S. 1297

At the request of Mr. BURR, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 1297, a bill to preserve State and institutional authority relating to State authorization and the definition of credit hour.

S. 1301

At the request of Mr. LEAHY, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1301, a bill to authorize appropriations for fiscal years 2012 to 2015 for the Trafficking Victims Protection Act of 2000, to enhance measures to combat trafficking in person, and for other purposes.

S. 1313

At the request of Mr. WHITEHOUSE, the name of the Senator from Massachusetts (Mr. BROWN) was added as a cosponsor of S. 1313, a bill to amend the Federal Water Pollution Control Act to reauthorize the National Estuary Program, and for other purposes.

S. 1317

At the request of Mr. DEMINT, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. 1317, a bill to allow individuals to choose to opt out of the Medicare part A benefit.

S. 1323

At the request of Mr. REID, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 1323, a bill to express the sense of the Senate on shared sacrifice in resolving the budget deficit.

S.J. RES. 19

At the request of Mr. HATCH, the names of the Senator from Texas (Mrs. HUTCHISON) and the Senator from South Dakota (Mr. THUNE) were added as cosponsors of S.J. Res. 19, a joint resolution proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States.

S. RES. 80

At the request of Mr. KIRK, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. Res. 80, a resolution condemning the Government of Iran for its state-sponsored persecution of its Baha'i minority and its continued violation of the International Covenants on Human Rights.

S. RES. 175

At the request of Mrs. SHAHEEN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. Res. 175, a resolution expressing the sense of the Senate with respect to ongoing violations of the territorial integrity and sovereignty of Georgia and the importance of a peaceful and just resolution to the conflict within Georgia's internationally recognized borders.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. FEINSTEIN:

S. 1336. A bill to prevent immigration fraud and for other purposes; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, today I am introducing the Immigration Fraud Prevention Act of 2011. This legislation would provide a much-needed tool for prosecutors to use to combat the exploitative actions of fraudulent lawyers and consultants who take advantage of individuals seeking immigration assistance.

The Immigration Fraud Prevention Act would punish fraud and misrepresentation in the context of immigration proceedings. The act would create a new Federal crime to penalize those who engage in schemes to defraud immigrants.

Specifically, the act would make it a Federal crime to knowingly and falsely represent that an individual is an attorney or accredited representative authorized to represent aliens in immigration proceedings; and to knowingly defraud or receive money or anything of value from any person by false or fraudulent pretences, representations, or promises.

Violations of these crimes would result in a fine, imprisonment of not more than 5 years, or both.

The bill would also work to combat immigration fraud by increasing the awareness of notario fraud to immigrants.

The bill would require immigration courts to provide immigrants in removal proceedings with information about notario fraud.

The bill would require the Justice Department to compile and make available to the public a list of individuals and organizations that have been convicted of immigration fraud; and permit only people who have, within a 12-month period, represented immigrants pro bono appear on the Justice Department's list of pro bono legal services.

By enacting this bill, Congress would help prevent more victims like Mr. Ibarra, a Mexican national and father of four, who has resided in Los Angeles since 1988. Mr. Ibarra hired a so-called ''immigration specialist'' and paid him over $7,500. In his apartment, Mr. Ibarra keeps reams of documents that the immigration consultant claimed to have filed on his behalf but never did—as Mr. Ibarra subsequently learned from immigration authorities when he was placed into removal proceedings. I wish I could tell you that this kind of egregious behavior is uncommon, but sadly, that is not the case.

Last November, the San Francisco City Attorney filed a lawsuit against a former lawyer who ran an illicit immigration law practice. In the three decades in which the lawyer was licensed to practice law, he was reported on numerous occasions to the California bar for his unethical behavior that included collecting exorbitant fees; representing clients in a negligent manner; and misleading immigrants with assurances of favorable outcomes.

Eventually, the lawyer resigned from the legal profession and was prohibited from representing clients before the Board of Immigration Appeals. The terms of his resignation prevented him from practicing law or portraying himself as eligible to practice law. Instead of abiding by these terms, the lawyer proceeded to set up another law practice through which he defrauded over two hundred immigrants, depleting many of these victims of their entire life savings.

