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House of Representatives

The House met at 10 a.m.

The Reverend Dr. Richard Lee, First Redeemer Church, Cumming, Georgia, offered the following prayer:

Most gracious God, our heavenly Father and Creator of all, we thank You for America, our homeland, and Your bountiful blessings upon us.

Today we ask that You would grant the Members of this Congress wisdom and understanding to lead our Nation into those paths of truth and righteousness that would please You and serve for our common good.

Forgive us when in times of our blessings we forget that Thou art our source, our defender, and guide. Protect those who even now place themselves in harm's way to preserve the freedom of our land.

Keep us from pride and arrogance and give us a willing spirit to seek out Your laws and commandments and be obedient to them. And grant us Your grace that we might show forth Your power and Your glory to all nations.

These things we pray in the name of Jesus Christ, our Lord and Saviour. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from Oregon (Ms. HOOLEY) come forward and lead the House in the Pledge of Allegiance.

Ms. HOOLEY of Oregon 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.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment a bill of the House of the following title:

H.R. 4167. An act to extend for 8 additional months the period for which chapter 12 of title 11 of the United States Code is reenacted.

The message also announced that the Senate has passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 169. An act to require that Federal agencies be accountable for violation of antidiscrimination and whistleblower protection laws; to require that each Federal agency post quarterly on its public Web site, certain statistical data relating to Federal sector equal employment opportunity complaints filed with such agency; and for other purposes.

WELCOMING REVEREND DR. RICHARD LEE

(Mr. LINDER asked and was given permission to address the House for 1 minute.)

Mr. LINDER. Mr. Speaker, I rise to extend a warm welcome to Dr. Richard Lee. It is a privilege to have him with us this morning.

Dr. Lee is the founding pastor of First Redeemer Church located in metropolitan Atlanta's Forsyth County, which is recognized as the fastest growing county in the United States.

Dr. Lee graduated magna cum laude from Mercer University and Luther Rice Seminary, earning the Bachelor of Arts degree in psychology and the Master of Divinity and Doctor of Ministry degrees in theology and pastoral ministry.

Dr. Lee is a recognized spokesman for the Christian community at large. He appears as a speaker at national and international conferences and conventions, on national television programs, and has written 10 books, all of which pales compared to the fact that he was named Father of the Year by the National Father's Day Council of New York City, an achievement all of us would dream of.

Mr. Speaker, it has been said that example is not the main thing in influencing others, it is the only thing. During the past year, a year when every American has experienced the highest of highs and the lowest of lows, Dr. Lee's exemplary leadership has not only been a tremendous service to his congregation; it has been a shining light to the surrounding community as well.

Dr. Lee, you have honored us with your presence this morning and we thank you.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. One-minutes will be at the end of legislative business today.

MOTION TO INSTRUCT CONFEREES ON H.R. 2646, FARM SECURITY ACT OF 2001

Ms. HOOLEY of Oregon. Mr. Speaker, I offer a motion to instruct conferees.

The SPEAKER pro tempore (Mr. SHIMKUS). The Clerk will report the motion.

The Clerk read as follows:

Ms. HOOLEY of Oregon moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 2646 be instructed to agree to the provisions contained in section 1001 of the Senate amendment and section 944 of the House bill, relating to country of origin labeling requirements for agricultural commodities, but to insist on the six-month implementation deadline contained in the House bill.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Oregon (Ms. HOOLEY) and the gentleman from South Dakota (Mr.

THUNE) each will be recognized for 30 minutes.

The Chair recognizes the gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Mr. Speaker, I yield myself such time as I may consume.

Today with the support of my colleagues, the gentlewoman from California (Mrs. BONO), the gentleman from North Dakota (Mr. POMEROY), and the gentleman from South Dakota (Mr. THUNE), I bring a motion to the floor to instruct conferees to the farm bill regarding country-of-origin labeling.

Our friends on the conference committee have an incredibly difficult job to do, and I know they have been working hard. This is not an easy piece of legislation to agree on. However, one thing they should all be able to agree on is country-of-origin labeling. This is something that farmers want, this is something that consumers want, and this is something that your constituents want.

There are hundreds of local, regional, and national organizations that support country-of-origin labeling. These include the American Farm Bureau, National Farmers Union, United Stockgrowers of America, National Consumers League, Consumer Federation of America, Public Citizen, and hundreds of other organizations.

I have in front of me a potato and an onion. These were purchased at the grocery store last night. Where were they grown? I have not a clue.

Now, I have a hat. I know exactly where this hat is made. This I just wear on my head; this is what I put in my mouth. Which is the most important to know where it is made? I think it is the food you put in your mouth. It is my right to know as a consumer where that food comes from. When I walk into that grocery store to buy food for my family, I want to make sure that it is grown in a place that is safe. What if I want to support American agriculture and buy American? I guess I just have to hope that it was made in the United States or grown in the United States.

Our food is some of the safest produced, and the men and women that produce that food want Americans to know where it came from. Our growers have to comply with strict, exhaustive local, State and Federal regulations governing the use of land, water, labor and chemicals, rules that many of our trading partners do not comply with, such as worker safety, sanitation, environmental protection.

Opponents of this amendment contend that the costs for the industry, including retailers, to comply with country-of-origin labeling requirements are too great and the price of the products and produce will rise as a result. This is simply untrue. We already have a great test case currently in place. The fourth most populous State in the country, Florida, has had the country-of-origin labeling requirements in place for over 20 years. If you take a poll of the people in Florida, they will tell you by 96 percent, they love it.

Thirteen of our biggest trading partners, including Canada, Mexico, Japan, France, and the United Kingdom, require country-of-origin labeling on produce imported into their countries. When the gentlewoman from California (Mrs. BONO) and I brought an amendment to the farm bill on the floor that would require all fresh fruit and vegetables to clearly be marked with its country of origin, this body responded overwhelmingly; 296 Members, almost 300 people, supported our amendment.

All we are doing today is asking our colleagues to honor the wishes of its Members and retain these provisions as written into the House and Senate bills.

Mr. Speaker, I reserve the balance of my time.

Mr. THUNE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to credit the gentlewoman from Oregon (Ms. HOOLEY) for her hard work and leadership on this issue; the gentlewoman from California (Mrs. BONO) for the work that she has done in advancing the cause of country-of-origin labeling; the gentleman from North Dakota (Mr. POMEROY), who along with me has introduced H.R. 1121, the Country of Origin Meat Labeling Act; and others in this body who have supported this effort to make sure that consumers in this country know where their food is coming from. This is important legislation.

The bill requires, or the motion would require, suggests to the conferees that any meat or meat product imported into the United States must be labeled to indicate its country of origin. Additionally, any meat product produced in the United States that contains any meat or meat product, the origin of which is not in the United States, must also be labeled to indicate country of origin.

Under this motion, U.S. consumers, if this language is adopted as part of the farm bill, would be assured that the products that they consume pass through one of the most stringent inspection systems in the world. Producers deserve the assurance that their reputation for producing quality meat is not damaged by inferior products. And consumers deserve the assurance that the meat that they buy is of the highest quality.

During the farm bill markup in the Committee on Agriculture, I offered a country-of-origin amendment, labeling amendment, to the farm bill for beef, lamb and pork, as well as perishable commodities and farm-raised fish. It was a long, vigorous, and often contentious 4-hour debate. Yet it is a debate worth having, and it is a fight worth having because the issue is that important to the American people. The more people understand what is involved with this issue, the more convinced they become that this is the right policy for America.

Why is this important? For several reasons. First, consumers have the right to know the origin of the meat that they buy in the grocery store. Second, ranchers deserve to have their product clearly identified. Third, current law creates a false impression about the origin of USDA grade meat. Fourth, most other consumer products are labeled as to country of origin. Meat should be no different. And, fifth, as the gentlewoman from Oregon already noted, numerous countries already are imposing country-of-origin labeling requirements, including Canada, Mexico, and the European Union. It is only fair to producers in this country and to consumers in this country that we do the same thing.

The farm bill conference is currently deliberating this important issue. Conferees are considering a voluntary labeling requirement or provision in this bill. South Dakota producers find this unacceptable. We should find it unacceptable as well. The only real option is to include mandatory country-of-origin labeling in this farm bill.

I would encourage my colleagues in the House to vote for this motion to instruct. I again want to compliment and thank the gentlewoman from Oregon for her leadership; the gentlewoman from California (Mrs. BONO) for the hard work that she has done in making sure that this issue is front and center as we debate farm policy in this country and as we debate it in the House Committee on Agriculture, the folks who are involved in that; and the gentleman from Montana (Mr. REHBERG), also an active advocate and effective spokesperson on behalf of country-of-origin labeling.

It is important to those Members, to us, as well as to all people across this country and to the producers of this country that we put in place a mandatory country-of-origin labeling requirement so that the people in this country know where their food is coming from and so that producers in this country have an opportunity to have their product clearly identified as the finest and the best in the world.

Mr. Speaker, I reserve the balance of my time.

Ms. HOOLEY of Oregon. Mr. Speaker, again I thank my colleague from South Dakota for his great words about how important this is.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida (Mrs. THURMAN), one of the States that has had mandatory labeling for the last 20 years.

Mrs. THURMAN. Mr. Speaker, I thank the gentlewoman for yielding me this time, and I certainly thank my colleagues who have brought this motion to instruct to the conference committee.

□ 1015

I am especially appreciative because I can tell my colleagues a story of why this motion is so important and needed.

In 2001, there were some cantaloupes that were found to be contaminated

and word quickly spread, erroneously I might add, that all melons were contaminated, and the market collapsed. I have melon-growers in my district. If we had country-of-origin labeling then, consumers would have known the source of the contaminated melons. They were foreign and not domestic. Our market would not have been disrupted, perfectly good produce would not have been thrown out, and domestic growers would have been protected.

I want to address also the argument that the provision will be costly. Well, as has been mentioned, Florida has had a similar law for more than 20 years. When I walk into the grocery store, there is a sign that is placed to indicate the origin of the produce. It looks like it has been cut out of a piece of construction paper, printed, and put up. The Florida Department of Agriculture has indicated that it costs supermarkets $5 to $10 per store a week to comply with that law. It does not seem too costly to me that we could let our folks at home know the origin of our fruits and vegetables.

They might say, well, it could be a trade issue. Well, I do not see it as a trade issue. Thirteen of our 28 largest trading partners have similar laws for fresh produce and stores in those countries find a way to comply; certainly, American stores are just as capable.

Finally, the American people want this information: 78 percent, according to a recent poll, that shows that the House was correct last year when 296 of us voted for country-of-origin labeling.

So I ask my colleagues now to support this motion, as my colleagues did before. Let us make sure that our consumers and our farmers benefit from a motion that helps all of us.

Mr. THUNE. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Mrs. BONO), someone who has been a fearless and effective advocate to ensure that we get country-of-origin labeling requirements in this farm bill, and someone who has been an incredible spokesperson on this issue; and, pending that, I ask unanimous consent that the balance of my time be controlled by the gentlewoman from California (Mrs. BONO), and that she be able to yield that time.

The SPEAKER pro tempore (Mr. SHIMKUS). Is there objection to the request of the gentleman from South Dakota?

There was no objection.

Mrs. BONO. Mr. Speaker, I thank the gentleman from South Dakota (Mr. THUNE) for yielding me this time.

Mr. Speaker, when the House of Representatives passed the Bono-Hooley amendment on country-of-origin labeling to the farm bill, we took a positive step forward. However, despite the House's resounding approval of this amendment, the farm bill conferees are considering an option to give us country-of-origin labeling on a voluntary basis and then leave the question of whether to mandate labeling up to the discretion of the Secretary of Agriculture.

Mr. Speaker, this does us no good. We already have a voluntary program. So this offer to institute voluntary labeling does absolutely nothing to address the concerns our constituents have in wanting to know where in the world their produce and beef comes from.

When the last comprehensive labeling act was passed by Congress nearly 70 years ago, there were very few fruit and vegetable imports into the United States. However, with our grocery stores now inundated with foreign-grown produce and beef, I believe it is up to Congress and not to the Secretary of Agriculture, to mandate a consumer's right to know.

We have taken such action on other goods, and now it is the time for us to use our constitutional authority to act on mandatory labeling of fresh produce and beef.

There are those who charge that this program would be too costly for the consumer. In 1979, the State of Florida passed the Produce Labeling Act, which mandates country-of-origin labeling. This highly successful program requires only 2 staff hours per store per week.

Critics are also concerned about this provision leading to a trade war. But according to the GAO, 13 of our Nation's 28 biggest trading partners, including Mexico, the U.K., Japan and Canada, require country-of-origin labeling for fresh produce.

Mr. Speaker, country-of-origin labeling is practiced by our trading partners, it is inexpensive to implement and, in the name of safety and the consumers' right to know, it is much needed.

I urge my colleagues to let the conferees know how important this issue is. Vote in favor of the Hooley motion to instruct conferees.

Mr. Speaker, I yield back the balance of my time.

Ms. HOOLEY of Oregon. Mr. Speaker, I yield myself the remaining time.

This, again, should be a simple matter. We have heard from Florida, where it literally costs a person a penny a week or less. This can be achieved very easily by placing signs near produce bins or with price information in the stores displaying their items in their original shipping cartons. This does not have to be a tough issue. It should be mandatory that we know where the food that we put in our mouth comes from, and I urge the support of this motion to instruct.

Mr. WU. Mr. Speaker, consumers are the only people in the produce marketing chain who don't know where their food is grown. The shippers know where the produce was grown. So do the buyers, the merchandisers, and the clerks. Produce shoppers rarely share in this information because the country-of-origin information is stripped off before it makes it to the display bin case.

For the past 69 years, goods imported into the United States have been required to be labeled with the product's country of origin. Your clothing, coffee mug, and even the chair you are sitting in have country of origin labels. It's hard to find a consumer produce in this country without one. However, fruits and vegetables are exempt from the labeling law. It's time for Congress to change that exemption.

The cost of administering labeling is, by the retail industry's own accounts, insignificant . . . far less than a penny for each consumer's weekly food bill.

The GAO says that 13 of our Nation's 28 biggest trading partners require country of origin labels for fresh produce. Shouldn't U.S. consumers be entitled to the same information as consumers in these countries?

Growers in the 1st Congressional District of Oregon, like all U.S. growers, must comply with strict, comprehensive local, state and federal regulations governing the use of land, water, labor, and agricultural chemicals. Compliance with these laws and regulations is very costly, but necessary to ensure, among other things, food and worker safety, sanitation and environmental protection. These production standards add safety and value to our products.

With farm prices at record lows, we need to give our producers an edge in the market. Country of origin is one, low cost and effective way to help American consumers to make an informed choice at the supermarket, and benefit American growers at the same time. It's good for consumers and it's good for growers. And it's common sense. Why is it that I know where this tie was made, where this suit made, where my boots are made, but when I walk down the street and buy a head of lettuce, I can't find out where it was grown?

The motion to instruct is not only common sense, it is not only good for American health and sanitation—it goes to the heart of American values—consumer choice and help for the small farmer. I urge its adoption.

Mr. POMEROY. Mr. Speaker, I strongly support the Hooley motion to instruct farm bill conferees to retain language passed in the Senate farm bill that requires country of origin labeling information on meat, fish, fruits, and vegetables. Country of origin labeling is necessary to give U.S. consumers important information and give U.S. producers credit for the considerable investment they have made in the quality and safety of their products.

Consumers support country of origin labeling so that they are able to make informed decisions and choose products based on their origin. Our food system has become more global and consumers are demanding new information on the products they buy. Studies show that over 80 percent consumers support country of origin labeling of their food products. Consumers can pick up any article of clothing, read the label, and know where it was manufactured. However, the head of lettuce or steak they purchase in their grocery store lacks basic information on where it was produced.

Producers support country of origin labeling because it allows them to differeniate their product. American producers have placed a high priority on developing high-quality, safe food. They can benefit from this investment only if consumers are able to differentiate between products of U.S. origin and products from overseas.

I do want to commend the conferees to the farm bill. They are working diligently to arrive at a compromise that we can all support in

order to finish this farm bill quickly. However, we should still send the message to the Farm Bill conferees about consumers' right to know the origin of the food they buy and producers' right to distinguish their product.

I urge my colleagues to support country of origin labeling and this motion to instruct. We must protect the considerable investment that we have made in our high-quality, safe meat supply.

Ms. HOOLEY of Oregon. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentlewoman from Oregon (Ms. HOOLEY).

The motion to instruct was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Ms. HOOLEY of Oregon. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the motion to instruct conferees on H.R. 2646.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess for 5 minutes.

Accordingly (at 10 o'clock and 24 minutes a.m.), the House stood in recess for 5 minutes.

□ 1030

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SHIMKUS) at 10 o'clock and 30 minutes a.m.

PROVIDING FOR CONSIDERATION OF H.R. 3763, CORPORATE AND AUDITING ACCOUNTABILITY, RESPONSIBILITY, AND TRANSPARENCY ACT OF 2002

Mr. SESSIONS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 395 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 395

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 3763) to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Financial Services. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Financial Services now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Texas (Mr. SESSIONS) is recognized for 1 hour.

Mr. SESSIONS. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to my friend, the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for purposes of debate only.

Mr. Speaker, the resolution before us today is a fair, structured rule providing for the consideration of H.R. 3763, the Corporate and Accounting Accountability, Responsibility, and Transparency Act of 2002.

The rule provides for 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Committee on Financial Services. All points of order against consideration of the bill are waived.

The amendment in the nature of a substitute recommended by the Committee on Financial Services now printed in the bill shall be considered as the original bill for the purposes of amendment and shall be considered as read. All points of order against the bill, as amended, are also waived.

Only the amendments printed in the report of the Committee on Rules accompanying the resolution are made in order. These amendments shall be considered only in the order printed in the report and may be offered only by a Member designated in the report. They shall be considered as read and debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent. They shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. Points of order against the amendments are also waived.

Finally, the rule provides one motion to recommit, with or without instructions.

Mr. Speaker, I am pleased that today we are going to debate the Corporate and Auditing Accountability, Responsibility, and Transparency Act of 2002, known as CARTA. Two weeks ago, the House considered and passed the Pension Security Act, which focused on providing workers with new options and resources concerning their pensions. Today, we are considering legislation that affects the corporate accountability side of that issue.

Mr. Speaker, currently, more than half of all U.S. households invest in mutual funds, pension funds, or 401(k) plans. The face of the American investor is younger and more diverse than ever today. I firmly believe that encouraging Americans to help secure their own future through savings is vitally important for their own success. While savings must begin with the individual, there are also ways that the government can, must, and will help to encourage people to save.

The positive ripple effects of this bill are far-reaching. Restoring investor confidence in the financial stability of companies doing business in this country leads to more jobs and a stronger economy. Increasing accessibility of timely and accurate investment information helps American workers not only plan for retirement, but also better assures them of a secure retirement. For those of us who are still planning for our children's college educations, we can be assured that greater corporate responsibility will help protect these and other investments that, as American workers, we make.

This legislation focuses on several principles, all designed to protect investors and employees.

First of all, we must restore confidence in accounting. In order to ensure auditor independence, firms would be prohibited from offering controversial consulting services to companies that they are also auditing.

Additionally, under CARTA, a new public regulatory board with strong oversight authority would be established, and under the direction of the Securities and Exchange Commission, they would work together. This bill recognizes that strong and healthy accounting companies that provide investors with accurate information are critical to ensuring the financial

soundness of companies that investors rely upon.

CARTA also contains provisions that increase corporate disclosure and responsibility. This bill increases the amount of information that would be made available to American workers, investors, and the general public. Instead of presenting this information using legal jargon, investors would receive increased information in real time English and in real time words, where they can understand the essence of not only financial accountability, but also the financial standing of a company.

This is good news for me, because it means we do not need an advanced accounting or legal degree in order to decipher the information. The average American investor will be able to obtain meaningful information, and they will be able to obtain it in a timely fashion.

CARTA also creates parity between senior corporate executives and rank and file workers. During blackout periods, which are routine times when a plan must undergo administrative or technical changes, employees many times are unable to change or access their retirement accounts. What we saw from Enron was an egregious example of disparity, where corporate executives were able to sell off their investments and preserve their savings while rank and file workers were barred from making those same changes. CARTA would prohibit insider sales during blackouts for every single employee.

I have also mentioned some additional responsibility that this bill requires of the Securities and Exchange Commission. However, this legislation also recognizes that we must make sure that the SEC has adequate resources and staffing in order to do an effective job.

The SEC's budget would be increased by 62 percent, allowing them to perform its additional tasks and oversight duties. Among those duties would be regular and thorough reviews of the largest and most widely-traded companies in America.

One thing that has come out from the seven Enron-related hearings in the Committee on Financial Services alone is that investors are not receiving the necessary unbiased information needed to make responsible investment decisions. It is clear that Wall Street research practices are in need of reform. CARTA also addresses this by directing the SEC to study the new regulations and report back to Congress through annual updates on the effectiveness of current rules and standards. This is a critical step towards reducing and resolving conflicts of interest for analysts.

Mr. Speaker, I would also like to today commend the chairman of the Committee on Financial Services, the gentleman from Ohio (Mr. OXLEY), and the gentleman from Louisiana (Chairman BAKER), for their efforts in putting together a carefully crafted and balanced approach. When something such as Enron happens, we as Members of Congress must fight the temptation to react by overlegislating, thus doing more harm than good. These two gentlemen, through their leadership, have made sure that this did not happen.

I believe that the committee of the gentleman from Ohio (Chairman OXLEY) has diligently worked to make sure that the bill we consider today is a balanced and appropriate step towards addressing issues which were highlighted and brought to bear to all Americans as a result of the collapse of Enron. I am pleased that this bill will help create more jobs and strengthen our economy by restoring confidence in corporate financial stability.

I urge my colleagues to support this fair rule. I urge my colleagues to support the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

(Ms. SLAUGHTER asked and was given permission to revise and extend her remarks.)

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman from Texas for yielding me the customary 30 minutes.

This body is about to blow an extraordinary opportunity to address the erosion of trust between the American people and the financial institutions that wield enormous control over their lives.

Make no mistake, the outrage of our constituents is real. They are fed up with corporate fraud and abuses that have produced massive layoffs and wiped out the life savings of thousands of working families. The American people have voiced their outrage to this body through every medium available: letters, e-mails, hearings, interviews, you name it. They have shared stories of devastation, of loss, and dreams deferred, all in the hope that Congress would act to prevent future scandals.

Global Crossing's North American headquarters are located in my district in Rochester, New York. I am sure Members remember Global Crossing. The company was the darling of Wall Street, yet somehow it managed to plummet from a net worth of $22 billion to $750 million in the span of less than a year, not too far from AOL Time Warner, we hear this morning.

In the wake of its collapse, the lives of thousands in my district were shattered, all because the promised safeguards failed at every level. My people got a hard lesson on how companies cheat, overstate, or obscure their financial disclosures in an effort to charm analysts and to manipulate investor expectations.

On March 9, I hosted a public forum in Rochester where 250 people came to share their experiences. One Global Crossing employee noted, and I quote, ''Many former employees have been economically devastated as a result of corporate greed and the mismanagement of Global Crossing. People have spent their life savings and have had to cash in their deflated retirement/401(k) plans just to survive these last few months after Global Crossing abruptly ceased their promised severance payments. Some former employees are now forced to file bankruptcy themselves, while others may lose their homes, have had to drastically change their lifestyles, and are barely surviving.''

Mr. Speaker, my constituents want real reform, not cosmetic changes, to correct the systemic flaws that brought about such havoc in our community. Quite simply, the market failed us, just as it did with the employees and shareholders of Enron.

I had hoped to send good news back today. I had hoped to tell my constituents that this underlying bill is the real thing, that the measure before us will restore confidence and integrity to the markets, and produce tough and effective reforms. But this bill does none of that. Indeed, it creates merely the illusion of reform. In what has become standard operating procedure in this body, corporate interests are the winners.

As for my colleagues, I wish I could say that what hit my community was an isolated event. I wish I could say that with the underlying bill in place, this would never happen in Members' communities. But even the sponsors of the measure acknowledge more Global Crossings and Enrons may come to light. In the months ahead, another Member of Congress will have to face thousands of panicked constituents wondering what happened to their future.

Mr. Speaker, the underlying bill simply sidesteps the problem. It does not provide for a strong, independent regulator for the auditing industry, but simply punts Congress' job to the Securities and Exchange Commission. To be blunt, this job is much too important to delegate. We need to create a powerful regulatory board to set strict standards for auditor independence, with sweeping investigative and disciplinary powers over audit firms.

□ 1045

The underlying bill pays lip service to the issue of auditor independence, but provides no guarantees that an auditor will not be compromised by payments received from his client for his consulting services. It does not ban auditors from performing nonaudit services that create conflicts of interest. Moreover, the bill says nothing about the revolving door between auditors and their clients. Enron, for example, hired several Arthur Andersen auditors, even though auditors who are angling for jobs from their customers are unlikely to show much independence from them.

The bill is also silent on the rotation of audit firms. If an auditor knew that after a few years a different outside

auditor would scrutinize its efforts, this would create a strong incentive to keep the numbers honest. But the half-measures contained in the bill continue. For instance, the bill protects corporate wrongdoers by making it more difficult to go to court to stop officers and directors who engage in deliberate misconduct. The bill does not hold corporate CEOs accountable by requiring them to certify the accuracy of their financial statements, as the Democrat substitute would do.

The underlying bill allows Enron executives and other dishonest CEOs to keep their ill-gotten gains, rather than requiring them to surrender stock bonuses and other incentive pay, as the Democrat bill provides. The underlying bill would simply study the issue. Moreover, individual investors and victims of securities fraud who want to hold the industry accountable for wrongdoing will face major legal hurdles. The committee-reported bill also does nothing to prevent securities analysts' conflicts of interest, even after investigations by New York Attorney General Eliot Spitzer exposed numerous examples of analysts' false or misleading advice to investors.

Mr. Speaker, I urge my colleagues to support real reform.

Mr. Speaker, I reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER), the favorite son from San Dimas, who is the chairman of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I thank my friend for yielding me time and I congratulate him on his superb management of this measure.

Mr. Speaker, I would like to say that I believe it is important for us to realize that we faced what clearly was one of the most devastating and horrible business failures in our Nation's history with the collapse of Enron. I know that there was a temptation by many to politicize this issue and take what clearly was a business failure and somehow determine that it was a political failure and that there were some political figures to blame.

I think that the work that the gentleman from Ohio (Mr. OXLEY) and the Committee on Financial Services has done is a very clear demonstration that there is recognition in a bipartisan way of this substitution that there was a business failure. And the debate that we will proceed with today makes in order two substitutes from our Democratic colleagues and three amendments from our Democratic colleagues which will allow for a full airing of this question.

I think that with the vote that came from the committee, Mr. Speaker, by a margin of 49 to 12, demonstrates that Democrats and Republicans alike have come together to deal with this very serious problem.

As my friend, the gentleman from Dallas, Texas (Mr. SESSIONS) mentioned, there are tremendous numbers of Americans who are members of what is called the investor class. In fact, many believe that over half of the American people are involved in 401(k)s, individual retirement accounts, or some other kind of investments. And it is obvious that there have been some problems with accounting and auditing. That is clearly an understatement. We have seen some very serious problems come forth and we have seen some abuse that has been reported by executives juxtaposed to employees in companies when it has come specifically to the blackout period of time when executives have been able to sell their stock and employees have not been able to.

This legislation is designed to address some of the very serious problems that exist in the area of accounting and auditing, and it is also designed to provide, once again, a level of confidence forever for those members of the American public who are part of the investor class.

It is my hope that we will see more and more Americans participate as members of the investor class. Our goal is to try and make sure that there is enough opportunity for everyone to be part of what President Kennedy loved to call that rising tide that lifts all ships.

I think that this bill will go a long way towards instilling that level of confidence that is necessary. The rule, as has been acknowledged by both sides, is very fair. We in the majority have again turned ourselves inside out to make sure that we provide an opportunity for those in the minority to be heard on this, and they clearly will have that opportunity as we proceed with debate today.

I urge my colleagues, Mr. Speaker, to vote for the rule and for the underlying legislation and we will have a full and rigorous debate on all of the amendments that will take place between now and then.

Ms. SLAUGHTER. Mr. Speaker, I yield 5 minutes to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Speaker, I rise this morning in opposition to this rule and the current legislation.

I have the privilege of serving on the Committee on Financial Services as well as serving on the Committee on Small Business. I had the privilege and opportunity to ask questions of Harvey Pitt, the SEC chairman. I had the privilege and opportunity to ask questions of the CEO of Arthur Andersen, CEO of Enron, and the CEO of Global Crossing. And what I have to say to the American public this morning is, in the course of that questioning I have never seen any men more arrogant in my life. I have never seen any men who believe that they did not need to respond to the questions of the American public on their conduct. If, in fact, the exhibition of the questions and answers before that committee are any indication of the conduct of the CEOs of large companies, then clearly this legislation that we put on the floor this morning does not go far enough to deal with the issue of CEO responsibility.

I stand in support of a Democratic substitute that would strengthen corporate responsibility and executive accountability by requiring CEOs and CFOs to certify the accuracy of their firm's financial statements, subjecting them to criminal penalties for lying. If the rest of us are subject to criminal penalties for lying, why should they not be?

I will give you a perfect example. When I asked the Global Crossing CEO what his salary is, he said, Mrs. JONES, it is a matter of public record. And I said, sir, it may well be, but I want you to answer my question for the record. He said it was $3.5 million. He failed to disclose at that point that he got a $10 million loan forgiveness to become the CEO of Global Crossing.

Let us go on to say that it is important as Members of this Congress that we restore the public's trust in the CEOs and CFOs of large companies in which we invest. Clearly, not everyone is an investor, but there are those, like those who are members of the Public Employees Retirement System of the State of Ohio, who lost their compensation as a result of the Enron situation or the California Public Employee Retirement System. I believe we need greater accountability. And while we are doing this, let us not just sit back and give something to the public where we say we are doing something when in reality the bill does not go far enough.

I think it is important that we look to auditor independence and industry oversight. When I questioned the Arthur Andersen head, as well as Mr. Pitt, it was clear that in the past we have not done a good job of distinguishing between auditor and the consultant. And this legislation, in my opinion, does not go far enough to distinguish and keep them from being in the position of saying, oh, your company is in great shape, when in reality it is not.

Mr. Speaker, it is clear that we need to be in a position to distinguish between those two roles so that never again do we find ourselves in the position of having the possibility of an Arthur Andersen, being the accounting firm that is looked upon as the greatest accounting firm in the world upon which all of us rely, when in fact, behind the scenes, and I am not saying all Arthur Andersen employees were involved in the process, but in fact the name Arthur Andersen was consistent with who you invested in.

Mr. Speaker, again, I believe it is important that any legislation that we deal with this morning deals with the independence in the auditor industry as well as dealing with issues of conflict of interest. And so, therefore, I again rise in opposition to the rule, and with all respect to the chairman and this great effort in dealing with this legislation, we need greater corporate

accountability and CEO accountability. And we do not need just a study about what CEOs do in a possible conflict of interest, we need some legislation that addresses the conflict.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have heard a lot of political rhetoric about how the Federal Government should be engaged in the oversight of companies, the oversight of CEOs. We hear about how CEOs are arrogant and think that what they want to think should not fall into compliance of what many of us others think. But the fact of the matter is that we live in an environment where the free market has an opportunity to have success and have failure. The free market has that balance which they have to follow, and, in fact, we did; we have learned something as a result of the circumstance with Enron. But that balance continues to come back to us, and we as Republicans, while listening to the exact same words and the questions that were spoken throughout these committee hearings, also heard something that the Federal Reserve Chairman Alan Greenspan said, and I would like to quote him at this time. He said,

> We have to be careful, however, we have to be careful with how the Congress and the American public react. We should not look to a significant expansion of regulations as the solution to current problems.

I believe that perhaps this statement made by the Federal Reserve Chairman is among the most important, and one that Members of Congress should take seriously as our duties as Members of Congress, and understand that while we saw, and many of us sat by helplessly and watched as the Enron problem began and then got worse, and then we watched the fall-out from it, we should learn lessons from what happened and not overreact. We should not go out and place rules and regulations across the entire industry, not only in accounting practices but also across CEOs at other companies, that will cause them to do the wrong things, which will cause them to not share information.

That is where this carefully crafted legislation by the gentleman from Ohio (Mr. OXLEY) and this fabulous committee are not going to overreact. They are going to look at what will be the essence of a comeback for America, confidence that people will have. And our message is very clear today. We want more jobs and create a stronger economy. We want to make sure that confidence in financial services is what we get, not overregulation. We want to make sure that there is more secure retirement in retirement plans by providing investor information and accountability, not rules and regulations that will inhibit people and give them another skirt to hide behind.

We want to make sure that savings is available for people who are just like my wife and I, who are saving for college for our children, and we want to make sure that the corporate responsibility becomes a part of a person's own financial plan also. That is why we are not going to fall victim to believing that emotions should override common sense.

This plan that the gentleman from Ohio (Mr. OXLEY) and the Committee on Financial Services put together on the floor today is not only common sense but is something that will provide confidence for our future.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. BENTSEN).

(Mr. BENTSEN asked and was given permission to revise and extend his remarks.)

Mr. BENTSEN. Mr. Speaker, on the underlying bill, let me say first of first off that I think the rule is a pretty good rule. There have been a lot of rules in this House that were not particularly good. This time the Committee on Rules saw fit to make a number of amendments in order. I wish that was the norm rather than the exception, but I appreciate the fact that that was the case on this bill.

A lot is going to be said about the underlying bill, the substitutes, and the amendments in today's debate. I just want to say, having sat through a number of the hearings on Enron and looked at the other issues, the underlying bill is a good bill and I supported it in committee. I do not think we should view the underlying bill as a panacea. And I think if there is anything that we get out of this debate today, it is going to be that the Congress has to very clearly put itself on record, both to the public, including the investor class as one of our colleagues mentioned, as well as to the regulators, and particularly the Securities and Exchange Commission, exactly what it is we expect them to do.

□ 1100

I think all of us believe in the sanctity of free markets. We have the most efficient markets in the world in the United States, but one of the reasons why the markets are so efficient is because we have a very strong disclosure system so that investors have an understanding of what it is they are buying. Anytime we have corporate managers or their advisers who disguise or withhold information from the market, we are distorting those markets; and we put at risk not just investors who are abused or hurt by that, but we put at risk the entire market system itself.

So I think, on the one hand, the gentleman from Texas is correct, we do not want to overregulate; but on the other hand, I think we should be very cautious not to underregulate because if we do, we will not have efficient markets, we will not have the efficient distribution of capital at a reasonable price, and the economy as a whole will suffer and we will not have confidence in the markets from investors, which is a growing group of people, including a lot of pensioners in my district who lost their savings because of what happened at Enron.

I think that the House should look at the legislation, whatever it is we end up passing, which I have my ideas of what exactly will pass and will not pass, as a start and not a finish because our goals should be to ensure that there is fair and sufficient disclosure in the markets, that there is a level playing field in the markets for all investors, not just some investors. I think there is a lot to be offered on all sides, and I want to commend the committee for at least having some sense of an open rule today to allow a number of amendments to be offered.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

I appreciate the comments of the gentleman from Texas (Mr. BENTSEN). His service not only to this body but also to this Nation has been well deserved and done well, and I believe what he speaks about is the fairness of not only what the Committee on Rules has done today to make sure that there are two substitutes and other actions that will be available so the minority can be debated today, can be brought for full debate on the floor but also about our ability to not overregulate.

By not overregulating means that we will in essence bring the light of day, which is the best of all standards. The light of day will now be available not only to the SEC for them to have the ability to come and look at companies with that authority and responsibility of the Federal Government but also some changes of the things that we have learned as a result of the Enron circumstance with accounting firms.

I believe that what the gentleman from Texas (Mr. BENTSEN) has talked about means that this is a fair opportunity today on this floor to talk about problems that have been seen, and this is yet another opportunity for this body to address things that we see; and I am proud of what we are doing here.

Mr. Speaker, I would like to inquire how much time is remaining on both sides.

The SPEAKER pro tempore (Mr. SHIMKUS). The gentleman from Texas (Mr. SESSIONS) has 13½ minutes. The gentlewoman from New York (Ms. SLAUGHTER) has 18 minutes remaining.

Ms. SLAUGHTER. Mr. Speaker, I yield back the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

We have had a vigorous debate about this important rule that is in front of us. I would ask the Members to give due consideration to supporting this bill.

Mr. LAFALCE. Mr. Speaker, the bill before us today presents an opportunity to restore confidence and integrity to our markets and right the wrongs demonstrated by the dramatic failure of Enron and Global Crossing. Unfortunately, the Rules Committee has seen fit to close off debate on most of the critical issues that plague our capital markets. The House

should have had the opportunity to discuss the modest and reasonable package of amendments I put before the Rules Committee to strengthen this woefully inadequate bill.

This House should have the opportunity to consider and debate thoughtfully proposals to strengthen H.R. 3763, the so-called Corporate and Auditing Accountability, Responsibility, and Transparency Act of 2002. This bill claims to address many of the financial disclosure and accounting issues raised by the collapse of Enron. Unfortunately, the kinds of financial abuses that led to this unprecedented debacle will not be stopped—or even very much impeded—by this Republican bill. It is cosmetic and simply pretends to bring about reform. ''Don't look for a major overhaul of the accounting industry soon,'' says the Wall Street Journal in a recent article criticizing the Oxley bill because it ''punts'' overhaul ''to just where the industry would like it—the Securities and Exchange Commission.''

This bill does virtually nothing to correct the systemic flaws in our financial reporting system. It fails to strengthen oversight of auditors and accountants, and fails to hold corporate executives fully accountable for their misdeeds. Unless major improvements are made, H.R. 3763 will do nothing to restore integrity to our financial markets and will not protect the savings and pensions plans of millions of Americans that remain threatened by future Enrons.

The House should have had the opportunity today to work its will on several key areas.

First, I offered an amendment in the Rules Committee to create a powerful new regulatory board to ensure that auditors will be truly independent and objective. My amendment provided for a regulator that (1) sets audit and quality standards for auditors of public companies; (2) possesses sweeping investigative and disciplinary powers over audit firms; and (3) is controlled by a board comprised of public members—not the accounting industry. My amendment took a decidedly different approach than H.R. 3763, which punts almost all of the functions and powers of the regulator to the SEC. Only a regulator with explicit powers and duties, and a defined composition, such as the one I proposed, will ensure that the abuses we witnessed in the Enron debacle will not be repeated.

In addition, the Republican bill purports to prohibit auditors from providing their audit clients with two consulting services: financial reporting systems design and internal auditing. In fact, the bill prohibits nothing. Instead, it simply codifies existing SEC rules that provide only very limited restrictions on these services. In contrast, my amendment clarifies the definitions of these two services in a way that will actually ban them. In the case of any non-audit consultant services that are not prohibited, my amendment requires approval by the audit committee of the firm's board of directors.

Second, in a spirit of bipartisanship and comity with our Republican friends. Mr. KANJORSKI and I have taken President Bush's proposals on corporate responsibility and executive accountability and prepared an amendment to give them legislative substance and real teeth. Rather than implement the President's proposals, the GOP bill either regresses from current law or does nothing to hold CEOs accountable. It amazes me that the Republican bill summarily rejected the President's own plan to promote corporate responsibility.

So our amendment, also rejected by the Rules Committee, did three things to implement the Bush plan. First, it requires CEOs and CFOs to certify the accuracy of their firms' financial statements. Violation of this provision would carry with it criminal (in the event that the violation is willful), civil, and other penalties provided for under the securities laws. H.R. 3763 contains no similar provision. It is essential that Congress require officers of public companies to stand behind their public disclosures. That is the absolute minimum we should require.

Second, this amendment required corporate officers who falsify their financial statements to surrender their compensation, including stock bonuses and other incentive pay. it empowered the Securities and Exchange Commission (SEC), in an administrative proceeding, or in court, to seek such a disgorgement. H.R. 3763 requires only a study of the question: should guilty CEOs forfeit their stock bonuses.

Third, this amendment empowered the SEC to bar officers and directors from serving in that capacity for a public company if they are found guilty of wrongdoing and determined to be unfit. It would also remove judicial hurdles to seeking such a bar in court. Incredibly, the Republican bill actually makes ti harder to obtain officer and director bars. It codifies restrictive judicial standards that would make it substantially more difficult for the SEC to obtain officer and director bars—a change which the head of the SEC's Enforcement Division has stated publicly is highly problematic. In this regard, H.R. 3763 is a serious step backward.

The Rules Committee even refused to allow debate on my amendment that gave shareholders a voice in executive compensation decisions by requiring that a majority of shareholders approve any stock options plan for an officer or director. H.R. 3763 does not include a similar provision. Would anyone argue on this floor that shareholders should not have a voice in the lucrative stock option plans of officers and directors. After all, it is the shareholders who own public companies, not management.

Finally, the Rules Committee refused to give this body an opportunity to debate and vote on an amendment to ensure that stock analysts are truly independent and objective. My amendment achieved this by (1) barring analysts from holding stock in the companies they cover; (2) prohibiting analysts' pay from being based on their firms' investment banking revenue; and (3) barring their firm's investment banking department from having any input into analysts' pay or promotion. As with other important issues in this legislation, H.R. 3763 only requires a study.

Today we are on the verge of squandering an opportunity for real reform. I urge my colleagues to consider our substitute and do something real to prevent the next Enron.

Mr. SESSIONS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON FINANCIAL SERVICES TO FILE SUPPLEMENTAL REPORT ON H.R. 3764, SECURITIES AND EXCHANGE COMMISSION AUTHORIZATION ACT OF 2002

Mr. OXLEY. Mr. Speaker, I ask unanimous consent that the Committee on Financial Services be permitted to file a supplemental report on H.R. 3764.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

CORPORATE AND AUDITING ACCOUNTABILITY, RESPONSIBILITY, AND TRANSPARENCY ACT OF 2002

The SPEAKER pro tempore. Pursuant to House Resolution 395 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3763.

□ 1105

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3763) to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, and for other purposes, with Mr. SWEENEY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Ohio (Mr. OXLEY) and the gentleman from Pennsylvania (Mr. KANJORSKI) each will control 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. OXLEY).

Mr. OXLEY. Mr. Chairman, I yield myself such time as I may consume.

Today, the House turns to H.R. 3763, the Corporate and Auditing Accountability, Responsibility, and Transparency Act. To my colleagues on both sides of the aisle, today we must act. We must act for our Nation's investors, retirees, and employees of publicly traded companies; and that covers a large majority of Americans.

In recent months our struggling economy has absorbed a number of shocks. We have endured two large bankruptcies, Enron and Global Crossing. Thousands of jobs have been lost for hardworking employees. Billions of dollars are gone from investment portfolios and retirement plans. Investor confidence has understandably wavered.

Congress has examined these issues for 4 months. The Committee on Financial Services alone held seven hearings, took testimony from 33 witnesses; and we are but one of many panels. We know now what happened, and we know what needs to be done. Now it is our responsibility to do something about it.

We owe action to the American investor who faithfully puts away money every month in his IRA or his 401(k) plan. We owe action to the employees who lost their jobs, and we owe action to all of the American companies who are operating in good faith and working to grow.

I would like to say a word of thanks to the President and his staff for all of the support and encouragement we have received throughout the process of drafting and moving this bill. His 10-point plan was very much on the same track as our bill, and the White House has helped us improve the bill every step of the way.

I also want to say a word of thanks to the 16 Democrats who voted for the bill on final passage in the Committee on Financial Services. We appreciate their support for our sound legislative bipartisan product.

President Bush has asked us to move on his plan; and clearly, this is a national priority. We need to encourage greater corporate responsibility. We need to strengthen and modernize our accounting oversight, and we need to make sure that investors have timely and clear information. There is a real urgency. We cannot undo the past, but we can help to prevent future Enrons and Global Crossings; and we ought to do just that today.

In our zeal to act, we can easily do more harm than good. It is easy to do something extreme. We can easily smother American businesses with red tape. We can punish those who have done nothing wrong. We can damage the capital markets and the economy in the process.

I say let us do the difficult thing. Let us accomplish something that is worthy, as the President has charged us, and CARTA strikes that balance. CARTA recognizes the need for corporate leaders to act responsibly and holds them accountable if they fail to do so.

CARTA ensures the highest standards of auditor independence, ethics and confidence and establishes a public regulatory organization for accountants of publicly traded companies, something that has never been done before.

CARTA improves corporate disclosures by requiring companies to provide the public with more information about their financial condition.

CARTA makes important improvements in the area of corporate transparency, requiring that companies disclose to investors important company news on a real-time basis.

CARTA also directs the SEC to require greater disclosure for off-balance sheet transactions.

I am confident that we are striking the right balance, particularly when it comes to the role of the Securities and Exchange Commission. CARTA gives the SEC the flexibility to deal with problems without legislating every time. Congress created the SEC precisely to deal with situations like this. We need to empower the SEC to act without tying its hands and within flexible statutory changes.

Let us remember that a strong regulator is not one that is completely dictated to by Congress. A strong regulator has some say over his jurisdiction, some power and discretion to shape the capital markets; and I trust the SEC with this authority and so does our bill.

CARTA makes it a crime for anybody to interfere with a corporate audit. It requires CEOs and other corporate insiders to disclose within 48 hours when they sell company stock so that investors and employees and retirees know if a corporate officer is getting out. It prohibits insider sales of company stock while the employee retirement plan is locked down.

Strengthening these areas of corporate responsibility, accounting oversight, and investor information is an important priority as our economy recovers. Let us show the American people that we can respond in a meaningful way to their very real economic concerns. Pass CARTA today.

Mr. Chairman, I reserve the balance of my time.

Mr. KANJORSKI. Mr. Chairman, I yield myself such time as I may need.

Mr. Chairman, I rise to oppose H.R. 3763, the Corporate and Auditing Accountability, Responsibility, and Transparency Act. The dramatic collapse of Enron exposed many systemic problems to the intricate public-private network that monitors excess in our Nation's capital markets, including deficits and corporate governance and insufficiencies in audit independence and oversight.

H.R. 3763 responds to these problems in a largely illusory and superficial way. It will not sufficiently restore public confidence in the integrity of our capital markets; and it will not significantly improve the protections for investments, pensions and savings of millions of hardworking Americans and retirees. For example, in the words of the Wall Street Journal, the bill ''punts'' an overhaul of the accounting industry to the Securities and Exchange Commission.

Although H.R. 3763 creates a new organization to oversee accountants that audit public companies, much of the bill's language is simply too vague to ensure that essential standards for effective oversight will be met, giving the SEC near-total flexibility in establishing guidelines for the new oversight body.

Given the importance of this oversight role, Congress should not delegate this task. We should create a strong auditor regulatory board with sufficient investigation and disciplinary powers.

The legislation also preserves auditors' cozy relationships with their clients by not prohibiting consultant services that create conflicts of interest. Audits are supposed to be independent assessments on a company's finances conducted for the benefit of the investing public. When an auditor also receives a million dollars from the company for nonaudit services, common sense dictates that those nonaudit fees may influence the auditors' judgment in favor of the client.

While H.R. 3763 partially bans two nonaudit services, it does not go far enough to eliminate the serious potential for undermining the independence of auditors. Additionally, H.R. 3763 protects corporate wrongdoers by actually making it more difficult to ban guilty officers and directors from serving in other public companies. In particular, the bill codifies high standards that the SEC complains significantly impedes its abilities to obtain officer and director bars in court. We must fix this problem.

Finally, the bill prescribes studies, not legislative action, on some major issues raised by Enron, whether CEOs who misled investors about the financial health of their companies should surrender their bonuses and fat stock option and whether stock analysts are pitching stocks they do not believe in.

In sum, Mr. Chairman, the Congress should not shirk its responsibility by delegating these urgent problems to the SEC or shunting them off to the oblivion of bureaucratic studies. We have an opportunity and a responsibility to restore integrity to capital markets. Quick fixes will not do the job.

Ultimately, Mr. Chairman, we must work together on a bipartisan basis to develop an appropriate response to the collapse of Enron and the overabundance of earning restatements by our Nation's publicly traded companies. Although we have made improvements in the bill since its introduction, it will represent only superficial reform at best. Meaningful reform will require lengthy deliberation and a substantial strengthening of the bill before us today.

Mr. Chairman, there is an old idea of lost opportunities. As the Congress addresses this serious problem today, we are missing an opportunity for Congress not to delegate its responsibility to the SEC or not to dodge its responsibility to the American public, but to take time and effort and deliberation necessary to make a bill that will protect the investing public, will arm the regulatory agencies with the authority they need to ensure the protection of the investing public, and to significantly improve the confidence in the American market.

□ 1115

Just last night I had the occasion to speak with some members of the investing community, and they called to my attention that never in their experience in the last 25–30 years have they seen a loss of confidence in the capital markets of the United States as has recently been exposed in the last several months since the Enron collapse. The capital markets of the United States

are the greatest in the world, but they are that way because the Congress at times of need and at times of overabundance of activities and recklessness in the markets have stood tall to enact legislation to straighten the markets out and to send a signal to the investing public that the Congress will oversee and protect their interests as best can be had in a capitalist system.

Today's legislation does not meet that mark. As the Wall Street Journal said, ''This bill punts.'' As The Washington Post said this morning, ''The chairman punts.'' I urge us to oppose this legislation at this time, and I encourage my colleagues to do the same.

Mr. OXLEY. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from Michigan (Mr. ROGERS), a valuable member of the committee.

Mr. ROGERS of Michigan. Mr. Chairman, I rise today in support of the Corporate and Auditing Accountability, Responsibility, and Transparency Act of 2002, and I want to congratulate the chairman on this bill that was reported out of the Committee on Financial Services last week on a strong bipartisan vote under his leadership.

This bill brings needed reforms and oversight to the accounting industry. It ensures that those with the greatest interest in ensuring that the information provided to the marketplace regarding public companies is accurate and complete and facilitates the fair and efficient functioning of the markets.

Mr. Chairman, this is an important piece of legislation that does not create a new Federal bureaucracy funded by taxpayers; rather, it requires a new private sector oversight body to review the accounting firms that audit financial statements. This new body, called the Public Regulatory Organization, would have broad powers to discipline accountants that violate the most basic codes of ethics, standards of independence, and standards of competency.

Mr. Chairman, this bill is necessary to restore the faith in our markets. This bill brings credibility and integrity to the process by protecting against conflicts of interest in the accounting industry. This piece of legislation is important because we need to act now. We need to pass this bill today. We need to give the SEC and this new PRO the tools to be up and running quickly to protect the future of investments in this country.

Mr. Chairman, at this time I would like to have a colloquy with my good friend, the gentleman from Ohio (Mr. OXLEY), the distinguished chairman of the Committee on Financial Services.

Mr. OXLEY. Mr. Chairman, will the gentleman yield?

Mr. ROGERS of Michigan. I yield to the gentleman from Ohio.

Mr. OXLEY. Mr. Chairman, I thank the gentleman from Michigan and I want to commend him for his efforts on this bill, for his fight for the integrity of America's financial markets.

The gentleman is right; we need to act quickly on this important issue. We are calling on our colleagues to take this opportunity to restore transparency and accountability to the audited financial statements of America's companies.

Mr. ROGERS of Michigan. Reclaiming my time, Mr. Chairman, it is my understanding that this bill does not create a new Federal bureaucracy to oversee the accounting profession but, rather, creates a private sector regulator to do that job.

Mr. OXLEY. Mr. Chairman, if the gentleman will continue to yield, that is correct. We are giving the SEC the tools to oversee this new PRO, but it is going to be funded by the private sector.

Mr. ROGERS of Michigan. Mr. Chairman, I want to see that this PRO is up and running in an expeditious fashion. Does the PRO have the authority to contract for services with other private sector companies or regulators to make this happen as quickly as possible?

Mr. OXLEY. That is correct. Under the legislation, the SEC or the PRO could consult or contract with private sector regulators and companies to get the necessary insight as well as the systems and processes to get this organization on its feet in a timely manner. I am confident the SEC and the PRO will take such measures as necessary to move with all deliberate speed.

Mr. ROGERS of Michigan. Reclaiming my time once again, Mr. Chairman, I thank the distinguished chairman for clarifying this point and I thank him for his leadership on this very important bill.

The CHAIRMAN. Without objection, the gentleman from New York (Mr. LAFALCE) will control the time of the gentleman from Pennsylvania (Mr. KANJORSKI).

There was no objection.

Mr. LAFALCE. Mr. Chairman, I yield myself 5 minutes.

(Mr. LAFALCE asked and was given permission to revise and extend his remarks.)

Mr. LAFALCE. Mr. Chairman, today we consider legislation to address the serious problems in our capital markets raised by the collapse of Enron, problems of corporate abuse, problems of accounting fraud, problems of earnings manipulation, and problems of analyst hype. All of these have destroyed public confidence in our markets and jeopardized the investments and retirement savings of millions of working Americans. Millions of working Americans have been robbed.

Now, Enron provided a catalyst for our consideration of these issues, but it is not the first or even the most recent example of what has become a common phenomenon: earnings manipulation, deceptive accounting, and hyped analyst reports by some of our largest companies. Company after company has been found to have manipulated their accounting to present a picture to investors that did not match the reality.

The tremendous growth in investigations opened by the SEC this year indicates the problem is getting worse and worse. The question we will debate today essentially is whether we are ready to recognize and make real changes to address the systemic weaknesses undermining our capital markets or not. The bill before us is cosmetic. The bill before us is a press release. Look at this morning's editorial in The Washington Post. It says, basically, that the bill takes a punt at the problem. Look at the editorial in yesterday's Wall Street Journal. It says, basically, the same thing. It chastised the accounting profession for its resistance to all efforts at reform. The Journal opined that ''The accountants may think that they have outsmarted everyone by sinking reforms along with Andersen. And they may be right. On the other hand, if there's another Enron out there, they may wish they'd taken Mr. Volcker's advice.''

I think it is safe to say it is only a matter of time before the next Enron or Global Crossing appears, and today's bill will do nothing to prevent it.

There are many areas in which the bill before us fails to provide true reform. First, it fails to establish a strong regulator to oversee the accounting profession, largely delegating decisions as to both its powers and duties and makeup to the SEC. You do not need a law to do that; the SEC could do that today. The bill provides virtually nothing.

Secondly, the bill fails to limit in any way the nonaudit services that auditors can provide to their audit clients, not even going as far as the accounting industry has said it would go voluntarily to limit their conflicts of interest. The accounting industry has said they should and will go further than the bill goes, and they will not go far enough on their own voluntarily.

As the Wall Street Journal said yesterday, the credibility of their audits matter more than their ability to offer other services that let them live like investment bankers.

And, third, the bill fails to effectively implement any of the measures proposed by President Bush himself to improve executive responsibility and improve the ability of the SEC to bar or seek disgorgement from executives. In some areas, it actually represents a step backwards, making it more difficult for the SEC to do its job, making it harder, rather than easier, for the SEC to bar officers or directors who have committed securities fraud from serving in other public companies.

Fourth, the bill fails to make any improvements in the area of corporate governance of public companies by giving the audit committees of their boards of directors the authority they need over auditors to truly protect shareholder interest.

And, fifth, and very importantly, it fails to include any measures to limit

the incentives for securities analysts to serve as salesmen for their firms' investment banking business rather than being objective analysts. It fails to address the problem of research analysts being compensated based upon the business they are able to generate for the investment banking arm of their firms. It allows the continuance of research analysts being hucksters for the investment banking arms rather than owing a responsibility to give honest investment advice to the public at large.

Now, I would like to have had a debate on these important issues on the floor individually, but the rule does not permit the offering of individual amendments. And, therefore, I will offer my substitute to accomplish that.

Mr. Chairman, today we consider legislation to address the serious problems in our capital markets raised by the collapse of Enron—problems of corporate abuse and accounting fraud that have destroyed public confidence in our markets and jeopardized the investments and retirement savings of millions of working Americans. While Enron has provided the catalyst for our consideration of these issues, it is not the first or even the most recent example of what has become a common phenomenon—earnings manipulation and deceptive accounting by our largest companies. Company after company has been found to have manipulated their accounting to present a picture to investors that did not match reality. The tremendous growth in investigations opened by the SEC this year indicates the problem is only getting worse.

The question we will debate today essentially is whether we are ready to recognize and make real changes to address the systemic weaknesses undermining our capital markets. The bill before us does not represent real reform, as even the Wall Street Journal recognized in an editorial yesterday in which it chastised the accounting profession for its resistance to all efforts at reform. The Journal opined that ''[t]he accountants may think that they've outsmarted everyone by sinking reforms along with Andersen. And they may be right. On the other hand, if there's another Enron out there, they may wish they'd taken Mr. Volcker's advice.'' I think it's safe to say that it's only a matter of time before the next Enron or Global Crossing appears, and this bill will do nothing to prevent it.

There are many areas in which the bill before us fails to provide true reform:

First, it fails to establish a strong regulator to oversee the accounting profession, largely delegating decisions as to its powers and duties to the SEC. Without an explicit statutory mandate, the regulator will be subject to the intensive efforts of the accounting industry to avoid reform of any kind. Congress should give the new regulator effective disciplinary and investigative powers and clear authority to set standards for auditors of public companies, rather than just enforcing the standards set by the accounting industry bodies.

Second, the bill fails to limit in any way the non-audit services that auditors can provide to their audit clients, not even going as far as the accounting industry has said it would go voluntarily to limit their conflicts of interest. As the Journal said yesterday, ''[t]he credibility of their audits matter more than their ability to offer other services that let them live like investment bankers.''

Third, the bill fails to effectively implement any of the measures proposed by the President to improve executive responsibility and improve the ability of the SEC to bar or seek disgorgement from executives. In some areas, it represents a step backwards, making it more difficult for the SEC to do its job, making it harder, rather than easier, for the SEC to bar officers or directors who have committed securities fraud from serving in other public companies. Moreover, it fails to empower the SEC to require corporate wrong-doers to disgorge their bonuses and other compensation after committing securities fraud.

Fourth, the bill fails to make any improvements to the corporate governance of public companies by giving the audit committees of their boards of directors the authority they need over auditors to truly protect shareholder interests.

Fifth, it fails to include any measures to limit the incentives for securities analysts to serve as salesmen for their firms' investment banking business rather than objective analysts.

I would like to have had a debate on these important issues on the floor today, but the rule does not permit me to offer amendments on these individual issues. I will offer a substitute, however, that cures many of the defects of the Republican bill. My substitute will: Establish a tough and credible overseer for the accounting industry; include effective limits on the two non-audit services included in the existing bill; provide corporate audit committees with authority over the full scope of a company's relationship with its auditor; hold executives responsible for the accuracy of their companies' financial statements; enable the SEC to seek disgorgement of bonuses and profits on options or to bar officers and directors who have committed wrongdoing from serving in other public companies; and finally, eliminate the conflicts that result in Wall Street analysts hyping the stocks of their investment banking clients.

Mr. OXLEY. Mr. Chairman, I yield 3 minutes to the gentlewoman from New York (Mrs. KELLY), the chair of the Subcommittee on Oversight and Investigations.

Mrs. KELLY. Mr. Chairman, I rise today in strong support for the Corporate Auditor Accountability, Responsibility, and Transparency Act, known as the CARTA Act. I thank my good friend, the gentleman from Ohio, for yielding me this time.

This legislation represents the first positive step forward to restore public confidence to our Nation's accounting industry. Since the dramatic failures in both Global Crossing and Enron, we have heard from countless former employees and investors who have been harmed because of the lack of transparency, the lack of auditor independence, and the lack of timely and clear disclosures. CARTA takes substantive steps to address all of these issues, with a focused approach that will restore confidence in the industry.

Let me be clear. The legislation is not the complete solution. There are many investigations which continue with the Securities and Exchange Commission, the Department of Justice, and the Department of Labor. As the appropriate agencies uncover new issues, we are going to continue our work to ensure that we act prudently, appropriately, and responsibly. As with the medical profession, though, our overriding goal has to be, first, do no harm. We must be focused in our work and make sure our response is effective, restores public confidence, and has a positive impact on the market.

CARTA is reasonable and responsible. CARTA creates a new Public Regulatory Organization with real power to discipline accountants who violate the standards of ethics, competency, and independence. CARTA makes it a crime for any corporate official to mislead or coerce an accountant in the course of conducting an audit. CARTA requires real-time disclosures of significant financial information to ensure that employees and investors know about important events as they happen, instead of when the quarterly report comes out.

These are just a few of the significant reforms made in this legislation. CARTA is a strong reform. It gives greater authority to the Securities and Exchange Commission to act, and it is stronger authority than in the Democratic substitute. It takes significant steps to ensure accountants are truly independent and corporations are clear and honest in their statements.

It is a bipartisan bill. It was supported in committee by both Democrats and Republicans. The committee vote on final passage of 49 to 12 demonstrates that there is real agreement in the House that the provisions contained in this legislation will move us forward to our goal of restoring public confidence in our accounting system and corporate disclosures.

Mr. Chairman, I urge colleagues on both sides of the aisle to join us with the strong support of CARTA so we can prevent mistakes, misstatements, and obfuscations we witnessed in the failures of Global Crossing, Enron, and Arthur Andersen from being repeated and harming others.

Mr. LAFALCE. Mr. Chairman, I yield 2 minutes to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Chairman, to my colleague, the gentleman from the great State of Ohio (Mr. OXLEY), and to the ranking member, the gentleman from the great State of New York (Mr. LAFALCE), I am pleased to have had an opportunity to serve on the Committee on Financial Services as we have debated this legislation. But what is clear to me is the American public expects us to do more than pass strong legislation that does not go far enough. I just want to put in the RECORD a copy of The Washington Post editorial that fully addresses many of the issues.

Let me tell my colleagues a few things I am concerned about.

□ 1130

Mr. Chairman, I do not believe that this current legislation that is before

the House of Representatives addresses the issue wherein the CEOs, like the CEO at Enron and Global Crossing, were able to take their 401(k) dollars out of the pot, and leave workers like Mrs. Linton, who I read about in the newspaper, stuck with not receiving any other dollars.

Now, what we have not addressed, and I am not an SEC attorney, but I do know there is a piece or a rule that allows a CEO to put in place a plan to dispose of his assets in a particular company, as long as they have in place a plan to do so. We need to put in place a plan that would also allow workers to be able to access their dollars in the same fashion that CEOs do. Or if they are not able to do so, that the CEOs would be held accountable.

Let me go to another point that I raised at the Enron hearings, which is with regard to the SEC. I have a lot of respect for the SEC and their chairman, Mr. Harvey Pitt; but the reality of the matter is that we should not leave our job to the SEC. We should give the SEC clear direction on what we want done, when we want it done, and how we want it done. For example, the records of Enron were not reviewed by the SEC. That presents a real problem for me and other Members as we review this process.

Finally, I am worried about a private organization giving advice and counsel on many of these issues to the Congress. Let me just say that the Arthur Andersen relationship with Global Crossing, the CEO said that he thought that relationship was okay. If he thought it was okay, what does that say about other private industry people.

The material previously referred to is as follows:

[From the Washington Post, Apr. 24, 2002]

MR. OXLEY PUNTS

The HOUSE is due to vote today on a package of post-Enron reforms prepared by Rep. Michael Oxley (R–Ohio), chairman of the Financial Services Committee. The bill is a troubling sign of how easily the momentum for reform can be dissipated. Though it purports to deal with many of the audit reforms discussed during dozens of congressional hearings since January, it actually pulls its punches. Democrats will get a chance to offer some better provisions in the House today, but nobody expects them to pass. It will be up to the Senate, if it can ever terminate its interminable debates on energy, to produce a stronger bill.

The Oxley bill purports to set up a new regulatory board to oversee and discipline auditors, which everybody agrees is needed. But it would not give this body powers of subpoena, which would undermine its authority; and it would allow auditors to fill some of the board's positions, which could undermine its independence. The details of the new board would be left to the Securities and Exchange Commission, which would have to decide among other things how the new body would be funded. Given the SEC's vulnerability to industry lobbying, there is a danger that the result will fall short of what's needed.

The Oxley bill takes other half-steps and side-steps. It directs the SEC to prohibit auditors from performing certain types of consulting services for their clients, but it stops short of requiring an outright halt to consulting and the conflicts of interest that ensue. The bill says nothing about the revolving door between auditors and their clients—Enron, for example, hired several Arthur Andersen auditors—even though auditors who are angling for jobs from their customers are unlikely to show much independence from them. The bill is also silent on the rotation of audit firms. If an auditor knew that, after a few years, a different outside auditor would scrutinize its efforts, this would create a strong incentive to keep the numbers honest.

The Oxley bill does at least boost the SEC's budget substantially, and it has the right mood music. But given the outrage that Congress has expressed about the Enron scandal, this is a weak effort. Just this week, Enron announced that it had discovered a further $14 billion worth of assets in its balance sheet that don't really exist after all, and it confessed that a ''material portion'' of this overstatement was due to accounting irregularities. This kind of confession further undermines investors' trust in financial disclosures. Congress needs to restore that trust with tough legislation. Perhaps the Senate can deliver if the House won't.

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to the gentlewoman from New Jersey (Mrs. ROUKEMA).

(Mrs. ROUKEMA asked and was given permission to revise and extend her remarks.)

Mrs. ROUKEMA. Mr. Chairman, I commend the gentleman from Ohio (Mr. OXLEY) and the gentleman from Louisiana (Mr. BAKER) for this legislation. This legislation has numerous provisions which provide and strengthen oversight of the accounting industry, what we have really learned from Enron and Global Crossing failures. But the specifics of these provisions have been properly outlined by the chairman, and I will not go into those again. However, I will stress one in particular, and that is it includes important safeguards for individuals who invest in the 401(k) plans. That is an excellent provision in this legislation.

Mr. Chairman, I want to say to Members that there are some who argue that this bill does not go far enough. I will say to those critics that we must take care not to overreact to this situation and create greater problems than we have here. This bill represents a giant step in the right direction to reforming the system. We need to enact this legislation and let the regulatory process go forward. Clearly we should revisit this issue in the months ahead, but this bill does include sound, strong, unprecedented measures that I believe will go a long way in reforming the situation.

A Member mentioned earlier Chairman Paul Volcker's oversight and activity in terms of the Andersen question. Clearly, Mr. Volcker's analysis will be helpful to us and significant in laying the groundwork for extended consideration in the future for whatever additional reforms we may need. Clearly, we must not overreact and create today further problems and create more loopholes.

I want to commend Chairmen OXLEY and BAKER for their leadershiop on this legislation and urge my colleagues' support for the Corporate and Auditing Accountability, Responsibility and Transparency Act.

We must return confidence back to the markets and to the accounting profession. Individual investors have to be certain that the information they are receiving is accurate and complete. Certainly the media and many in this Congress have been focused on the Enron bankruptcy—the largest in U.S. history—but Enron is merely a symptom of a larger problem.

The current structure for regulation and oversight of the accounting industry consists of Federal and State regulators and a complex system of self-regulation by the industry itself. Although the SEC has broad authority to regulate all aspects of corporate accounting and the auditing of publicly-traded companies, the SEC historically has not directly regulated the industry because of a lack of resources. Instead, they have investigated and taken enforcement action in only the most egregious cases. Consequently, the most comprehensive supervision of accountants and auditors has been exercised by the industry's trade association, the American Institute of Certified Public Accountants, a voluntary organization funded entirely by the industry.

H.R. 3763 includes numerous provisions to strengthen supervision and oversight of the accounting industry, increase standards of corporate responsibility, and improve the quality of corporate disclosure and the auditing of publicly-traded companies. The specifics of these provisions have been properly outlined by the Chairman.

First, this legislation establishes a public regulatory organization (PRO) to oversee and review accounts that certify financial statements required under the securities law. This new board would be subject to direct SEC authority and supervision. In addition it makes it illegal—subject to SEC civil penalties—for any corporate official to interfere, mislead, or coerce an accountant performing an audit of the company.

Second, this legislation requires increased and meaningful disclosures, such as information about special purpose entities and other off-balance sheet transactions. It requires real-time disclosure of financial information and immediate disclosures by corporate insiders when they sell securities they own in their company.

This legislation also includes important safeguards and protections for individuals who invest in 401(k) plans. The bill prohibits corporate executives from buying and selling company stock during ''blackout'' periods when rank-and-file company employees are barred from doing so in their pension 401(k) plans and allows companies, and other shareholders to go to court to recover any profits made from such illegal transactions. The measure also establishes procedures under which the SEC may recover any profits gained, or losses avoided, by executives through stock trades in the six months prior to a company's restatement of earnings, if the executive had knowledge that the company's accounting was misleading.

Finally, H.R. 3763 authorizes new resources and responsibilities for the SEC, requires the SEC to review the audited corporate financial reports of all publicly-traded companies at least every three years, and allows the SEC to ban corporate officers and directors whom the

SEC finds guilty of violating securities law from serving in similar positions in other publicly-traded companies.

There are some that may argue today that this bill does not go far enough—I would say to those critics that we must take care not to overreact to this situation—this bill represents a significant and proper first step. We need to enact this legislation—and let the regulatory process go forth. Clearly, we may have to revisit this issue in the months and years ahead, but this bill includes sound, strong and unprecedented measures that I believe will go a long way in addressing this current crisis.

Clearly, Chairman Paul Volker's oversight and analysis will be significant in laying the way for extended consideration for additional reforms.

Mr. LAFALCE. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Chairman, I thank the ranking member, the gentleman from New York (Mr. LAFALCE), for yielding me this time and for his leadership on these tough issues.

Mr. Chairman, I rise today in strong opposition to H.R. 3763. This is another sham bill that purports to fix the very serious problems that have arisen from the Enron debacle, but instead it takes us backwards in protecting the American public. H.R. 3763 is supposed to impose tougher standards on auditors to prevent future Enrons where workers lost their pensions and investors lost money because Enron cooked its books. However, H.R. 3763 does nothing to protect employees and investors. It allows corporate auditors to continue to perform both auditing and consulting functions, which got Enron into this mess in the first place.

The GOP bill puts investors and workers at greater risk than they are now. It does not hold corporate wrongdoers criminally accountable if they knowingly release misleading financial statements, and it does not increase oversight of the accounting industry.

We need true reform. That is why I am supporting the LaFalce substitute which takes important steps to protect workers and investors. It would set up a seven-person board with members representing investors and pension funds. Some of them can be accountants; but others with important interests can also be included, unlike the Republican legislation which will only permit auditors and former auditors on the board. Workers and investors also deserve a seat at the table.

The LaFalce substitute also bans auditors from consulting services that create conflicts of interest, requires CEOs to surrender their stock bonuses when they commit fraud, and makes it easier for SEC to remove corporate wrong-doers.

Ken Lay and the other Enron executives do not deserve millions of dollars in payoffs when their workers have lost their future. We must hold companies accountable when they engage in fraud that jeopardizes the retirement security of our Nation's workers and our economy.

The Republican legislation before us today does none of these things. The LaFalce substitute does. I urge my colleagues to vote ''yes'' on LaFalce and ''no'' on H.R. 3763.

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to the gentlewoman from Illinois (Mrs. BIGGERT), a valuable member of the Committee on Financial Services.

Mrs. BIGGERT. Mr. Chairman, I rise today in strong support of H.R. 3763. This is a good bill because it strikes the right balance between doing enough to prevent another Enron and Andersen debacle, but not so much as to overreact to it causing more harm. The last thing we want is to federalize the accounting industry and create a seat for the government on every corporate board from New York to San Francisco and back again.

This is a good bill because it helps rebuild the confidence of the American people by restoring the integrity of the accounting industry. It increases corporate responsibility, reforms the accounting industry, and forces businesses to disclose much more financial information in real-time. Holding corporate officers responsible for their actions is a big part of the foundation of this bill. As President Bush said not long ago, our goal is better rules so that conflicts, suspicion, and broken faith can be avoided in the first place. That is what this bill does in several ways. For example, an amendment that I offered last week provides the SEC the administrative authority to bar persons accused of malfeasance from serving as officers or directors of public companies pending judicial appeal.

Mr. Chairman, it is unfortunate that no one understands the concept of executive accountability or lack thereof better than the 500 Andersen employees from my district. They ask, How on earth can the alleged sins of a handful of partners uproot the lives of so many innocent employees? One of them went further, asking me in a recent letter if one out of our 535 Congressmen and Senators gets in trouble, should you all be fired? I think we all get the point.

And the point is that change is needed in the accounting industry, and H.R. 3763 is an important step in the right direction. With this legislation, we will avoid any more blanket charges to groups of accountants, and instead bring justice to the particular accountants at fault. Some have argued that the standard may prove to be unreasonably high or it goes too far. I respectfully disagree. H.R. 3763 empowers the SEC to take a bite out of corporate crime.

Mr. Chairman, I encourage all of my colleagues to support this bill.

Mr. LAFALCE. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. SHERMAN).

(Mr. SHERMAN asked and was given permission to revise and extend his remarks.)

Mr. SHERMAN. Mr. Chairman, Enron not only cost its own shareholders tens of billions of dollars, but our markets would be selling at trillions of dollars more in net capitalization if investors around the world did not have to wonder whether the next Enron was right around the corner.

All three of our institutions failed our investors. The SEC failed to even read the Enron financial statements, let alone demand clarification of their incomprehensible footnotes. And when the SEC reauthorization bill comes to this floor, it should come in regular order so that we can propose amendments to improve the SEC.

The stock analysts and the auditors both failed as well; and they failed in part because the current system clouds their judgment with excessive conflicts of interest. The stock analysts are affected by the huge investment banking fees so that they now not only recommended Enron as an investment, but they recommend a hold or a buy on virtually every stock on the board.

The auditors received not only their audit fee from their clients, but huge and unlimited fees for other services, sometimes five or 10 times the fees they received for auditing; and this bill, while providing a list of services that they are not to provide, does nothing to cap the total fee that they receive.

We need to restore confidence in our markets. If Congress does its job, our capital markets will once again be the envy of the world. But we cannot do it just by passing this bill. The LaFalce substitute at least takes us further down the road toward reform; and then we need to do even more to deal with the SEC, the stock analysts, and the total amount of fees received by auditors for nonaudit services.

Mr. OXLEY. Mr. Chairman, I yield 3 minutes to the gentlewoman from Pennsylvania (Ms. HART), an outstanding member of our Committee on Financial Services.

Ms. HART. Mr. Chairman, I rise in support of the CARTA bill as it stands. The Committee on Financial Services did an extensive amount of research on these issues, especially in light of the concerns raised by the Enron debacle. Several disturbing aspects about corporate disclosures in financial statements were made very clear during this process, but one of the most alarming was the unequal treatment of employees and what they were and were not allowed to do with company stock that they received in their retirement plans.

I have here what will happen as a result of the CARTA bill. Pre-Enron there was little disclosure. Financial information was all in legal jargon. People could not really understand it. There was insider auditing, as we saw in the Enron case, deals made among the auditors with the company which were really not fair or right or a true representation of the actual financial situation of the company. Also, insider trading during blackouts, those executives were allowed to sell their stock; those regular people, the employees,

unfortunately were not, and ended up losing a lot of money because of the deceit involved with the financial statements.

Post-Enron, under the CARTA bill we have full disclosure. We also have something very important, and that is the financial information that all investors get in plain English. No more games. Under CARTA, plain English so that everybody understands exactly what is going on with the company.

Also something extremely important, the independent audit versus the insider audit. We need to make sure that Americans have confidence in financial statements and invest wisely.

It will also close the loophole on insider trading during blackouts. This is one of the most important things that was revealed to us during Enron, and one thing that this bill handles very well.

America's investors have changed significantly. It is important for us to protect them and provide them with the information that they need. More than half of American families, that is 90 million people, invest in the stock market, including mutual funds, pensions, and 401(k)s. This represents a growing trend. These people are investing in American companies that produce American jobs. In fact, a majority of these investors, 67 percent of them, are our average Americans with household income of $75,000 or less.

Mr. Chairman, these are American families that we are talking about. We need to protect them with CARTA. According to the National Center for Employee Ownership, 10 million employees in the United States received stock options as part of their benefits in 2001. This is a 10-fold increase over 1992. This bill protects those employees and those Americans. It protects those American jobs.

□ 1145

Finally, the benefits of the bipartisan corporate responsibility bill is greater confidence. Americans will continue to invest. We want them to invest. It is better for our future. There is more confidence for them to invest, there will be more corporate stability and the end result, which is what we all want, is more jobs and a stronger economy.

Mr. LAFALCE. Mr. Chairman, I yield 2½ minutes to the distinguished gentleman from Texas (Mr. BENTSEN).

(Mr. BENTSEN asked and was given permission to revise and extend his remarks.)

Mr. BENTSEN. Mr. Chairman, Enron, Global Crossing, the restatements at Xerox, Sunbeam and others are part of the corporate excesses that have occurred as a result of the exuberant nineties. The bill before us today, I believe, is a good start but, as I said earlier, is by no means a panacea and will not solve all the problems that existed or came about, but at least begins putting us in the right direction to hopefully restore some confidence to the markets. It does establish an oversight function of auditors of public companies. It amends the law to crack down on insider self-dealing, where you had corporate managers really treating public companies as private banks, and I am glad the committee adopted a few amendments I offered to deal with that. It continues the process of eliminating the conflict between independent auditors and the companies they audit.

Some will say it does not go far enough, but at least it begins that process. It was strengthened by an amendment that the gentleman from North Carolina (Mr. WATT) and I offered and, quite frankly, the gentleman from New York's substitute strengthens that even further. It puts the Securities and Exchange Commission on notice and provides them with the resources, and it puts the Congress on notice that there needs to be stronger oversight of the players in the public markets. And it is quite a change from where the SEC was under the prior chairman, Mr. Levitt, who really did take a strong stance in trying to root out conflict of interest and, quite frankly, ran into some of his toughest opponents in the Congress as much as out on Wall Street.

The committee should adopt the Capuano amendment, which I think strengthens the oversight board in ensuring that the makeup of that board is one that is truly independent. And while there are things in the substitute I like and things I do not like, the committee should adopt it. But what I think this bill does that is so terribly important is that it puts the Congress on record in saying that we will not tolerate abuses in the public market.

Maybe we need to go further. Maybe we do not go far enough in the bill, and I do not think a lot of bills we pass here necessarily go far enough. I do not know that we know all the answers. But it also puts the regulators on notice and provides them with the resources to do the job they are entrusted to do. And if they do not, then the Congress should be willing to act again. Because if we do not restore confidence in the markets and ensure confidence in the markets, then we will raise the cost of capital to great expense to the general economy, and while we are concerned about the Enron employees, many of whom are my constituents, we as a Nation will suffer as well. I appreciate the start we are making today. I hope we can continue the process.

Mr. OXLEY. Mr. Chairman, let me commend my friend, the able gentleman from Texas, for his good work on the committee and on the floor. The committee will certainly miss his excellent leadership and insights next year. I wanted to pass those remarks along.

Mr. Chairman, I yield 4 minutes to the gentleman from Louisiana (Mr. BAKER), the lead cosponsor of the CARTA legislation and the chairman of the Subcommittee on Capital Markets.

Mr. BAKER. Mr. Chairman, I thank the gentleman for yielding me this time and wish to express my deep appreciation for his leadership in helping the committee construct what I think is one of the most significant reform pieces of legislation in financial markets in this Congress.

In listening to the debate, many would assume that we have done nothing. In listening to the debate, many would assume there are those in the Congress who would like to sit on the board of every board of directors of every corporation in America, because that is the only way we could possibly have protection for individuals and consumers. In listening to the debate, one would believe that some think it is inappropriate for a corporation to make a profit. In the free enterprise system, it is clear, people invest, they work hard; if they convince consumers and they are successful and beat their competition, at the end of the day we hope people make a profit. Some think profit is gained only by ill-conceived, manipulative, backdoor deals at the expense of working people. Where are we? This is America. We are taught if you work hard, invest, that it is okay to make a profit, and one day if you work hard you might be able to keep some of it. That was the basis of our tax relief program: You work hard, you pay your taxes to the Federal Government.

Some say, ''Let's not give them their money back. They might spend it. We ought to keep it here in Washington and regulate them.'' Some people watch business and they say, ''If it's making a profit, let's first regulate it. If it's still making a profit, let's tax it. And if that doesn't stop it, let's sue it.'' I think we have had enough of that. This bill is about common sense. It is not lawful for a corporate executive to withhold material facts about the financial condition of his corporation. And we go further and say, if you do, there is a penalty to pay.

We provide for auditing independence by saying the audit committee works for the shareholder and has an obligation to report the true and accurate financial condition of the corporation, or there are consequences.

Some have suggested we are doing nothing with the analysts. Let me point out that last fall before the Enron matter became public knowledge, this committee, the Committee on Financial Services, was working on these sets of rules to provide new standards for analysts' conduct that go far beyond anything I have heard suggested in the debate in the committee today. We have taken action. We have taken action to preserve our free enterprise system, the ability to govern a corporation and make a profit, employ individuals and provide opportunities for millions of investors to participate in the dynamic growth of this economy.

In 1995, no one could invest online. Today, there are over 800,000 trades a

day where working men and women take $100, $200, and invest it for their child's education, to purchase their first home, and maybe their retirement. That is the American way. Are these the large institutional investors who are making backroom deals with analysts and Wall Street CEOs? No, they are people who are working as we debate this bill this morning to try to make a few extra dollars to enhance the quality of their children's future.

This bill makes sure that the financial statement they read, that the analyst recommendations they research on the Internet, that the corporate executives' representations about the future of corporate profitability are true and accurate. We cannot guarantee success. Of all the companies listed on the New York Exchange in the early 1900s, there is only one that is still listed there today. The dynamic free enterprise system is going to cause changes in our market that no one can predict and we cannot guarantee success or failure, but what this Congress can guarantee is that no one is misled or mistreated and all have equal opportunity.

What shall we do? Some would say this bill is insufficient. At the end of this process, after all the amendments are considered and the gentleman from New York's motion to recommit is finally disposed of and defeated, as I hope it will be, you will have a decision to make. Do you vote for this bill on final passage or do you say ''no'' and turn your back on the most meaningful reform effort you will ever have?

Mr. LAFALCE. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from Oregon (Ms. HOOLEY).

(Ms. HOOLEY of Oregon asked and was given permission to revise and extend her remarks.)

Ms. HOOLEY of Oregon. Mr. Chairman, I thank the ranking member for all of his hard work on this piece of legislation. I guess I am a little different from some of the speakers so far because I think that this legislation before us is an improvement over the current system. Is it perfect? No. Does it go far enough? Probably not. Will it prevent another Enron? Who knows? I do not think it is within the realm of possibility that we will ever be able to prevent people from being greedy and deceiving shareholders. Every single one of us knows that if this bill was introduced before the Enron scandal, it probably would have had a handful of cosponsors and probably never seen the light of day. But now we are being told that it is completely inadequate and does not do anything to address the problems that led to the collapse of Enron. I disagree.

This is the bottom line. H.R. 3763 is going to strengthen our financial reporting system which in turn will strengthen our capital markets. It is a huge step in the right direction. However, that does not mean that this legislation is comprehensive or that it could not stand improvement. For example, it completely ignores the President's call for corporate governance reform. It simply calls for a study on whether CEOs who engage in fraud should surrender their stock options. The President does not think we need to study this matter. He has publicly stated that they should disgorge those earnings. The President also does not think corporate officers who engage in fraud should be permitted to serve on another board. But again H.R. 3763 is silent on this matter.

Is this bill better than what we currently have? Yes. But I want to urge my colleagues on both sides of the aisle who truly want to protect the interests of investors to also support Ranking Member LAFALCE's substitute.

Mr. OXLEY. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from Alabama (Mr. BACHUS), a subcommittee chair.

Mr. BACHUS. I thank the gentleman for yielding me this time.

Mr. Chairman, Members will recall that 2 years ago, the SEC proposed to limit auditors from doing several nonauditing functions for their clients, consulting work and other nonauditing services. When the SEC proposed that, they do what they always do, what this body has insisted they do, what they ought to do, that they put those proposals out for public comment, because all knowledge does not come from Washington. It is not all inside the Beltway. They made 10 specific proposals to ban nonauditing services. Consumer groups came in and testified before the Securities and Exchange Commission. Consumer groups came in and testified before Arthur Levitt and the SEC. Industry groups came in and testified. Over a 4- or 5-, 6-month period, they looked at the rules, they listened to witnesses, they refined the rules, they revised the rules. And in September, Arthur Levitt had this to say about that process of letting the public participate in how they are governed. He said this: ''Thanks to the thoughtful and constructive public input, we see ways to revise the proposed rules to avoid unintended consequences and to address other legitimate concerns.''

There are unintended consequences when you propose a rule. There are other legitimate concerns that people have when you put a rule out there for public comment. As a result, Arthur Levitt said, ''We've gone through this process and we have got better rules, we have got more effective rules, we have got a good product.'' Basically that is what the bill that Chairman BAKER and Chairman OXLEY have put out for us, is the result of that process by Arthur Levitt, with public comment from consumer groups, labor groups and industry groups.

Both bills ban these nonauditing services. Both of them ban them. But the difference is that the gentleman from New York (Mr. LAFALCE) and, in fact, when I mentioned this in committee, the gentleman from New York said, ''I realize that's a major problem,'' but it is a problem that we still have in the substitute. The gentleman from New York went back and actually adopted the proposed rules, not the final rules as the base text has. He went back to the proposed rules, throw out all the comments by the consumer groups, throw out all the comments by the business groups, throw out all the comments by the labor organizations, throw out all the comments by those in the academic world. He goes back to the original proposed rules, like starting all over again. That is not what this place is all about. It is about including the public.

Mr. LAFALCE. Mr. Chairman, I yield myself 30 seconds. The gentleman from Alabama (Mr. BACHUS) was referring to an amendment that was offered within the committee, but he is not referring at all to the provision that is in the substitute. So all his remarks were irrelevant to the provisions within the substitute.

Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. DOGGETT).

□ 1200

Mr. DOGGETT. Mr. Chairman, a few months ago, one really could not turn on the television at night or open a newspaper without hearing about the plight of those who suffered in the Enron-Andersen debacle—people whose tomorrow was stolen, many of them innocent, hard-working employees for the very companies that were engaged in these questionable deals. Even expert investors, including those at a public state retirement system in Austin, Texas, lost millions of dollars in Enron investments. Many people who were working to prepare their own tax returns saw that Enron was not paying much in the way of taxes; in fact, it apparently was not paying any taxes at all.

There were two reactions to this debacle. There were some people, like the gentleman from New York (Mr. LAFALCE) who said, how can we prevent something like this from happening again? What can we do? What is the best way? Certainly, it is challenging and complex, but what is the best way to be sure that more people do not suffer like this in the future?

And then there was a second response, the response we normally hear in Washington from those special interest lobbyists: how can we keep the loopholes, the back doors, the exceptions, the special preferences and exemptions that we worked so diligently over the years to be sure that Congress gave us, how can we be sure we keep them in the future?

In the face of this Enron-Andersen fiasco, those lobbyists, that second group, could not come with a straight face and say, ''do nothing.'' So their best avenue to thwart any meaningful reform was to say, ''do next to nothing,'' and we will call it ''something''; and that is precisely where we are today. The bill before us is ''next to

nothing'' and it is being called ''something'' to blunt attempts to exact more far-reaching reform.

As if that were not bad enough, there are some lobbyists who saw this Andersen-Enron crisis as an opportunity, an opportunity to get a little more. And so when we took up the pension bill a couple of weeks ago, the first response in this House to Enron, instead of doing something to help the employees, a little more discrimination was approved in favor of the executives at the top. Today, in this bill, instead of making it more difficult for corporate wrongdoers to assume a position of responsibility at another corporation, this bill makes it easier.

When it comes to tax problems, the same accountants that are causing many of these problems, as Forbes magazine said a couple of years ago, they are the ''tax shelter hustlers,'' ''respectable accountants'' who are out peddling dicey corporate tax loopholes. And when today ends, they will still be able to do it. The analysts will still be able to think one thing and say another to those they advise to purchase stock. The accountants will still be held to a level of responsibility under this law that is less than even the modest changes President Bush proposed and less than what even the accountants agreed to do voluntarily.

Many people in this country, many Americans, are absolutely amazed that Enron could have fallen apart last year like it did. This year, they will be similarly amazed that Congress did next to nothing about it.

The CHAIRMAN. The Chair will advise Members that there are 5½ minutes remaining on both sides of the debate.

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. FERGUSON), a new and valuable member of our committee.

Mr. FERGUSON. Mr. Chairman, I want to commend the gentleman from Ohio (Mr. OXLEY) for his great work on this legislation and for also working so closely with the major investigators: the Justice Department, the SEC, the Enron and Andersen internal teams, to achieve the goal that we have been able to achieve with this legislation. The Committee has heard from a diverse group of witnesses representing a broad spectrum of views from across America regarding the securities markets and the government's role in protecting investors.

The distinct differences in the testimony, including former SEC officials and the securities industry and a leading consumer organization and the accounting industry, have confirmed that the committee and the members on the committee have taken the necessary steps to improve the current regulatory system with this legislation, the CARTA legislation.

This legislation is a product of a multitude of views and months of work by the committee to improve the public's confidence in our capital markets and to strengthen the overall financial system in the most appropriate manner. It is effective because it gets to the heart of the issues that will prevent future Enrons from happening in this country, without drowning our businesses in a sea of red tape.

It is important that this legislation avoids the temptation to overreact and to over-legislate in a manner that is going to cripple the entire business community. In fact, the Federal Reserve Chairman, Alan Greenspan, recently testified that the Enron collapse has already generated a significant shift in corporate transparency and responsibility, highlighting the market's sometime ability to self-correct. Clearly, over-legislating would be counterproductive and make it impossible for our markets to function properly.

Clearly we need to legislate, and I think we have done that in this bill. But legislating should not be the end of the Congress's role in addressing these issues. The collapse of Enron represents a combination of irresponsible actions on the part of some decisionmakers with knowledge of the company's financial well-being, and a meltdown of the financial safeguards that we have used to identify problems at a stage when corrective action still might be possible. We have to continue to work directly with the private sector to instill a spirit of corporate responsibility. We must challenge America's business leaders to meet the highest standards of ethics and responsibility to their employees and their shareholders.

There have been dozens of legislative measures introduced by both sides of the aisle to address these issues. It is time we put partisan wrangling aside and to move forward with the practical solutions that will actually help. We need to increase the American people's confidence in our capital markets, because by doing so, we will increase their confidence in our economy at a time when our economy needs to continue to grow.

I urge my colleagues to support the CARTA legislation.

Mr. LAFALCE. Mr. Chairman, I yield 2 minutes to the very distinguished gentlewoman from California (Ms. WATERS), the ranking member of the Subcommittee on Financial Institutions.

Ms. WATERS. Mr. Chairman, I rise in opposition to H.R. 3763. I truly believe the gentleman from Ohio (Mr. OXLEY), the chairman of the committee, had good intentions, and I appreciate that he accepted one of my amendments on the disgorgement fund at SEC. However, the bill simply does not respond to the outrageous and corrupt behavior of Enron, Arthur Andersen, Global Crossing, and perhaps many other corporations and Wall Street firms. What more harm to our citizens will we tolerate?

This bill does not recognize the wake-up call we have been afforded. This bill will not prevent another Enron from happening. Unfortunately, there are major problems with the larger bill which does not offer strong enough protections to prevent what appears to be a growing number of unscrupulous corporate practices.

Instead of instituting real accounting reforms, the Republican bill leaves the bulk of the work to the SEC, who can be pressured by the industry into issuing so-called reforms that are meaningless. The Democratic substitute, however, creates a powerful new regulatory board with authority to set strict standards on auditors, with strong investigative and disciplinary powers, recognizing that years of the accounting industry's self-policing has failed.

The Republican bill fails to ban consultant services that create conflicts of interest. The Democratic substitute ensures auditor independence by prohibiting consulting services that create conflicts of interest, and gives audit committees of corporate boards authority to hire and fire auditors. The Republican bill protects executive corporate wrongdoers by making it more difficult to bar guilty officers and directors from serving at other public companies. The Democratic substitute holds CEOs accountable for their financial statements and subjects them to criminal penalties for knowingly lying. It requires those who make false or misleading statements to surrender their stock bonuses, and it also bars guilty officers and directors from serving at other public companies.

The Democratic substitute bars analysts from holding stock in the companies they cover and ending incentives to act as salesmen rather than objective experts.

Mr. OXLEY. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from New York (Mr. GRUCCI), one of our outstanding freshman members of the committee.

Mr. GRUCCI. Mr. Chairman, I thank the gentleman for yielding.

First of all, I would like to thank the gentleman from Ohio (Mr. OXLEY) and my colleagues on the Committee on Financial Services for their tireless effort to swiftly address this crisis.

Mr. Chairman, the Enron debacle highlights the need for reform of our accounting and investment standards. However, any bill in response to this cannot go overboard in restricting our already self-regulating markets. For this purpose, I believe that this corporate responsibility bill strikes a solid balance, and I am in favor of its passage.

First, the corporate responsibility bill creates a public regulatory organization to make sure accounting laws are followed and audits are done properly. This is a necessary, commonsense approach to restoring investors' faith. Next, the bill applies the same stock bailout period to corporate executives as it does to employee shareholders, as is only fair. Finally, it demands that executives disclose their stock trades faster so employees and analysts truly

know what is going on inside the company.

The beauty of the corporate responsibility bill is that it does not try to put the brakes on the wheels of our markets. Instead, it restores fairness and honesty to the system, while leaving its main tenets in place. It allows the investor to still be a master of his or her own destiny, but in a much safer environment. The self-regulating nature of our free enterprise system is left intact, and now it will be open to staying more clean.

The era of corporate mystery must end. Either we can let the corporate responsibility bill take us on a path to transparency and legitimacy where rules are valued and fraud is exposed and prevented, or we can watch as more innocent Americans are deprived of their life savings by greed and callousness. Although the corporate responsibility bill was written as a response to recent events, it is commonsense legislation that should have been considered long ago, and I urge my colleagues to vote in favor of it.

Mr. LAFALCE. Mr. Chairman, I yield myself the balance of the time remaining.

Mr. Chairman, we have an enormous, enormous problem on our hands. Investors have lost hundreds of billions of dollars, and sometimes it may have been due to bad investment decisions they made, but an awful lot of the time it was due to earnings manipulation or analyst hype or corporate or accounting wrongdoing. We need to rise to the challenge. This bill just does not do that. We could say, well, if we gave it a test and somebody gets 50 percent of the answers right, we would say, well, pass them. I think we flunk them if that is as good as they could do, especially if they do a poor job on all of the important issues. I think the main bill does a very poor job on all of the important issues.

Let us go to, for example, officers of corporations. What should we do about that? Well, the President has told us what he thinks should be done at a minimum. In President Bush's 10-point plan, proposal number 3: ''CEOs should personally vouch for the veracity, timeliness and fairness of their company's public disclosures, including their financial statements.'' The Republican bill punts on that. It does not do anything on that. Our substitute legislatively codifies what President Bush asked for.

What about boards of directors? Well, we have to make them more responsible. One way is to make sure that they are responsible for both the hiring and the firing of the auditors, so that the auditors then would be independent from the officers. The Republican bill does nothing on that. Our bill specifically says that it is a right and responsibility of the board of directors, the audit committee in particular, to perform that function.

Something else that we need to do to deal with officers or directors is if they are proven unfit, we need to be able to bar them from serving as officers and directors on other publicly traded corporations, and the SEC has complained that they do not have that power. President Bush says, proposal number 5: ''CEOs or other officers who clearly abuse their power should lose their right to serve in any corporate leadership positions.''

□ 1215

The Republican bill codifies bad judicial law and makes it more difficult for the SEC to bar officers and directors. Our proposal adopts the reforms that have been advocated by the SEC, another fundamental threshold difference.

What about auditors? Well, we need a regulatory organization. The Republican approach is to say to the SEC, ''Well, if you think there should be regulatory organization for accountants, then you should create one. It is discretionary on your part. You decide what powers they will have and you decide who shall serve.''

We say that there shall be created an independent regulatory organization for accountants, we specify what their powers should be, and we also indicate the type of person who should be appointed: individuals who are representative of the pension plans of private employees, individuals who are representative of the pension plans of public employees, et cetera.

And very importantly, with respect to research analysts, the Republican bill says, well, we ought to study that problem. We say, look, the SEC has studied it. The SEC has given report after report showing conflicts. The Attorney General of New York has come out with unbelievable revelations.

On all other legislation, for example, Graham-Leach-Bliley, we created firewalls between banking, securities, and insurance. We need a firewall within securities firms with respect to the compensation that research analysts are given and the revenues that are generated for the investment arm of the firm. The quality of research should be the sole determinant of the compensation of research analysts. The Republican bill does nothing on that. We take meaningful action.

Mr. OXLEY. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, this has been a worthwhile debate and I think does clearly point out some of the philosophical differences between at least a portion of the Democratic Party and the Republican approach.

This committee acted. We are the only committee who have acted responsibly in this manner with moving legislation forward. We had the first hearing in December on the Enron debacle. We have had six subsequent hearings. We have had 33 witnesses. We had a markup that lasted over 2 days, for 11 hours. We debated this thoroughly.

At the end of the process, at the end of the process in committee, over half of the Democrats on the committee supported the final passage of this legislation to recommend it for a floor vote. That is a positive development. So I stand here today supporting the bipartisan legislation that came out of our committee, and I am very proud of that.

My friend, the gentleman from New York (Mr. LAFALCE), points out the alleged differences with the White House. Let me point out and read the statement of administrative policy for the Members.

''The administration supports House passage of H.R. 3763 as an important step toward improving corporate responsibility. The bill is consistent with the President's 10-point plan, and is guided by the core principles of providing better information to investors, making corporate officers more accountable, and developing a stronger, more independent audit system.''

That is the statement of administration policy. They support this legislation. Let us support this bipartisan proposal as we move forward.

Mr. BARR of Georgia. Mr. Chairman, I rise today in support of the Corporate Auditing and Accountability, Responsibility and Transparency Act (CARTA) of 2002, H.R. 3763. This legislation represents necessary—but measured—response to the Enron and Global Crossing scandals.

It is important Congress continues to respond efficiently and effectively to the concerns of American investors, retirees, and employees. The Financial Services Committee has worked hard in order to send this solid, bipartisan legislation to the House floor.

I commend Chairman MICHAEL OXLEY for his continued efforts on this legislation. He has been dedicated to work with Members on both sides of the aisle, the industries and the administration in order to create a bill which would strike a reasonable balance.

H.R. 3763 is a tough bill on auditor accountability and corporate transparency and addresses the weaknesses revealed in the bankruptcies by carefully strengthening the markets. In addition, H.R. 3763 will help to protect America's shareholders by providing better information to investors, making corporate officers more accountable, and developing a stronger, more independent audit system.

Mr. Chairman, some may support the idea to create even more regulation and bureaucracy to prevent future collapses of major corporations like Enron or Global Crossing. However, the idea does not bear out. Neither Congress, nor the government should be in the position of handcuffing the private sector and how it does business.

H.R. 3763 gives the Securities and Exchange Commission the tools to identify future criminal wrongdoing, without imposing such strict regulatory guidelines that it would take an act of Congress to give any flexibility. Such restrictions would hamstring the agency and businesses. Moreover, we could, in the end, wrap an endless stream of red tape around the capital markets. As we emerge from the most recent economic slowdown, it would be the height of irresponsibility by this Congress to dampen investment.

I urge my colleagues to pass H.R. 3763 which would protect working families investing in their futures.

Mr. BEREUTER. Mr. Chairman, this Member rises today to express his support for H.R. 3763, the Corporate and Auditing Accountability, Responsibility and Transparency Act of 2002. This bill, of which I am an original cosponsor, is necessary to protect investors by ensuring auditor independence in the accounting of publicly traded companies.

This Member would express his appreciation to the distinguished gentleman from Ohio, Mr. OXLEY, the chairman of the House Financial Services Committee, for introducing H.R. 3763. In addition, this Member would like to express his appreciation to the distinguished gentleman from Louisiana, Mr. BAKER, the chairman of the Financial Services Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises, for his efforts in getting this measure to the House floor for consideration.

In large part, H.R. 3763 is a response to the grossly negligent activities by Arthur Andersen in their accounting audit of the Enron Corporation. For example, Arthur Andersen provided both consulting and auditing services to Enron, which certainly would appear to be an obvious conflict of interest. In addition, after the Securities and Exchange Commission, SEC, began investigating the Enron matter, Arthur Andersen nonetheless allegedly continued to destroy documents and e-mails related to its audit of Enron.

Therefore, H.R. 3763, among many things, would do the following:

First, prohibit firms from offering the consulting services of financial information system design and internal audit services to companies that are externally auditing.

Second, establish a new public regulatory board, the Public Regulatory Organizations PROs, to conduct oversight over the accounting industry. The PROs would be under the direct authority of the SEC. Currently, accountants are subject to partial oversight by their professional organization, the American Institute of Certified Public Accountants; the Federal Accounting Standards Board; and the State Boards of Accountancy, which license accountants. Under H.R. 3763, the power of these State boards is not diminished.

Third, prohibit corporate executives from buying or selling company stock during any period where 401(k) plan participants are unable to buy or sell securities. This provision would address the particular actions of Enron corporate executives who sold their stock when 401(k) participants were prohibited from selling their shares of stock.

Fourth, make it a crime for a corporate official to fraudulently influence, coerce, manipulate, or mislead an accountant performing an audit of a company.

Fifth, require companies to make real-time disclosures of financial information that is important to investors, such as material changes in a company's financial condition.

Sixth, require corporate executives to disclose when they sell securities they own in the company immediately. Current regulations allow corporate executives up to 40 days to make such disclosures.

This Member would also like to note that while H.R. 3763 is certainly a step towards protecting investors in the future, he also hopes that the corporate executives at Enron and the relevant auditors at Arthur Andersen are punished in the proper manner for their grossly irresponsible, probably illegal, corporate behavior.

In closing, this Member urges his colleagues to support H.R. 3763.

Mrs. MINK of Hawaii. Mr. Chairman, H.R. 3763, the Corporate Accountability, Responsibility, and Transparency Act of 2002, does not go far enough to reform the accounting industry and strengthen corporate disclosure rules, which are critical to restoring investor confidence, which was shattered by the collapse of the Enron Corporation.

The implosion of what was once the Nation's seventh largest company and dominant energy-trading enterprise proved that the integrity of the system of checks and balances that is supposed to prevent an Enron-like debacle has been compromised. The system's failure has devastated thousands of individuals and their families.

Enron's employees, the vast majority of whom were unaware of the breadth and scope of the company's questionable financial dealings, lost not only their jobs but also much of their life savings. Enron's executives fared considerably better, cashing in $1.1 billion in stock, as they overstated the company's revenues and concealed much of its debt in off-balance-sheet partnerships.

The employees of Arthur Andersen LLP, the auditing firm responsible for verifying the accuracy of Enron's books, have similarly been victimized by the actions of a relative handful of Anderson partners and personnel that chose to overlook Enron's fraudulent bookkeeping activities. Today, Arthur Andersen LLP faces huge civil lawsuits and is steadily losing clients, thereby causing many of its employees to become unemployed.

In addition to the employees of Enron and Arthur Andersen, many thousands of investors that relied on the supposed independent advice of stock analysts were victimized by the Enron debacle. Because Wall Street investment companies reaped huge fees for brokering Enron's numerous deals, they continued to lavish praise on the company's stock, even after it nosedived in October 2001.

While H.R. 3763 is intended to strengthen the independent auditing of publicly traded companies, it does not address actual accounting standards. For example, it is silent on the question of whether certain types of debt may be moved off a company's balance sheets, which, it cannot be stressed enough, was a hallmark of Enron's accounting machinations. The Democratic substitute to H.R. 3763 would: Require CEOs to certify the accuracy of their company's financial statements; allow the Securities and Exchange Commission to bar those guilty of wrongdoing from serving as corporate officers; prohibit auditors from performing consulting and auditing services for the same client; and prohibit analysts from owning stock in the companies on which they report.

Investor confidence is the bedrock upon which our market system is built. Investors must have full confidence that business executives will look after the long-term interests of their companies, directors will look after the interests of shareholders, auditors will verify the accuracy of financial statements, and analysts will offer sound investment advice. There is no question that investor confidence has been badly shaken, if not lost. If that confidence is to be fully restored, more than good intentions are required. It will require provisions with force and teeth. It will, in short, require the Democratic substitute. I strongly urge my colleagues to vote for it.

Mr. CASTLE. Mr. Chairman, I rise today to express my strong support for the Corporate and Auditing Accountability, Responsibility, and Transparency Act. Americans should know that this is the second piece of legislation the House has passed to protect them from future ''Enrons.'' Earlier this month, the House passed legislation to enhance pension protections and give employees more tools to diversify their retirement plans.

This legislation is designed to enhance the independence of the accounting industry to make sure the stock markets and investors have a more accurate picture of a corporation's financial conditions so they can make wise and informed decisions on where to invest their money. In particular, the bill creates a new Public Regulatory Organization, PRO, to oversee the activities of accountant. The PRO would be subject to direct SEC authority. A majority of the PRO board members will be independent of the accounting industry to assure that the PRO itself is not ''captured'' by the very industry it is regulating.

One of the other Enron-related problems this bill addresses is the failure to disclose the types of off-balance-sheet partnerships that Enron used to distort its financial condition. This bill requires prompt disclosure of these partnerships.

This bill also reigns in corporate management sales of company stock. Among the most disturbing actions Enron executives took was to sell their company stock at the same time there was a blackout period on the employees 401(k) retirement plan. They were preserving their own assets at the same time their employees were losing their retirements as the Enron ship continued to sink. From now on, whenever employee stock trades are prohibited, corporate management stock trades will also be prohibited.

Finally, while some have urged Congress to take further steps, I want to caution people that freezing additional reforms in legislation based upon our current understanding of the causes of these problems can lead to its own set of problems. In passing Gramm-Leach-Bliley a few years ago, Congress finally fixed some of the mistakes that were made in attempting to address the causes of the Great Depression. Critics should also note that this legislation calls on the SEC and other regulators to explore additional reforms. Congress will maintain active oversight of the SEC as they continue to develop sound ideas to prevent future Enrons.

Mr. Chairman, again, I want to express my strong support for this bill and urge my colleagues on both sides of the aisle to join the 49 bipartisan members of the House Financial Services Committee who reported this bill favorably to the House floor. This is a responsible step toward preventing future Enrons that does not punish the innocent.

Mr. STARK. Mr. Chairman, I rise in opposition to H.R. 3763, the Corporate and Auditor Responsibility Act, because the bill does nothing to prevent another Enron debacle from occurring in the future.

Enron's collapse has highlighted major gaps in our securities laws. These gaps jeopardize the retirement savings of millions of hard working Americans who have their retirement funds invested in securities. After the Enron collapse, the American people overwhelmingly called for strong measures to prevent such a debacle from happening again. They called on Congress to act, but this bill falls far short.

This so-called ''Corporate and Auditor Responsibility Act'' is nothing more than a political document for Republicans to appear like they are protecting investors and workers when, in fact, they are protecting corporations and CEOs. H.R. 3763 would actually increase the likelihood of another Enron situation because it limits the SEC's authority to prohibit Enron's corporate officers and directors from serving in such positions in the future if they are found guilty of misconduct.

What happened to the GOP mantra of holding executives accountable for corporate misconduct? H.R. 3763 fails miserably to hold CEOs even remotely accountable for their actions. Even President Bush thinks it makes sense to have a company's CEO certify the accuracy of their financial statements. This bill fails to take even that small step.

The Enron scandal happened less than 6 months ago, yet my Republican colleagues have quickly forgotten some of its major components. While thousands of Enron employees were being told to invest their retirement savings in Enron securities, Enron's CEO sold millions of dollars worth of company stock. Corporate officers knew that hollow deals were taking place to prop up the stock price, and the employees had to pay the price.

Shouldn't company CEOs be responsible for signing on the dotted line and verifying the company's books? Of course they should! Which makes it all the more unfathomable that the GOP would submit a bill without a provision to hold CEOs responsible for the veracity of their company's bottom line. Our Republican friends are basically saying to Ken Lay: feel free to get another CEO gig, create some new tax shelters for the company, prop up the stock price and then walk away with millions in personal profit. Today's bill does nothing to prevent that.

In contrast, the Democratic substitute addresses the more egregious corporate misconduct issues.

First and foremost, the Democratic substitute requires the CEO and chief financial officer (CFO) of publicly-traded companies to certify the accuracy and veracity of the company's financial statements. This is a reasonable first step to ensure that executives be held accountable for misleading investors and employees.

Next, the Democratic substitute allows the Securities and Exchange Commission (SEC) to recover all executive compensation received (including salaries, commissions, fees, bonuses, and stock options) for any period during which the executive falsified a company's financial statements. The Republican bill only allows the SEC to recover stock transaction proceeds for the six months prior to a corporate restatement of earnings. Under the Republican bill, an executive making a $3 million salary, who falsifies company financial records, will be able to keep it. He can also keep hundreds of millions of dollars in stock option proceeds accumulated under falsified accounting from previous years.

Finally, the Democratic substitute bill will empower the SEC to bar directors and officers found guilty of corporate misconduct from holding similar positions in the future. CEOs who mislead and defraud their investors and employees must not be allowed to return to similar positions. Without a strong provision such as this, incentives will continue to abound for CEOs to choose personal profit over corporate integrity.

This Republican bill is another sham on the American public who expect Congress to pass effective legislation to restore corporate accountability. I urge my colleagues to vote for the Democratic substitute and no on the Republican bill.

Mr. PAUL. Mr. Chairman, seldom in history have supporters of increased state power failed to take advantage of a real or perceived crisis to increase government interference in our economic and/or personal lives. Therefore we should not be surprised that the events surrounding the Enron bankruptcy are being used to justify the expansion of Federal regulatory power contained in H.R. 3763, the Corporate and Auditing Accountability, Responsibility, and Transparency Act of 2002 (CARTA).

So ingrained is the idea that new Federal regulations will prevent future Enrons, that today's debate will largely be between CARTA's supporters and those who believe this bill does not provide enough Federal regulation and control. I would like to suggest that before Congress imposes new regulations on the accounting profession, perhaps we should consider whether the problems the regulations are designed to address were at least in part caused by prior government interventions into the market. Perhaps Congress could even consider the almost heretical idea that reducing Federal control of the markets is in the public's best interest. Congress should also consider whether the new regulations will have costs which might outweigh any (marginal) gains. Finally, Mr. Speaker, Congress should contemplate whether we actually have any constitutional authorization to impose these new regulations, instead of simply stretching the Commerce Clause to justify the program de jour.

CARTA establishes a new bureaucracy with enhanced oversight authority of accounting firms, as well as the authority to impose new mandates on these firms. CARTA also imposes new regulations regarding investing in stocks and enhances the power of the Securities and Exchange Commission (SEC). However, Mr. Speaker, companies are already required by Federal law to comply with numerous mandates, including obtaining audited financial statements from certified accountants. These mandates have enriched accounting firms and may have given them market power beyond what they could obtain in a free market. These laws also give corrupt firms an opportunity to attempt to use political power to gain special treatment for Federal lawmakers and regulators at the expense of their competitors and even, as alleged in the Enron case, their employees and investors.

When Congress establishes a regulatory state it creates an opportunity for corruption. Unless CARTA eliminates original sin, it will not eliminate fraud. In fact, by creating a new bureaucracy and further politicizing the accounting profession, CARTA may create new opportunities for the unscrupulous to manipulate the system to their advantage.

Even if CARTA transformed all (or at least all accountants) into angels, it could still harm individual investors. First, new regulations inevitably raise the overhead costs of investing. This will affect the entire economy as it lessens the capital available to businesses, thus leading to lower rates of economic growth and job creation. Meanwhile, individual investors will have less money for their retirement, their children's education, or to make a down payment on a new home.

Government regulations also harm investors by inducing a sense of complacency. Investors are much less likely to invest prudently and ask tough questions of the companies they are investing in when they believe government regulations are protecting their investments. However, as mentioned above, government regulations are unable to prevent all fraudulent activity, much less prevent all instances of imprudent actions. In fact, as also pointed out above, complex regulations create opportunities for illicit actions by both the regulator and the regulated, Mr. Chairman, publicly held corporations already comply with massive amounts of SEC regulations, including the filing of quarterly reports that disclose minute details of assets and liabilities. If these disclosures rules failed to protect Enron investors, will more red tape really solve anything?

In truth, investing carries risk, and it is not the role of the Federal Government to bail our every investor who loses money. In a true free market, investors are responsible for their own decisions, good or bad. This responsibility leads them to vigorously analyze companies before they invest, using independent financial analysts. In our heavily regulated environment, however, investors and analysts equate SEC compliance with reputability. The more we look to the government to protect us from investment mistakes, the less competition there if for truly independent evaluations of investment risk.

Increased Federal interference in the market could also harm consumers by crippling innovative market mechanisms to hold corporate managers accountable to their shareholders. Ironically, Mr. Chairman, current SEC regulations make it difficult for shareholders to challenge management decisions. Thus government regulations encourage managers to disregard shareholder interests!

Unfortunately, the Federal Government has a history of crippling market mechanisms to protect shareholders. As former Treasury official Bruce Bartlett pointed out in a recent Washington Times column, during the 1980s, so-called corporate raiders helped keep corporate management accountable to shareholders through devices such as the ''junk'' bond, which made corporate takeovers easier. Thanks to the corporate raiders, managers knew they had to be responsive to shareholders needs or they would become a potential target for a takeover.

Unfortunately, the backlash against corporate raiders, led by demographic politicians and power-hungry bureaucrats eager to expand the financial police state, put an end to hostile takeovers. Bruce Bartlett, in the Washington Times column sited above, described the effects of this action on shareholders, ''Without the threat of a takeover, manaagers have been able to go back to ignoring shareholders, treating them like a nuisance, and giving themselves bloated salaries and perks, with little oversight from corporate boards. Now insulated from shareholders once again, managers could engage in unsound practices with little fear of punishment for failure.'' Ironically, the Federal power grab which killed the corporate raider may have set the stage for the Enron debacle, which is now being used as an excuse for yet another Federal power grab!

If left alone by Congress, the market is perfectly capable of disciplining businesses who engage in unsound practices. After all, before

the government intervened, Arthur Andersen and Enron had already begun to pay a stiff penalty, a penalty delivered by individual investors acting through the market. This shows that not only can the market deliver punishment, but it can also deliver this punishment swifter and more efficiently than the government. We cannot know what efficient means of disciplining companies would emerge from a market process but we can know they would be better at meeting the needs of investors than a top-down regulatory approach.

Of course, while the supporters of increased regulation claim Enron as a failure of ''ravenous capitalism,'' the truth is Enron was a phenomenon of the mixed economy, rather than the operations of the free market. Enron provides a perfect example of the dangers of corporate subsidies. The company was (and is) one of the biggest beneficiaries of Export-Import (Ex-Im) Bank and Overseas Private Investment Corporation (OPIC) subsidies. These programs make risky loans to foreign governments and businesses for projects involving American companies. While they purport to help developing nations, Ex-Im and OPIC are in truth nothing more than naked subsidies for certain politically-favored American corporations, particularly corporations like Enron that lobby hard and give huge amounts of cash to both political parties. Rather than finding ways to exploit the Enron mess to expand Federal power, perhaps Congress should stop aiding corporations like Enron that pick the taxpayer's pockets through Ex-Im and OPIC.

If nothing else, Mr. Chairman, Enron's success at obtaining State favors is another reason to think twice about expanding political control over the economy. After all, allegations have been raised that Enron used the same clout by which it received corporate welfare to obtain other ''favors'' from regulators and politicians, such as exemptions from regulations that applied to their competitors. This is not an uncommon phenomenon when one has a regulatory state, the result of which is that winners and losers are picked according to who has the most political clout.

Congress should also examine the role the Federal Reserve played in the Enron situation. Few in Congress seem to understand how the Federal Reserve system artificially inflates stock prices and causes financial bubbles. Yet, what other explanation can there be when a company goes from a market value of more than $75 billion to virtually nothing in just a few months? The obvious truth is that Enron was never really worth anything near $75 billion, but the media focuses only on the possibility of deceptive practices by management, ignoring the primary cause of stock overvaluations: Fed expansion of money and credit.

The Fed consistently increased the money supply (by printing dollars) throughout the 1990s, while simultaneously lowering interest rates. When dollars are plentiful, and interest rates are artificially low, the cost of borrowing becomes cheap. This is why so many Americans are more deeply in debt than ever before. This easy credit environment made it possible for Enron to secure hundreds of millions in uncollateralized loans, loans that now cannot be repaid. The cost of borrowing money, like the cost of everything else, should be established by the free market—not by government edict. Unfortunately, however, the trend toward overvaluation will continue until the Fed stops creating money out of thin air and stops keeping interest rates artificially low.

Finally, Mr. Chairman, I would remind my colleagues that Congress has no constitutional authority to regulate the financial markets or the accounting profession. Instead, responsibility for enforcing laws against fraud are under the jurisdiction of the state and local governments. This decentralized approach actually reduces the opportunity for the type of corruption referred to above—after all, it is easier to corrupt one Federal official than 50 State Officials.

In conclusion, the legislation before us today expands Federal power over the accounting profession and the financial markets. By creating new opportunities for unscrupulous actors to maneuver through the regulatory labyrinth, increasing the costs of investing, and preempting the market's ability to come up with creative ways to hold corporate officials accountable, this legislation harms the interests of individual workers and investors. Furthermore, this legislation exceeds the constitutional limits on Federal power, interfering in matters the 10th amendment reserves to state and local law enforcement. I therefore urge my colleagues to reject this bill. Instead, Congress should focus on ending corporate welfare programs which provide taxpayer dollars to large politically-connected companies, and ending the misguided regulatory and monetary policies that helped create the Enron debacle.

Mr. BLUMENAUER. Mr. Chairman, I rise today in support of H.R. 3763, the Corporate and Auditing Accountability and Responsibility Act. This bill moves policy in the direction necessary to strengthen corporate and auditor oversight needed to prevent future debacles that we have seen recently at Enron and Global Crossing, and in the past with the Savings and Loan catastrophe.

These oversight failures have led to the loss of hundreds of billions of dollars of savings by innocent investors and employees. These losses have shattered the lives of families, including those in my district who are employed at Portland General Electric, which was purchased by Enron in 1997. Congress owes it to the American public to put in place measures that will eliminate conflicts of interest, lack of independence, and special protections given to accountants and lawyers, which have all been critical factors leading to corporate and industry failures.

Due to the severe impact that these corporate failures create, I urge the House to implement more significant reforms by passing the Democratic Substitute amendment, which:

Creates an independent regulatory board that can set strict standards for auditor independence, with sweeping investigative and disciplinary powers over audit firms.

Holds corporate CEOs accountable by requiring them to certify the accuracy of their financial statements and empowers the SEC to bar those guilty of wrongdoing from serving as corporate officers or directors at other companies.

Prohibits auditors from doing consulting work for the same clients they are in charge of auditing, thereby insuring that auditors remain independent and are not subject to conflicts of interests.

Bans analysts from owning stocks in the companies on which they report and prohibits their pay from being based on their investment firm's banking revenue.

The Democratic approach ensures that our corporate leaders, financial statement auditors, and stock analysts have adequate independent oversight and regulations to fulfill their professional duties. However, I also support the underlying bill, H.R. 3763, which begins the process of putting in place the reforms needed to prevent future tragedies that are so devastating to the savings and lives of American workers and investors.

Mr. SHOWS. Mr. Chairman, today I rise in favor of commonsense legislation that provides necessary reform for the auditing profession.

The Corporate and Auditing Accountability, Responsibility, and Transparency Act (CAARTA) offers the appropriate framework for addressing the concerns raised by the Enron debacle and the revelation of improprieties by its auditor, Arthur Andersen.

The consumers, employees, and investors affected by the demise of Enron due to unlawful misrepresentation of financial information deserve both answers and solutions so that confidence in accounting independence, objectivity, and integrity is restored. However, government should not overreact with prescriptive regulations. Instead, we should provide thoughtful and balanced measures that encourage sound auditing practices yet mandate compliance.

Auditors must maintain an independent relationship with businesses whose books are under review. CAARTA establishes the appropriate guidelines for determining true auditor independence without treading the slippery slope of unnecessary and debilitating regulation. Small businesses throughout Mississippi rely on their local accountants to provide more than just auditing services. These businesses rely on advice and counsel for all types of accounting problems such as bookkeeping, payroll services budgeting, and income tax preparation. We must keep local accountants and small businesses in Rural America in mind when we legislate policy that might impact these relationships in the future.

With these small businesses and local accountants in mind, I oppose any provision requiring auditors of publicly traded companies to meet a netcapital requirement of 50% of its annual audit revenue from publicly traded companies. I agree that auditors of SEC reporting companies ought to have enough capital and insurance to cover the liability they incur when an audit is performed; however, my concern remains with the small businesses and accountants in Rural America whose practices could eventually fall under the same requirement, devastating local, small-town accountants and debilitating the services they currently provide.

I support CAARTA's creation of a public regulatory organization (PRO) made up of both members of the public and members of the accounting profession. The American public and the accounting profession will be better served by this independent governmental body that is given the authority to sanction and discipline those accountants who violate codes of ethics, standards of independence and competency, or securities laws.

As United States Comptroller General David Walker identified in his written testimony before the Financial Services committee on April 9, 2002, the current self-regulatory system for

auditors ''involves many players in a fragmented system that is not well coordinated, involves certain conflicts of interest, lacks effective communication, and has a discipline system that is largely perceived as being ineffective.'' Mr. Walker concluded, ''direct government intervention to statutorily create a new independent Federal government body to regulate the accounting profession is needed.'' I support this conclusion and the means and degree by which CAARTA creates a public regulatory board to address those concerns.

There were two specific issues that I would have liked strengthened or included in this reform package: a stronger section providing for disgorgement of bonuses and other incentives and the inclusion of a requirement for CEOs and CFOs to be held accountable for their companies' financial statements. CEOs must not be allowed to profit from inaccurate and falsified financial statements. