fiscal year; or”;

(2) by striking paragraphs (6), (7), and (8), as redesignated by section 409(2); and

(3) in paragraph (9), as redesignated by section 409(2)—

(A) in subparagraph (B)—

(i) in clause (ii), by striking “The annual numeric limitations described in clause (i) shall not exceed” and inserting the following: “Without respect to the annual numeric limitation described in clause (i), the Secretary may issue a visa or otherwise grant nonimmigrant status pursuant to section 101(a)(15)(H)(i)(b) in the following quantities:”; and

(ii) by striking clause (iv); and

(B) by striking subparagraph (D).

SA 1884. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1639, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 568, strike line 5 and all that follows through line 24, and insert the following:

(B) PENALTY.—An alien making an initial application for Z nonimmigrant status shall pay a penalty of \$5,000, in addition to the processing fee required under subparagraph (A).

SA 1885. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 1639, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 366, line 38, strike “not”.

SA 1886. Mrs. DOLE submitted an amendment intended to be proposed by her to the bill S. 1639, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 595, between lines 12 and 13, insert the following:

(s) DEFINITION OF AGGRAVATED FELONY AND ADDITIONAL GROUNDS FOR INELIGIBILITY FOR Z NONIMMIGRANT STATUS.—

(1) AGGRAVATED FELONY.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)) is amended—

(A) by striking “and” at the end of subparagraph (T);

(B) by striking the period at the end of subparagraph (U) and inserting “; and” and

(C) by adding at the end the following:

“(V) a second conviction for driving while under the influence of alcohol or drugs, regardless of the State in which the conviction occurred or whether the offense is classified as a misdemeanor or a felony under the law of that State.”

(2) GROUNDS FOR INELIGIBILITY.—In addition to the grounds of ineligibility described in subsection (d)(1)(F), an alien shall be ineligible for Z nonimmigrant status if the alien has been convicted of driving while under the influence of alcohol or drugs, regardless of the State in which the conviction occurred or whether the offense is classified as a misdemeanor or a felony under the law of that State.

SA 1887. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1639, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 333, line 5, strike “noncitizens” and insert “all citizens”.

On page 336, line 3, strike “noncitizens” and insert “all citizens”.

SA 1888. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1639, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 530, between lines 2 and 3, insert the following:

(d) VISAS FOR HIGH ACHIEVING FOREIGN STUDENTS.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act, any amendment made by this Act, or any other provision of law, for each fiscal year beginning after the date of the enactment of this Act, 10,000 of the immigrant visas allocated by section 203(a)(1) of the Immigration and Nationality Act for parents of a citizen of the United States shall be made available to aliens seeking immigrant visas under section 203(b) of the Immigration and Nationality Act who—

(A) achieve a score in the top 10th percentile on the Scholastic Aptitude Test or the American College Testing placement exam administered in that fiscal year; and

(B) take the exams described in subparagraph (A) in the English language.

(2) LIMITATION.—If more than 10,000 aliens described in paragraph (1) apply for immigrant visas in a fiscal year, the 10,000 such aliens with the highest scores on the exams described in paragraph (1)(A) shall receive immigrant visas.

SA 1889. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1639, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 526, strike line 3 and all that follows through page 529, line 12, and insert the following:

“(A) The merit-based evaluation system shall initially consist of the following criteria and weights:

“Category	Description	Maximum points
“Employment Occupation U.S. employment in specialty occupation. (as defined by the Department of Labor)— 20 pts. U.S. employment in high demand occupation (the 30 occupations that have grown the most in the preceding 10-year period, as determined by the Bureau of Labor Statistics)— 16 pts.	47
National interest/critical infrastructure	U.S. employment in STEM or health occupation, current for at least 1 year— 8 pts (extraordinary or ordinary).	
Employer endorsement	A U.S. employer willing to pay 50% of a legal permanent resident’s application fee either 1) offers a job, or 2) attests for a current employee— 6 pts.	
Experience	Years of work for U.S. firm— 2 pts/year. (max 10 points)	
Age of worker	Worker’s age: 25-39— 3 pts	
“Education (terminal degree)	M.D., M.B.A., Graduate degree, etc.— 20 pts. Bachelor’s Degree— 16 pts Associate’s Degree— 10 pts High school diploma or GED— 6 pts. Completed certified Perkins Vocational Education program— 5 pts. Completed Department of Labor Registered Apprenticeship— 8 pts. STEM, associates and above— 8 pts.	28
“English and civics	Native speaker of English or TOEFL score of 75 or higher— 15 pts. TOEFL score of 60-74— 10 pts. Pass USCIS Citizenship Tests in English & Civics— 6 pts.	15
“Extended family (Applied if threshold of 55 in above categories)	Adult (21 or older) son or daughter of United States citizen— 8 pts. Adult (21 or older) son or daughter of a legal permanent resident— 6 pts. Sibling of United States citizen or LPR— 4 pts. If had applied for a family visa in any of the above categories after May 1, 2005— 2 pts.	10
“Total	100

“(B) The Secretary of Homeland Security, after consultation with the Secretary of Commerce and the Secretary of Labor, shall establish procedures to adjudicate petitions filed pursuant to the merit-based evaluation system. The Secretary may establish a time period in a fiscal year in which such petitions must be submitted.

“(C) The Standing Commission on Immigration and Labor Markets established pursuant to section 412 of the Secure Borders,

Economic Opportunity, and Immigration Reform Act of 2007 shall submit recommendations to Congress concerning the establishment of procedures for modifying the selection criteria and relative weights accorded such criteria in order to ensure that the merit-based evaluation system corresponds to the current needs of the United States economy and the national interest.

“(D) No modifications to the selection criteria and relative weights accorded such criteria that are established by the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007 should take effect earlier than the sixth fiscal year in which aliens described in section 101(a)(15)(Z) are eligible for an immigrant visa.

“(E) The application of the selection criteria to any particular visa petition or application pursuant to the merit-based evaluation system shall be within the Secretary’s sole and unreviewable discretion.

“(F) Any petition filed pursuant to this paragraph that has not been found by the Secretary to have qualified in the merit-based evaluation system shall be deemed denied on the first day of the third fiscal year following the date on which such petition was filed. Such denial shall not preclude the petitioner from filing a successive petition pursuant to this paragraph. Notwithstanding this paragraph, the Secretary may deny a petition when denial is appropriate under other provisions of law, including section 204(c).

“(G) Notwithstanding any other provision of this Act, an alien seeking Z nonimmigrant status pursuant to section 101(a)(15)(Z) shall—

“(i) be subject to the requirements of the merit-based evaluation system in the same manner and to the same extent as aliens seeking visas under this section; and

“(ii) shall be exempt from the worldwide level of merit-based, special, and employment creation immigrants provided under section 201(d).”

SA 1890. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1639, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike section 603, and insert the following:

SEC. 603. ADMINISTRATIVE REVIEW, REMOVAL PROCEEDINGS, AND JUDICIAL REVIEW FOR ALIENS WHO HAVE APPLIED FOR LEGAL STATUS.

(a) ADMINISTRATIVE REVIEW FOR ALIENS WHO HAVE APPLIED FOR STATUS UNDER THIS TITLE.—Notwithstanding any other provision of this Act, any amendment made by this Act, or any other provision of law, including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title, a denial, termination, or recession of benefits or status under this title may not be reviewed by any court, and no court shall have jurisdiction to hear any claim arising from, or any challenge to, such a denial, termination, or recession.

(b) REMOVAL OF ALIENS WHO HAVE BEEN DENIED STATUS UNDER THIS TITLE.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act, an alien whose application for status under this title has been denied or whose status has been terminated or revoked by the Secretary shall be placed immediately in removal proceedings under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a).

(2) ALIENS WHO ARE DETERMINED TO BE INELIGIBLE DUE TO CRIMINAL CONVICTIONS.—

(A) AGGRAVATED FELONS.—Notwithstanding any other provision of this Act, an

alien whose application for status under this title has been denied or whose status has been terminated or revoked by the Secretary under section 601(d)(1)(F)(ii) because the alien has been convicted of an aggravated felony, as defined in paragraph 101(a)(43) of the Immigration and Nationality Act, shall be placed immediately in removal proceedings pursuant to section 238(b) of such Act (8 U.S.C. 1228(b)).

(B) OTHER CRIMINALS.—Notwithstanding any other provision of this Act, any other alien whose application for status under this title has been denied or whose status has been terminated or revoked by the Secretary under clause (i), (iii), or (iv) of section 601(d)(1)(F) shall be placed immediately in removal proceedings under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a).

(C) FINAL DENIAL, TERMINATION, OR RESCISSION.—The Secretary’s denial, termination, or rescission of the status of any alien described in subparagraph (A) or (B) shall be final for purposes of section 242(h)(3)(C) of the Immigration and Nationality Act and shall represent the exhaustion of all review procedures for purposes of sections 601(h) and 601(o).

(3) LIMITATION ON MOTIONS TO REOPEN AND RECONSIDER.—During the removal process under this subsection, an alien may file not more than 1 motion to reopen or to reconsider. The Secretary’s or the Attorney General’s decision whether to consider any such motion is in the discretion of the Secretary or the Attorney General.

SA 1891. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1639, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 184, line 12, strike “(b)” and insert the following:

(b) FEDERAL AFFIRMATION OF IMMIGRATION LAW ENFORCEMENT BY STATES AND POLITICAL SUBDIVISIONS OF STATES.—

(1) AUTHORITY.—Law enforcement personnel of a State, or a political subdivision of a State, have the inherent authority of a sovereign entity to investigate, apprehend, arrest, detain, or transfer to Federal custody (including the transportation across State lines to detention centers) an alien for the purpose of assisting in the enforcement of the immigration laws of the United States in the normal course of carrying out the law enforcement duties of such personnel. This State authority has never been displaced or preempted by Federal law.

(2) CONSTRUCTION.—Nothing in this subsection may be construed to require law enforcement personnel of a State or a political subdivision to assist in the enforcement of the immigration laws of the United States.

(c) LISTING OF IMMIGRATION VIOLATORS IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.—

(1) PROVISION OF INFORMATION TO THE NATIONAL CRIME INFORMATION CENTER.—

(A) IN GENERAL.—Except as provided under subparagraph (C), not later than 180 days after the date of the enactment of this Act, the Secretary shall provide to the head of the National Crime Information Center of the Department of Justice the information that the Secretary has or maintains related to any alien—

(i) against whom a final order of removal has been issued;

(ii) who enters into a voluntary departure agreement, or is granted voluntary departure by an immigration judge, whose period for departure has expired under subsection (a)(3) of section 240B of the Immigration and

Nationality Act (8 U.S.C. 1229c), subsection (b)(2) of such section 240B, or who has violated a condition of a voluntary departure agreement under such section 240B;

(iii) whom a Federal immigration officer has confirmed to be unlawfully present in the United States; and

(iv) whose visa has been revoked.

(B) REMOVAL OF INFORMATION.—The head of the National Crime Information Center shall promptly remove any information provided by the Secretary under subparagraph (A) related to an alien who is lawfully admitted to enter or remain in the United States.

(C) PROCEDURE FOR REMOVAL OF ERRONEOUS INFORMATION.—

(i) IN GENERAL.—The Secretary, in consultation with the head of the National Crime Information Center, shall develop and implement a procedure by which an alien may petition the Secretary or head of the National Crime Information Center, as appropriate, to remove any erroneous information provided by the Secretary under subparagraph (A) related to such alien.

(ii) EFFECT OF FAILURE TO RECEIVE NOTICE.—Under procedures developed under clause (i), failure by the alien to receive notice of a violation of the immigration laws shall not constitute cause for removing information provided by the Secretary under subparagraph (A) related to such alien, unless such information is erroneous.

(iii) INTERIM PROVISION OF INFORMATION.—Notwithstanding the 180-day period set forth in subparagraph (A), the Secretary may not provide the information required under subparagraph (A) until the procedures required under this paragraph have been developed and implemented.

(2) INCLUSION OF INFORMATION IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.—Section 534(a) of title 28, United States Code, is amended—

(A) in paragraph (3), by striking “and” at the end;

(B) by redesignating paragraph (4) as paragraph (5); and

(C) by inserting after paragraph (3) the following:

“(4) acquire, collect, classify, and preserve records of violations of the immigration laws of the United States; and”.

(d)

SA 1892. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1639, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 559, strike line 17 and all that follows through “January 1, 2007” on page 561, line 9, and insert the following:

“(Z) subject to title VI of the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007, an alien who—

“(i) is physically present in the United States, has maintained continuous physical presence in the United States since January 7, 2004, is employed, and seeks to continue performing labor, services or education;

“(ii) is physically present in the United States, has maintained continuous physical presence in the United States since January 7, 2004, and such alien—

“(I) is the spouse or parent (65 years of age or older) of an alien described in clause (i); or

“(II) was, within 2 years of the date on which the Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007 was introduced in the Senate, the spouse of an alien who was subsequently classified as a Z nonimmigrant under this section, or is eligible for such classification, if—

“(aa) the termination of the relationship with such spouse was connected to domestic violence; and

“(bb) the spouse has been battered or subjected to extreme cruelty by the spouse or parent, who is a Z nonimmigrant; or

“(iii) is under 18 years of age at the time of application for nonimmigrant status under this subparagraph, is physically present in the United States, has maintained continuous physical presence in the United States since January 7, 2004, and was born to or legally adopted by at least 1 parent who is at the time of application described in clause (i) or (ii).”.

(c) PRESENCE IN THE UNITED STATES.—

(1) IN GENERAL.—The alien shall establish that the alien was not lawfully present in the United States on January 7, 2004

SA 1893. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1639, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 564, lines 13 and 14, strike “(6)(B), (6)(C)(i), (6)(C)(ii), (6)(D), (6)(F), (6)(G), (7), (9)(B), (9)(C)(i),” and insert “(6)(C)(i), (6)(C)(ii), (6)(D), (6)(G), (7).”.

SA 1894. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1639, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of section 1, insert the following:

(e) SUBMISSION TO CONGRESS.—

(1) IN GENERAL.—Except as provided under paragraph (2), not later than 54 months after the date of the enactment of this Act, the Secretary shall submit a written certification to the President and Congress that—

(A) the border security and other measures described in subsection (a) are funded, in place, and in operation; and

(B) there are fewer than 1,000,000 individuals who are unlawfully present in the United States.

(2) EFFECT OF LACK OF CERTIFICATION.—If the border security and other measures described in subsection (a) are not funded, are not in place, are not in operation, or if more than 1,000,000 individuals are unlawfully present in the United States on the date that is 54 months after the date of the enactment of this Act, title VI shall be immediately repealed and the legal status and probationary benefits granted to aliens under such title shall be terminated.

SA 1895. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1639, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 570, beginning on line 21, strike “If, during the one-year initial period” and all that follows through page 571, line 2.

SA 1896. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1639, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 616, lines 23 and 24, strike “or any probationary benefits based upon application for such status”.

SA 1897. Mr. SESSIONS submitted an amendment intended to be proposed by

him to the bill S. 1639, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 572, strike line 15 and all that follows through page 573, line 20, and insert the following:

(1) IN GENERAL.—An alien who files an application for Z nonimmigrant status, upon submission of any evidence required under subsections (f) and (g) and after the Secretary has conducted appropriate background checks, that do not produce information rendering the applicant ineligible—

(A) shall be granted probationary benefits in the form of employment authorization pending final adjudication of the alien’s application;

(B) may in the Secretary’s discretion receive advance permission to re-enter the United States pursuant to existing regulations governing advance parole;

(C) may not be detained for immigration purposes, determined inadmissible or deportable, or removed pending final adjudication of the alien’s application, unless the alien is determined to be ineligible for Z nonimmigrant status; and

(D) may not be considered an unauthorized alien (as defined in section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(3))) unless employment authorization under subparagraph (A) is denied.

(2) TIMING OF PROBATIONARY BENEFITS.—No probationary benefits shall be issued to an alien until the alien has passed all appropriate background checks.

SA 1898. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1639, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 549, lines 18 through 23, strike “. The requirement that the alien have a residence in a foreign country which the alien has no intention of abandoning shall not apply to an alien described in section 214(s) who is seeking to enter as a temporary visitor for pleasure”.

SA 1899. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1639, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 582, strike line 9 and all that follows through page 583, line 17, and insert the following:

(ii) ENGLISH LANGUAGE AND CIVICS.—

(I) REQUIREMENT AT FIRST RENEWAL.—At or before the time of application for the first extension of Z nonimmigrant status, an alien who is 18 years of age or older must demonstrate an attempt to gain an understanding of the English language and knowledge of United States civics by taking the naturalization test described in paragraphs (1) and (2) of section 312(a) of the Immigration and Nationality Act (8 U.S.C. 1423(a)) and by demonstrating enrollment in or placement on a waiting list for English classes.

(II) REQUIREMENT AT SECOND RENEWAL.—At or before the time of application for the second extension of Z nonimmigrant status, an alien who is 18 years of age or older must pass the naturalization test described in such paragraphs (1) and (2) of such section 312(a).

(III) REQUIREMENT AT THIRD RENEWAL.—At or before the time of application for the

third extension of Z nonimmigrant status, an alien who is 18 years of age or older must take the Test of English as a Foreign Language (TOEFL) administered by the Educational Testing Service.

(IV) REQUIREMENT AT FOURTH RENEWAL.—At or before the time of application for the fourth extension of Z nonimmigrant status, an alien who is 18 years of age or older must retake the TOEFL and receive the lower of—

(aa) a score of not less than 70; or

(bb) a score of not less than 20 points higher than the score the alien received when the alien took the TOEFL pursuant to subclause (III).

(V) EXCEPTION.—The requirements of subclauses (I), (II), (III), and (IV) shall not apply to any person who, on the date of the filing of the person's application for an extension of Z nonimmigrant status—

SA 1900. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1639, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 570, between lines 3 and 4, insert the following:

(8) GOOD MORAL CHARACTER.—The alien shall establish that the alien has been a person of good moral character, as described in section 101(f) of the Immigration and Nationality Act (8 U.S.C. 1101(f)), for the entire period of the alien's unlawful presence in the United States.

SA 1901. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1639, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 26, strike line 6 and all that follows through page 27, line 7, and insert the following:

SEC. 113. DETENTION OF ALIENS FROM NON-CONTIGUOUS COUNTRIES.

Section 236(a) of the Immigration and Nationality Act (8 U.S.C. 1226(a)) is amended—

(1) in paragraph (1), by striking “and” at the end;

(2) in paragraph (2)(B), by striking “but” at the end;

(3) in paragraph (3), by striking the period at the end and inserting “; and”; and

(4) by adding at the end the following:

“(4) may not provide the alien with release on bond or with conditional parole if the alien—

“(A) is a national of a noncontiguous country;

“(B) has not been admitted or paroled into the United States; and

“(C) was apprehended within 100 miles of the international border of the United States or presents a flight risk, as determined by the Secretary of Homeland Security.”.

SA 1902. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1639, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike section 602 and insert the following:

SEC. 602. ADJUSTMENT SHALL BE UNAVAILABLE FOR Z STATUS ALIENS.

Notwithstanding any other provision of this Act (or an amendment made by this Act)—

(1) a Z nonimmigrant shall not be adjusted to the status of a lawful permanent resident; and

(2) nothing in this section shall be construed to limit the number of times that a Z nonimmigrant can renew the nonimmigrant's status.

NOTICE OF HEARING

COMMITTEE ON INDIAN AFFAIRS

Mr. DORGAN. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Thursday, June 28, 2007, at 9:30 a.m. in room 485 of the Russell Senate Office Building to conduct a hearing on discussion draft legislation regarding the regulation of class III gaming.

Those wishing additional information may contact the Indian Affairs Committee at 224-2251.

AUTHORITY FOR COMMITTEES TO MEET

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. CARDIN. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Homeland Security and Governmental Affairs be authorized to meet on Monday, June 25, 2007, at 11 a.m., in order to conduct a hearing entitled “Excessive Speculation In The Natural Gas Market.”

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

PRIVILEGES OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent that Amber Fricke and Theresa Loth of my staff be granted the privileges of the floor for the duration of today's session.

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

ORDER TO PRINT H.R. 6

Mr. DURBIN. Madam President, I ask unanimous consent that H.R. 6, as passed by the Senate on June 21, be printed as passed.

The PRESIDING OFFICER (Ms. KLOBUCHAR). Without objection, it is so ordered.

ORDER FOR DISCHARGE AND
REFERRAL—S. 1615

Mr. DURBIN. Madam President, I ask unanimous consent that S. 1615 be discharged from the HELP Committee and referred to the Committee on Banking, Housing, and Urban Affairs.

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

ORDER OF PROCEDURE

Mr. DURBIN. Madam President, I ask unanimous consent that when Senator LUGAR is recognized to speak this evening, he be permitted to speak for up to 45 minutes.

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

ORDERS FOR TUESDAY, JUNE 26,
2007

Mr. DURBIN. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 10 a.m. Tuesday, June 26; that on Tuesday, following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders reserved for their use later in the day; that the Senate then resume en bloc the motions to proceed to H.R. 800 and S. 1639, with the time until 11:30 a.m. equally divided and controlled between Senators KENNEDY and ENZI or their designees; with the time from 11:30 to 11:40 a.m. reserved for the Republican leader, and the time from 11:40 to 11:50 to the majority leader; that at 11:50 a.m., without further intervening action, the Senate proceed to vote on the motion to invoke cloture on the motion to proceed to H.R. 800; to be followed immediately by a vote on the motion to invoke cloture on the motion to proceed to S. 1639, as provided for under a previous order; that following the conclusion of the second vote, the Senate then stand in recess until 2:15 p.m. in order to accommodate the respective conference meetings.

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

ORDER FOR ADJOURNMENT

Mr. DURBIN. Madam President, I ask unanimous consent that following the remarks of Senator LUGAR, the Senate stand adjourned under the previous order.

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

The Senator from Indiana is recognized.

A COURSE CHANGE IN IRAQ: CONNECTING IRAQ STRATEGY TO VITAL INTERESTS

Mr. LUGAR. Mr. President, I rise today to offer observations on the continuing involvement of the United States in Iraq. In my judgment, our course in Iraq has lost contact with our vital national security interests in the Middle East and beyond. Our continuing absorption with military activities in Iraq is limiting our diplomatic assertiveness there and elsewhere in the world. The prospects that the current "surge" strategy will succeed in the way originally envisioned by the President are very limited within the short period framed by our own domestic political debate. And the strident, polarized nature of that debate increases the risk that our involvement in Iraq will end in a poorly planned withdrawal that undercuts our vital interests in the Middle East. Unless we recalibrate our strategy in Iraq to fit our domestic political conditions and the broader needs of United States national security, we risk foreign pol-

icy failures that could greatly diminish our influence in the region and the world.

The current debate on Iraq in Washington has not been conducive to a thoughtful revision of our Iraq policy. Our debate is being driven by partisan political calculations and understandable fatigue with bad news—including deaths and injuries to Americans. We have been debating and voting on whether to fund American troops in Iraq and whether to place conditions on such funding. We have contemplated in great detail whether Iraqi success in achieving certain benchmarks should determine whether funding is approved or whether a withdrawal should commence. I would observe that none of this debate addresses our vital interests any more than they are addressed by an unquestioned devotion to an ill-defined strategy of "staying the course" in Iraq.

I speak to my fellow Senators, when I say that the President is not the only American leader who will have to make adjustments to his or her thinking. Each of us should take a step back from the sloganeering rhetoric and political opportunism that has sometimes characterized this debate. The task of securing U.S. interests in the Middle East will be extremely difficult if Iraq policy is formulated on a partisan basis, with the protagonists on both sides ignoring the complexities at the core of our situation.

Commentators frequently suggest that the United States has no good options in Iraq. That may be true from a certain perspective. But I believe that we do have viable options that could strengthen our position in the Middle East, and reduce the prospect of terrorism, regional war, and other calamities. But seizing these opportunities will require the President to downsize the United States military's role in Iraq and place much more emphasis on diplomatic and economic options. It will also require Members of Congress to be receptive to overtures by the President to construct a new policy outside the binary choice of surge versus withdrawal. We don't owe the President our unquestioning agreement, but we do owe him and the American people our constructive engagement.

In my judgment, the costs and risks of continuing down the current path outweigh the potential benefits that might be achieved. Persisting indefinitely with the surge strategy will delay policy adjustments that have a better chance of protecting our vital interests over the long term.

I do not come to this conclusion lightly, particularly given that General Petraeus will deliver a formal report in September on his efforts to improve security. The interim information we have received from General Petraeus and other officials has been helpful and appreciated. I do not doubt the assessments of military commanders that there has been some progress in secu-

rity. More security improvements in the coming months may be achieved. We should attempt to preserve initiatives that have shown promise; such as engaging Sunni groups that are disaffected with the extreme tactics and agenda of al-Qaida in Iraq. But three factors—the political fragmentation in Iraq, the growing stress on our military, and the constraints of our own domestic political process—are converging to make it almost impossible for the United States to engineer a stable, multi-sectarian government in Iraq in a reasonable time frame.

First, it is very doubtful that the leaders of Iraqi factions are capable of implementing a political settlement in the short run. I see no convincing evidence that Iraqis will make the compromises necessary to solidify a functioning government and society, even if we reduce violence to a point that allows for some political and economic normalcy.

In recent months, we have seen votes in the Iraqi parliament calling for a withdrawal of American forces and condemning security walls in Baghdad that were a reasonable response to neighborhood violence. The Iraqi parliament struggles even to achieve a quorum, because many prominent leaders decline to attend. We have seen overt feuds between members of the Iraqi Government, including Prime Minister Maliki and Vice President Tariq al-Hashimi, who did not speak to each other for the entire month of April. The Shia-led government is going out of its way to bottle up money budgeted for Sunni provinces. Without strident intervention by our embassy, food rations are not being delivered to Sunni towns. Iraqi leaders have resisted de-Baathification reform, the conclusion of an oil law, and effective measures to prevent oil smuggling and other corrupt practices.

Iraqi Foreign Minister Zebari has told me that various aspects of an oil law and revenue distribution could be passed by September. But he emphasized that Iraqis are attempting to make policy in a difficult environment by broad consensus—not by majority vote. He believes other policy advancements will take considerable time, but that consensus is the safest and most appropriate approach in a fledgling democracy.

This may be true, but Americans want results in months. Meanwhile, various Iraqi factions are willing to wait years to achieve vital objectives. Even if the results of military operations improve in the coming months, there is little reason to assume that this will diminish Sunni ambitions to reclaim political preeminence or Shia plans to dominate Iraq after decades of Saddam's harsh rule. Few Iraqi leaders are willing to make sacrifices or expose themselves to risks on behalf of the type of unified Iraq that the Bush administration had envisioned. In contrast, there are many Iraqi leaders who are deeply invested in a sectarian or

tribal agenda. More often than not, these agendas involve not just the protection of fellow Sunnis, Shiites, and Kurds, but the expansion of territorial dominance and economic privileges.

Even if United States negotiators found a way to forge a political settlement among selected representatives of the major sectarian factions, these leaders have not shown the ability to control their members at the local level. After an intense year-and-a-half of bloodletting, many subfactions are thoroughly invested in the violence. We have the worst of both worlds in Iraq—factional leaders who don't believe in our pluralist vision for their country and smaller subfactions who are pursuing violence on their own regardless of any accommodations by more moderate fellow sectarians. As David Brooks recently observed in the *New York Times*, the fragmentation in Iraq has become so prevalent that Iraq may not even be able to carry out a traditional civil war among cohesive factions.

Few Iraqis have demonstrated that they want to be Iraqis. We may bemoan this, but it is not a surprising phenomenon. The behavior of most Iraqis is governed by calculations related to their history, their personal safety, their basic economic existence, and their tribal or sectarian loyalties. These are primal forces that have constrained the vision of most ordinary Iraqis to the limits of their neighborhoods and villages.

In this context, the possibility that the United States can set meaningful benchmarks that would provide an indication of impending success or failure is remote. Perhaps some benchmarks or agreements will be initially achieved, but most can be undermined or reversed by a contrary edict of the Iraqi Government, a decision by a faction to ignore agreements, or the next terrorist attack or wave of sectarian killings. American manpower cannot keep the lid on indefinitely. The anticipation that our training operations could produce an effective Iraqi army loyal to a cohesive central government is still just a hopeful plan for the future.

I suspect that for some Americans, benchmarks are a means of justifying a withdrawal by demonstrating that Iraq is irredeemable. For others, benchmarks represent an attempt to validate our military presence by showing progress against a low fixed standard. But in neither case are benchmark tests addressing our broader national security interests.

Equally unproven is the theory voiced by some supporters of a withdrawal that removing American troops from Iraq would stimulate a grand compromise between Iraqi factions. Some Iraqi leaders may react this way. But most assume that we will soon begin to withdraw troops, and they are preparing to carry on or accelerate the fight in the absence of American forces. Iraqi militias have shown an

ability to adapt to conditions on the ground, expanding or contracting their operations as security imperatives warrant.

American strategy must adjust to the reality that sectarian factionalism will not abate anytime soon and probably cannot be controlled from the top.

The second factor working against our ability to engineer a stable government in Iraq is the fatigue of our military. The window during which we can continue to employ American troops in Iraqi neighborhoods without damaging our military strength or our ability to respond to other national security priorities is closing. Some observers may argue that we cannot put a price on securing Iraq and that our military readiness is not threatened. But this is a naive assessment of our national security resources.

American Armed Forces are incredibly resilient, but Iraq is taking a toll on recruitment and readiness. In April, the Defense Department announced it would lengthen tours of duty for soldiers serving in Iraq and Afghanistan from 12 to 15 months. Many soldiers are now on their way to a third combat tour.

Last month, for the 27th consecutive year, in a ceremony witnessed by tens of thousands of Hoosiers, I swore in new military recruits on Pit Road at the Indianapolis Motor Speedway. Over the course of the weekend, I visited with the recruits, with the recruiters, and with military officials. I heard personal stories of the 70-hour work weeks put in by recruiters to meet recruiting goals. I was impressed with each of the 66 young men and women I swore in. They are joining a military at war, and each of them is showing tremendous courage and commitment to our country.

The swearing-in ceremony was preceded by a briefing from Army officials here in Washington who assured me that we are fielding the best equipped, best trained, and most capable force we have ever had. Yet, they also reported that the Army has exhausted its bench. Instead of resting and training for 3 to 12 months, brigades coming out of the field must now be ready almost immediately for redeployment.

Basic recruiting targets are being met, but statistics point to significant declines in the percentage of recruits who have high school diplomas and who score above average on the Army's aptitude test. Meanwhile, the Army has dramatically increased the use of waivers for recruits who have committed felonies, and it has relaxed weight and age standards.

The Army is asking for \$2 billion more this year for recruitment incentives, advertising, and related activities. It needs \$13 to \$14 billion a year to reset the force to acceptable readiness ratings, and they will need that amount for up to 3 years after the end of the current operations. The Army needs \$52 billion more this year to fill equipment shortages and modernize.

These figures do not include the billions of dollars required to implement the planned 65,000 soldier increase in the size of the active force.

Filling expanding ranks will be increasingly difficult given trends in attitudes toward military service. This has been measured by the Joint Advertising Market Research and Studies Program, which produced a "Propensity Update" last September after extensive research. The study found that only 1 in 10 youths has a propensity to serve—the lowest percentage in the history of such surveys. Sixty-one percent of youth respondents report that they will "definitely not serve." This represents a 7 percent increase in less than a year. These numbers are directly attributable to policies in Iraq. When combined with the Army's estimate that only 3 of 10 youths today meet basic physical, behavioral, and academic requirements for military service, the consequences of continuing to stretch the military are dire.

The United States military remains the strongest fighting force in the world, but we have to be mindful that it is not indestructible. Before the next conflict, we have much to do to repair this invaluable instrument. This repair cannot begin until we move to a more sustainable Iraq policy.

The third factor inhibiting our ability to establish a stable, multisectarian government in Iraq is the timetable imposed by our own domestic political process. The President and some of his advisors may be tempted to pursue the surge strategy to the end of his administration, but such a course contains extreme risks for United States national security. It would require the President to fight a political rear-guard holding action for more than a year and a half against congressional attempts to limit, modify, or end military operations in Iraq. The resulting contentiousness would make cooperation on national security issues nearly impossible. It would greatly increase the chances for a poorly planned withdrawal from Iraq or possibly the broader Middle East region that could damage U.S. interests for decades.

The President and his team must come to grips with the shortened political timeline in this country for military operations in Iraq. Some will argue that political timelines should always be subordinated to military necessity, but that is unrealistic in a democracy. Many political observers contend that voter "dissatisfaction in 2006 with administration policies in Iraq was the major factor in producing new Democratic Party majorities in both Houses of Congress. Domestic politics routinely intrude on diplomatic and military decisions. The key is to manage these intrusions so that we avoid actions that are not in our national interest.

We do not know whether the next President will be a Democrat or a Republican. But it is certain that domestic pressure for withdrawal will continue to be intense. A course change

should happen now, while there is still some possibility of constructing a sustainable bipartisan strategy in Iraq. If the President waits until Presidential election campaign is in full swing, the intensity of confrontation on Iraq is likely to limit United States options.

I am not implying that debate on Iraq is bad. I am suggesting what most Senate observers understand intuitively: Little nuance or bipartisanship will be possible if the Iraq debate plays out during a contentious national election that will determine control of the White House and Congress.

In short, our political time line will not support a rational course adjustment in Iraq, unless such an adjustment is initiated very soon.

In January, the Senate Foreign Relations Committee heard from former Secretary of State Henry Kissinger, who recalled a half century of U.S. involvement in the Middle East. He argued that this history was not accidental. We have been heavily involved in the region because we have enduring vital interests at stake. We may make tactical decisions about the deployment or withdrawal of forces in Iraq, but we must plan for a strong strategic position in the region for years to come.

This is not just a maxim from diplomatic textbooks. The vitality of the U.S. economy and the economies of much of the world depend on the oil that comes from the Persian Gulf. The safety of the United States depends on how we react to nuclear proliferation in the region and how we combat terrorist cells and ideologies that reside there.

The risk for decision-makers is that after a long struggle in Iraq, accompanied by a contentious political process at home, we begin to see Iraq as a set piece—as an end in itself, distinct from the broader interests that we meant to protect. We risk becoming fixated on artificial notions of achieving victory or avoiding defeat, when these ill-defined concepts have little relevance to our operations in Iraq. What is important is not the precise configuration of the Iraqi Government or the achievement of specific benchmarks, but rather how Iraq impacts our geostrategic situation in the Middle East and beyond. The President's troop surge is an early episode in a much broader Middle East realignment that began with our invasion of Iraq and may not end for years. Nations throughout the Middle East are scrambling to find their footing as regional power balances shift in unpredictable ways.

Although the Bush administration has scaled back its definition of success in Iraq, we are continuing to pour our treasure and manpower into the narrow and uncertain pursuit of creating a stable, democratic, pluralist society in Iraq. This pursuit has been the focal point of the administration's Middle East policy. Unfortunately, this objective is not one on which our future in

the region can rest, especially when far more important goals related to Middle East security are languishing. I am not suggesting that what happens in Iraq is not important, but the Bush administration must avoid becoming so quixotic in its attempt to achieve its optimum forecasts for Iraq that it misses other opportunities to protect our vital interests in the Middle East.

To determine our future course, we should separate our emotions and frustrations about Iraq from a sober assessment of our fundamental national security goals. In my judgment, we should be concerned with four primary objectives:

First, we have an interest in preventing Iraq or any piece of its territory from being used as a safe haven or training ground for terrorists or as a repository or assembly point for weapons of mass destruction.

Second, we have an interest in preventing the disorder and sectarian violence in Iraq from upsetting wider regional stability. The consequences of turmoil that draws neighboring states into a regional war could be grave. Such turmoil could topple friendly governments, expand destabilizing refugee flows, close the Persian Gulf to shipping traffic, or destroy key oil production or transportation facilities, thus diminishing the flow of oil from the region with disastrous results for the world economy.

Third, we have an interest in preventing Iranian domination of the region. The fall of Saddam Hussein's Sunni government opened up opportunities for Iran to seek much greater influence in Iraq and in the broader Middle East. An aggressive Iran would pose serious challenges for Saudi Arabia, Jordan, Egypt, and other Arab governments. Iran is pressing a broad agenda in the Middle East with uncertain consequences for weapons proliferation, terrorism, the security of Israel, and other U.S. interests. Any course we adopt should consider how it would impact the regional influence of Iran.

Fourth, we have an interest in limiting the loss of U.S. credibility in the region and throughout the world as a result of our Iraq mission. Some loss of confidence in the United States has already occurred, but our subsequent actions in Iraq may determine how we are viewed for a generation.

In my judgment, the current surge strategy is not an effective means of protecting these interests. Its prospects for success are too dependent on the actions of others who do not share our agenda. It relies on military power to achieve goals that it cannot achieve. It distances allies that we will need for any regional diplomatic effort. Its failure, without a careful transition to a back-up policy would intensify our loss of credibility. It uses tremendous amounts of resources that cannot be employed in other ways to secure our objectives. And it lacks domestic support that is necessary to sustain a policy of this type.

A total withdrawal from Iraq also fails to meet our security interests. Such a withdrawal would compound the risks of a wider regional conflict stimulated by Sunni-Shia tensions. It would also be a severe blow to U.S. credibility that would make nations in the region far less likely to cooperate with us on shared interests. It would increase the potential for armed conflict between Turkey and Kurdish forces in Iraq. It would expose Iraqis who have worked with us to retribution, increase the chances of destabilizing refugee flows, and undercut many economic and development projects currently underway in Iraq. It would also be a signal that the United States was abandoning efforts to prevent Iraqi territory from being used as a terrorist base.

Moreover, advocates of an immediate withdrawal have tended to underestimate the requirements and complexities of such an operation. Gen. Barry McCaffrey testified at a Senate Foreign Relations Committee hearing on January 18, 2007, that an immediate withdrawal aimed at getting out of Iraq as fast as possible would take 6 months. A carefully planned withdrawal that sought to preserve as much American equipment as possible, protect Iraqis who have worked with us, continue anti-terrorist operations during the withdrawal period, and minimize negative regional consequences would take months longer.

Our security interests call for a downsizing and re-deployment of U.S. military forces to more sustainable positions in Iraq or the Middle East. Numerous locations for temporary or permanent military bases have been suggested, including Kuwait or other nearby states, the Kurdish territories, or defensible locations in Iraq outside of urban areas. All of these options come with problems and limitations. But some level of American military presence in Iraq would improve the odds that we could respond to terrorist threats, protect oil flows, and help deter a regional war. It would also reassure friendly governments that the United States is committed to Middle East security. A re-deployment would allow us to continue training Iraqi troops and delivering economic assistance, but it would end the U.S. attempt to interpose ourselves between Iraqi sectarian factions.

Six months ago, the Iraq Study Group endorsed a gradual downsizing of American forces in Iraq and the evolution of their mission to a support role for the Iraqi army. I do not necessarily agree with every recommendation of the Iraq Study Group, and its analysis requires some updating given the passage of time. But the report provides a useful starting point for the development of a "Plan B" and a template for bipartisan cooperation on our Iraq strategy.

We should understand that if the re-deployment of a downsized force is to be safe and effective, our military planners and diplomats must have as much

time as possible to develop and implement the details. We will need the cooperation of the Iraqi Government and key states in the region, which will not come automatically. The logistics of a shift in policy toward a residual force will test military planners, who have been consumed with the surge. In 2003, we witnessed the costs that came with insufficient planning for the aftermath of the Iraq invasion. It is absolutely essential that we not repeat the same mistake. The longer we delay the planning for a re-deployment, the less likely it is to be successful.

The United States has violated some basic national security precepts during our military engagement in Iraq. We have overestimated what the military can achieve, we have set goals that are unrealistic, and we have inadequately factored in the broader regional consequences of our actions. Perhaps most critically, our focus on Iraq has diverted us from opportunities to change the world in directions that strengthen our national security.

Our struggles in Iraq have placed U.S. foreign policy on a defensive footing and drawn resources from other national security endeavors, including Afghanistan. With few exceptions, our diplomatic initiatives are encumbered by negative global and regional attitudes toward our combat presence in Iraq.

In this era, the United States cannot afford to be on a defensive footing indefinitely. It is essential that as we attempt to reposition ourselves from our current military posture in Iraq, we launch a multifaceted diplomatic offensive that pushes adversarial states and terrorist groups to adjust to us. The best counter to perceptions that we have lost credibility in Iraq would be a sustained and ambitious set of initiatives that repairs alliances and demonstrates our staying power in the Middle East.

The Iraq Study Group report recommended such a diplomatic offensive, stating "all key issues in the Middle East—the Arab-Israeli conflict, Iraq, Iran, the need for political and economic reforms, and extremism and terrorism—are inextricably linked." The report stressed that diplomacy aimed at solving key regional issues would "help marginalize extremists and terrorists, promote U.S. values and interests, and improve America's global image."

A diplomatic offensive is likely to be easier in the context of a tactical draw down of U.S. troops in Iraq. A draw-down would increase the chances of stimulating greater economic and diplomatic assistance for Iraq from multilateral organizations and European allies, who have sought to limit their association with an unpopular war.

A first step is working with like-minded nations to establish a consistent diplomatic forum related to Iraq that is open to all parties in the Middle East. The purpose of the forum would be to improve transparency of

national interests so that neighboring states and other actors avoid miscalculations. I believe it would be in the self-interest of every nation in the region to attend such meetings, as well as the United States, EU representatives, or other interested parties. Such a forum could facilitate more regular contact with Syria and Iran with less drama and rhetoric that has accompanied some meetings. The existence of a predictable and regular forum in the region would be especially important for dealing with refugee problems, regulating borders, exploring development initiatives, and preventing conflict between the Kurds and Turks. Just as the Six-Party talks have improved communications in northeast Asia beyond the issue of North Korea's nuclear program, stabilizing Iraq could be the occasion for a diplomatic forum that contributes to other Middle East priorities.

Eventually, part of the massive U.S. embassy under construction in Baghdad might be a suitable location for the forum. It is likely that the embassy compound will exceed the evolving needs of the United States. If this is true, we should carefully consider how best to use this asset, which might be suitable for diplomatic, educational, or governmental activities in Iraq.

We should be mindful that the United States does not lack diplomatic assets. Most regional governments are extremely wary of U.S. abandonment of the Middle East. Moderate states are concerned by Iran's aggressiveness and by the possibility of sectarian conflict beyond Iraq's borders. They recognize that the United States is an indispensable counterweight to Iran and a source of stability. The United States should continue to organize regional players—Saudi Arabia, Jordan, Egypt, Turkey, the Gulf States, and others—behind a program of containing Iran's disruptive agenda in the region.

Such a re-alignment has relevance for stabilizing Iraq and bringing security to other areas of conflict, including Lebanon and the Palestinian territories. The United States should make clear to our Arab friends that they have a role in promoting reconciliation within Iraq, preventing oil price spikes, splitting Syria from Iran, and demonstrating a more united front against terrorism.

A diplomatic offensive centered on Iraq and surrounding countries would help lift American interests in the Middle East. But credibility and sustainability of our actions depend on addressing the two elephants in the room of U.S. Middle East policy—the Arab-Israeli conflict and U.S. dependence on Persian Gulf oil. These are the two problems that our adversaries, especially Iran, least want us to address. They are the conditions that most constrain our freedom of action and perpetuate vulnerabilities. The implementation of an effective program to remedy these conditions could be as valuable to our long-term security as the

achievement of a stable, pro-Western government in Iraq.

The Arab-Israeli conflict will not be easily solved. Recent combat between the Hamas and Fatah Palestinian factions that led to Hamas's military pre-eminence in the Gaza Strip complicates efforts to put the peace process back on track. But even if a settlement is not an immediate possibility, we have to demonstrate clearly that the United States is committed to helping facilitate a negotiated outcome. Progress in the Arab-Israeli conflict would not end the sectarian conflict in Iraq, but it could restore credibility lost by the United States in the region. It also would undercut terrorist propaganda, slow Iranian influence, and open new possibilities related to Syria.

Clearly, the United States does not have the influence to solve the Arab-Israeli conflict unilaterally. In contrast, our dependence on Persian Gulf oil is largely within our capacity to fix. Do not underestimate the impact on Iran and other nations of a concerted U.S. campaign to reduce our oil consumption. A credible well-publicized campaign to definitively change the oil import equation would reverberate throughout the Middle East. It would be the equivalent of opening a new front in Middle Eastern policy that does not depend on the good will of any other country.

Many options exist for rapid progress in reducing our Persian Gulf oil dependence, but I would emphasize two. First, President Bush or his successor could establish the national goal of making competitively priced biofuels available to every motorist in America. Such an accomplishment would transform our transportation sector and cut our oil import bill. It would require multiple elements, including ensuring that virtually every new car sold in America is a flexible fuel vehicle capable of running on an 85 percent ethanol fuel known as E-85; that at least a quarter of American filling stations have E-85 pumps; and that ethanol production from various sources is expanded to as much as 100 billion gallons a year within the next 15 to 20 years. Such a campaign could achieve the replacement of 6.5 million barrels of oil per day by volume—the rough equivalent of one-third of the oil used in America and one-half of our current oil imports. None of these goals are easy, but they are achievable if presidential advocacy and the weight of the Federal Government are devoted to their realization. Brazil already has achieved the large-scale deployment of ethanol as a national transportation fuel, and its success is a source of public pride in that country.

Second, the President could commit to a radical increase in the miles per gallon of America's auto fleet. The Federal Government has numerous tools to make this happen, from direct Federal support for research, to Government fleet purchasing, to market regulations and incentives.

Incredibly, cars in America today get less mileage per gallon than they did 20 years ago. Meanwhile, hybrids, plug-in hybrids, and fully electric cars are at or nearly at commercialization, yet there is not enough incentive for consumers to buy them or producers to make them on the mass scale necessary. For fiscal year 2008, the administration requested just \$176 million for new vehicle technology research—an amount that was less than what was requested 5 years ago.

Given that other developed nations have made great strides in improving fuel economy, this is fertile ground for rapid improvement. In fact, achievements on this front largely would be a matter of generating and sustaining political will that has, thus far, been disappointing.

The issue before us is whether we will refocus our policy in Iraq on realistic assessments of what can be achieved, and on a sober review of our vital interests in the Middle East. Given the requirements of military planners, the stress of our combat forces, and our own domestic political timeline, we are running out of time to implement a thoughtful plan B that attempts to protect our substantial interests in the region, while downsizing our military presence in Iraq.

We need to recast the geo-strategic reference points of our Iraq policy. We need to be preparing for how we will array U.S. forces in the region to target terrorist enclaves, deter adventurism by Iran, provide a buffer against regional sectarian conflict, and generally reassure friendly governments that the United States is committed to Middle East security. Simultaneously, we must be aggressive and creative in pursuing a regional dialogue that is not limited to our friends. We cannot allow fatigue and frustration with our Iraq policy to lead to the abandonment of the tools and relationships we need to defend our vital interests in the Middle East.

If we are to seize opportunities to preserve these interests, the administration and Congress must suspend what has become almost knee-jerk political combat over Iraq. Those who offer constructive criticism of the surge strategy are not defeatists, any more than those who warn against a precipitous withdrawal are militarists. We need to move Iraq policy beyond the politics of the moment and reestablish a broad consensus on the role of the United States in the Middle East. If we do that, the United States has the diplomatic influence and economic and military power to strengthen mutually beneficial policies that could enhance security and prosperity throughout the region. I pray that the President and the Congress will move swiftly and surely to achieve that goal.

IRAQ

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, I would like to say a word about the remarks just made by my colleague from Indiana, Senator LUGAR. It has been my honor to serve with Senator LUGAR now for 11 years. I count him as a friend, as a valued colleague, as a neighbor in the Midwest.

I believe the speech which he has just made on the floor of the Senate is in the finest tradition of the Senate, like its author. Senator LUGAR's speech was thoughtful, thorough, and honest. It was a challenge to all of us on both sides of the aisle, Democrat and Republican alike: To step back from the debate on Iraq, take an inventory of where we are, make an honest appraisal, and move forward.

I think it is a challenge to all Senators. I am sorry it was delivered at the time of night when few of our colleagues were here, but if we are fortunate some followed it on C-SPAN as Senator LUGAR presented it.

I made notes during the course of the speech. I am sure I have missed some valuable and important things that Senator LUGAR said, but I will just tell you that I do not disagree with his conclusion. I believe, as he does, that the factionalism in Iraq has reached catastrophic proportions, that it is doubtful they will be able to patch together in the near term the government which we had hoped for.

I agree with Senator LUGAR completely about the fatigue of our military. We have the greatest military in the world, the best and bravest, not only in Indianapolis but in Springfield, IL, and all across the Nation. We are so proud of these men and women and what they fight for and the representation of our great Nation.

I think Senator LUGAR hit the nail on the head when he said the strongest fighting force in the world is not indestructible. We are pushing them to the absolute limit, and that is a reality.

His third point about the timetable of our debate is a valuable one. Some wonder if there are members of the administration who are waiting for the clock to run out, the day to come when they leave Washington to turn this issue over to another. That would be a serious mistake, because in the meantime we know that American lives will be lost and opportunities may be squandered.

That point was made very effectively by Senator LUGAR this evening. I made some notes of things he said that I believe summarize our situation so effectively. He said that a course change should happen now. He called for a sustainable, bipartisan strategy in dealing with Iraq. He called for a rational course adjustment that must be initiated very soon. He said that far more important than just Iraq are our Middle Eastern goals that are languishing because of our current strategy.

I could not agree with him more on the four points he set out as our Middle Eastern objectives to keep Iraq from becoming a terrorist haven, to stop

Iraq from spreading instability into the region, to prevent Iranian dominance of the region, and to limit the loss of U.S. credibility in the region as a result of this war.

I think he is correct in his analysis. He said that the current surge strategy is not effective. He believes, as I do, at this moment in time total withdrawal is not consistent with our regional goals. I want to bring American troops home as quickly as possible, as many as possible.

We have said from the beginning on the Democratic side that there are certain responsibilities we must still accept in that region: To stop the spread of al-Qaida terrorism, to make certain the Iraqis, as best we can, are prepared to fight this battle, and to protect our own forces during the withdrawal.

He called for downsizing to more sustainable positions, to put our troops in a position where they can respond if necessary. He called for attempts to end imposing our forces between sectarian warring factions. That, I believe, is our highest priority. To think that our men and women in uniform are now caught in the crossfire of a civil war with its origins 14 centuries ago in a sectarian battle is just unacceptable.

He said the longer we delay plans for redeployment, the less likely it will be successful. I could not agree with him more. He called for a tactical draw-down of U.S. troops to make diplomatic efforts more likely to succeed.

I agree with Senator LUGAR when he said we are running out of time; we have to move the Iraqi policy between the politics of the moment. He said the administration and Congress must suspend knee-jerk political combat over Iraq.

Forty years ago as a law school student, I came and sat in that gallery in a chair and watched as Senator Robert Kennedy came to the floor to give a speech on Vietnam. He walked through those doors with his brother, Senator TED KENNEDY. Their families were in the gallery. He stood on this floor, again, in the evening hours after most Senators had gone home. He spoke about bringing the war in Vietnam to a close. It was an important speech in the history of our Nation and certainly in the history of the Senate, and I think it made a difference. I believe the speech that was given tonight by my colleague from Indiana, Republican Senator RICHARD LUGAR, is that kind of speech. I think it is the starting point for a meaningful debate, a debate which looks at the Middle East in a new context and in a realistic context, and realizes that it is time to change direction in our course in Iraq.

I salute my colleague. I hope every Member of the Senate tomorrow will ask for a copy of the speech from the CONGRESSIONAL RECORD, read it carefully, and then come to this floor when we return after the Fourth of July break and begin our debate over the Defense authorization bill, and realize

that during the course of that debate we can reach across the aisle on a bipartisan basis and make a difference.

I thank Senator LUGAR for his contribution to this most important issue which challenges us today.

Madam President, I yield the floor.

ADJOURNMENT UNTIL 10 A.M.
TOMORROW

Thereupon, the Senate, at 8:48 p.m., adjourned until Tuesday, June 26, 2007, at 10 a.m.

NOMINATIONS

Executive nomination received by the Senate June 25, 2007:

EXECUTIVE OFFICE OF THE PRESIDENT

JIM NUSSLE, OF IOWA, TO BE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET, VICE ROBERT J. PORTMAN.

WITHDRAWAL

Executive Message transmitted by the President to the Senate on June 25, 2007 withdrawing from further Senate consideration the following nomination:

WILLIAM W. MERCER, OF MONTANA, TO BE ASSOCIATE ATTORNEY GENERAL, VICE ROBERT D. MCCALLUM, JR., WHICH WAS SENT TO THE SENATE ON JANUARY 9, 2007.