I am pleased that last month the Federal Government partnered with State prosecutors and immigration advocacy organizations to launch a nationwide campaign to combat these harmful schemes. The enactment of this bill would enhance the government's ability to achieve the goals of this national campaign by providing prosecutors with a tough new Federal criminal law that could be used to convict fraudulent-lawyers and consultants who prey on immigrants.

Mr. President, I urge support for the Immigration Fraud Prevention Act of 2011.

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

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

S. 1336

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 ''Immigration Fraud Prevention Act of 2011''.

SEC. 2. MISREPRESENTATION.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by inserting at the end the following:

''§ 1041. Misrepresentation

''Any person who knowingly and falsely represents that such person is, or holds himself or herself out as, an attorney, an accredited representative, or any person authorized to represent any other person before any court or agency of the United States in any removal proceeding or any other case or matter arising under the immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)) shall be fined under this title, imprisoned not more than 5 years, or both.''.

(b) TABLE OF SECTIONS AMENDMENT.—The table of sections for chapter 47 of title 18, United States Code, is amended by adding after the item relating to section 1040 the following:

''Sec. 1041. Misrepresentation.''.

SEC. 3. IMMIGRATION SCHEMES TO DEFRAUD ALIENS.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by inserting at the end the following:

''§ 1352. Immigration schemes to defraud aliens

''Any person who, in connection with any matter arising under the immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)) or any matter the offender claims or represents to arise under such immigration laws, knowingly executes a scheme or artifice to—

''(1) defraud any person; or

''(2) obtain or receive money or anything else of value from any person by means of false or fraudulent pretenses, representations, or promises,

shall be fined under this title, imprisoned not more than 5 years, or both.''.

(b) TABLE OF SECTIONS AMENDMENT.—The table of sections for chapter 63 of title 18, United States Code, is amended by adding at the end the following:

''Sec. 1352. Immigration schemes to defraud aliens.''.

SEC. 4. LISTS OF COUNSEL FOR ALIENS.

Section 239(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1229(b)(2)) is amended to read as follows:

''(2) CURRENT LISTS OF COUNSEL.—The Attorney General shall compile and update, not less frequently than quarterly, lists of persons who, during the most recent 12 months, have provided pro bono representation of aliens in proceedings under section 240 that—

''(A) include a description of who may represent the alien in the proceedings, including a notice that immigration consultants, visa consultants, and other unauthorized individuals may not provide such representation; and

''(B) shall be provided in accordance with subsection (a)(1)(E) and otherwise made generally available.''.

SEC. 5. LIMITATION ON REPRESENTATION.

Section 239(b) of the Immigration and Nationality Act (8 U.S.C. 1229(b)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following:

''(3) LIST OF PROHIBITIONS.—The Attorney General shall—

''(A) compile a list of specific individuals, organizations, and practices that the Attorney General has determined are prohibited in the provision of representation in immigration proceedings, including individuals who have been convicted for a violation of section 1041 or 1352 of title 18, United States Code;

''(B) update the list compiled pursuant to subparagraph (A) not less frequently than quarterly; and

''(C) make such list available to the general public.''.

By Mr. WHITEHOUSE:

S. 1338. A bill to amend chapter 5 of title 31, United States Code, to establish the Office of Regulatory Integrity within the Office of Management and Budget; to the Committee on Homeland Security and Governmental Affairs.

Mr. WHITEHOUSE. Mr. President, I rise to speak about two bills that I am introducing today to address a serious and persistent threat to the integrity of our government: regulatory capture.

Over the last 50 years, Congress has tasked an alphabet soup of regulatory agencies to administer our laws through rule-making, adjudication, and enforcement. Protecting the proper functioning of these regulatory agencies has led me to the topic of regulatory capture. I held a hearing on the subject last year in the Senate Judiciary Committee and now am filing two bills that will make our government more resistant to the ever-growing power of special interests. I urge my colleagues to join me in passing these important good-government measures.

At bottom, regulatory capture is a threat to democratic government. ''We the People'' pass laws through a democratic and open process. Powerful interests then seek to ''capture'' the regulatory agencies that enforce those laws so that they can avoid their intended effect, turning laws passed to protect the public interest into regulations and enforcement practices that benefit limited private interests.

This concept of ''regulatory capture'' is well-established in regulatory and economic theory.

In 1913, Woodrow Wilson wrote this: ''If the government is to tell big business men how to run their business, then don't you see that big business men . . . must capture the government, in order not to be restrained too much by it?''

The first dean of the Woodrow Wilson School, Marver Bernstein, wrote that a regulatory commission will tend over time to ''become more concerned with the general health of the industry,'' and try ''to prevent changes which will adversely affect'' the industry. This, he said, ''is a problem of ethics and morality as well as administrative method''; ''a blow to democratic government and responsible political institutions.'' Ultimately he said it leads to ''surrender'': ''The commission finally becomes a captive of the regulated groups.''

Regulatory capture has been the subject of work by Nobel laureate George Stigler in his article ''The Theory of Economic Regulation.'' Students of administrative law know how well established the doctrine of ''regulatory capture'' or ''agency capture'' is in that field.

Last year, a senior fellow at the Cato Institute wrote in the Wall Street Journal about ''a striking example of regulatory capture.'' He described the phenomenon this way: ''Agencies tasked with protecting the public interest come to identify with the regulated industry and protect its interests against that of the public. The result: Government fails to protect the public.'' His example was the Minerals Management Service, in relation to the BP oil spill.

The failures of MMS in the lead up to the oil spill in the Gulf of Mexico, the cozy relationship between MMS officials and industry executives, and the shameful behavior of some MMS employees are archetypal symptoms of regulatory capture. But the report of the commission on the Gulf oil spill never mentioned ''regulatory capture.''

That is a pretty strong signal that regulatory capture isn't getting the attention it deserves.

When you think about the century-long academic and policy debate about regulatory capture, and when you look at the cost of recent disasters in areas regulated by the Minerals Management Service, the Mine Safety and Health Administration, and the Securities Exchange Commission, it seems pretty evident that Congress should be concerned not only about those prior incidents, but about addressing the threat of future regulatory capture. The experts I have spoken with in my home state of Rhode Island certainly understand that regulatory capture matters. They don't want a captured agency to allow the next oil spill or other man-made disaster to happen in our state, or for a financial agency to allow speculators to wipe out the savings of our citizens. Surely constituents of each of the members of this body would agree whole-heartedly.

That is why I am introducing two pieces of legislation today.

The first bill is called the Regulatory Capture Prevention Act. It would create an office within the Office of Management and Budget with the authority to investigate and report regulatory capture. The office would ensure that abuses were not overlooked, and sound the alarm if a regulatory agency were overwhelmed by a more sophisticated and better-resourced regulated industry. Scrutiny and publicity are powerful tools for protecting the integrity of our regulatory agencies. This bill would employ them to prevent powerful interests from coopting our laws.

The second bill is called the Regulatory Information Reporting Act. It would shed extra sunlight into regulatory agencies by requiring them to report to a public Web site the following: first, the name and affiliation of each party that comments on an agency regulation; second, whether that party affected the regulatory process; and finally, whether that party is an economic, noneconomic, or citizen interest. By centralizing this information for public and congressional scrutiny, the bill would create a simple dashboard for hints of regulatory capture in agency rulemaking.

As the Senate considers these bills, we should remember how much agreement exists about regulatory capture. During the hearing I chaired on regulatory capture last year, all of the witnesses, from across the ideological spectrum, agreed on each of the following 7 propositions. First, regulatory capture is a real phenomenon and a threat to the integrity of government. Second, regulated entities have a concentrated incentive to gain as much influence as possible over regulators, opposed by a diffuse public interest. Third, regulated industries ordinarily have substantial organizational and resource advantages in the regulatory process when compared to public interest groups. Fourth, some regulatory processes lend themselves to gaming by regulated entities seeking undue control over regulation. Fifth, regulatory capture by its nature happens in the dark—done as quietly as possible; no industry puts up a flag announcing its capture of a regulatory agency. Sixth, the potential damage from regulatory capture is enormous. Finally, effective congressional oversight is key to keeping regulators focused on the public interest.

With that as a starting point, I am hopeful that the Senate can agree on legislation to address this very real problem. Administrative law may not be the most glamorous subject, but I hope to work with colleagues on both sides of the aisle to eliminate regulatory capture.

This is so important because for as long as there are regulatory agencies, regulated industries, and money, there will be efforts at regulatory capture. We owe it to our country to do everything possible to defeat such efforts to capture our government of the people, by the people, and for the people.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 226—EXPRESSING THE SENSE OF THE SENATE THAT THE PRESIDENT DOES NOT HAVE THE AUTHORITY TO IGNORE THE STATUTORY DEBT LIMIT BY ORDERING THE SECRETARY OF THE TREASURY TO CONTINUE ISSUING DEBT ON THE FULL FAITH AND CREDIT OF THE UNITED STATES

Mr. GRAHAM (for himself, Mr. CORNYN, Mr. MCCAIN, Ms. AYOTTE, Mr. ISAKSON, Mr. COATS, Mr. INHOFE, Mr. SESSIONS, Mr. CHAMBLISS, Mr. BARRASSO, Mr. JOHANNS, Ms. MURKOWSKI, and Mr. RISCH) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 226

Whereas clause 2 of section 8 of article I of the Constitution of the United States gives Congress the power ''[t]o borrow Money on the credit of the United States'';

Whereas the 14th Amendment to the Constitution of the United States says, ''The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned.'';

Whereas Congress has historically limited the Federal debt, either by specifically authorizing the issuance of new debt instruments, or through imposing an aggregate limit on Federal debt;

Whereas the statutory debt limit was established by an Act of Congress and signed into law by the President in 1982; and

Whereas the debt subject to limit has been increased through an Act of Congress and Presidential signature 38 times since 1982: Now, therefore, be it

Resolved, That it is the Sense of the Senate that the President does not have the authority to ignore the statutory debt limit by ordering the Secretary of the Treasury to continue issuing debt on the full faith and credit of the United States.

SENATE RESOLUTION 227—CALLING FOR THE PROTECTION OF THE MEKONG RIVER BASIN AND INCREASED UNITED STATES SUPPORT FOR DELAYING THE CONSTRUCTION OF MAINSTREAM DAMS ALONG THE MEKONG RIVER

Mr. WEBB (for himself, Mr. INHOFE, and Mr. LUGAR) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 227

Whereas the Mekong River is the world's 12th longest river, originating on the Tibetan Plateau and flowing nearly 3,000 miles down through China into Burma, Thailand, Laos, Cambodia, and Vietnam;

Whereas the Lower Mekong River in Thailand, Laos, Cambodia, and Vietnam is a source of fresh water, food, and economic opportunity for more than 60,000,000 people;

Whereas the Mekong River is second in biodiversity only to the Amazon River, with an estimated 1,500 different species of fish, of which at least a third migrate up the river and tributaries in their life cycle, including the majority of the commercial fish catch;

Whereas the Mekong River supports the world's two largest rice exporters, Thailand and Vietnam, as well as the world's largest inland fishery of 4,000,000 tons of freshwater fish per year, providing up to $9,000,000,000 annual income and approximately 80 percent of the animal protein consumed in the Lower Mekong Basin;

Whereas China is constructing a cascade of up to 15 dams along the mainstream of the Upper Mekong River, and Thailand, Laos, Cambodia, and Vietnam are planning to construct or finance the construction of up to 11 dams on the lower half of the river's mainstream;

Whereas scientific studies have cautioned that mainstream dam construction will negatively affect the river's water flow, fish population, and wildlife;

Whereas the Mekong River Commission is a river basin management organization including the governments of Thailand, Laos, Cambodia, and Vietnam that have signed the Agreement on the Cooperation for the Sustainable Development of the Mekong River Basin, done at Chiang Rai, Thailand, April 5, 1995, and agreed to cooperate on management of the river and ''development of the full potential of sustainable benefits to all riparian States'';

Whereas the members of the Commission have also agreed to ''make every effort to avoid, minimize and mitigate harmful effects that might occur to the environment, especially the water quantity and quality, the aquatic (eco-system) conditions, and ecological balance of the river system, from the development and use of the Mekong River Basin water resources or discharge of wastes and return flows'';

Whereas the Mekong River Commission sponsored a Strategic Environmental Assessment of the proposed series of mainstream dams along the Lower Mekong River, concluding that the decision to move forward with even one dam would result in permanent and irreversible changes to the river's productivity and regional environment;

Whereas such changes could threaten the region's food security, block fish migration routes, increase risks to aquatic biodiversity, reduce sediment flows, increase saline intrusion, reduce agricultural production, and destabilize the river channels and coastline along the Mekong Delta;

Whereas the United States has significant economic and strategic interests in the Mekong River subregion that may be jeopardized if the construction of mainstream dams places the region's stability at risk;

Whereas the Department of State initiated the Lower Mekong Initiative in July 2009 to engage Thailand, Laos, Cambodia, and Vietnam on water security issues, to build regional capacity, and to facilitate multilateral cooperation on effective water resources management;

Whereas funding for the Lower Mekong Initiative has primarily focused on the environment, health, and education, leaving the fourth pillar—infrastructure—largely unfunded;

Whereas attention to infrastructure development is a critical element of promoting the sustainable, coordinated construction of hydropower dams in the region;

Whereas, on September 22, 2010, Laos submitted for review to the Mekong River Commission the proposal for the Xayaburi Dam, the first of nine mainstream dams planned by Laos along the Lower Mekong River;

Whereas, on April 19, 2011, the Mekong River Commission's Joint Committee representatives met to discuss the Xayaburi project without reaching consensus on whether the project should proceed, but agreed during the meeting to table the decision and consider it at a later date at a higher, ministerial level; and

Whereas, on May 8, 2011, the Government of Laos agreed to temporarily suspend work on the Xayaburi dam and announced plans to conduct further environmental assessments on the project in response to regional concerns: Now, therefore, be it

Resolved, That the Senate—

(1) calls on United States representatives at multilateral development banks to use the voice and vote of the United States to support strict adherence to international environmental standards for any financial assistance to hydropower dam projects on the mainstream of the Mekong River;

(2) encourages greater United States engagement with the Mekong River countries through the Lower Mekong Initiative and increased support for sustainable infrastructure and water security in Southeast Asia;

(3) calls on the United States Government in leading the Lower Mekong Initiative to devote greater attention to and funding for capacity building projects on infrastructure and to assist in identifying sustainable economic, water, and energy alternatives to mainstream hydropower dams on the Mekong River;

(4) applauds the decision of the Mekong River Commission to delay endorsement of the Xayaburi Dam;

(5) supports further delay of the construction of mainstream hydropower dams along the Mekong River until the studies by the Government of Laos have been completed and adequate planning and multilateral coordination can be guaranteed;

(6) encourages members of the Mekong River Commission to adhere to the prior consultation process for dam construction under the Commission's Procedures for Notification, Prior Consultation and Agreement;

(7) calls on all riparian states along the Mekong River, including China, to respect the rights of other river basin countries and take into account any objection or concerns regarding the construction of hydropower dams;

(8) calls on the Governments of Burma and China to improve cooperation with the Mekong River Commission and information sharing on water flows and engage in regional decision making processes on the development and use of the Mekong River; and

(9) supports assistance to the Lower Mekong River riparian states to gather data and analyze the impacts of proposed development along the river.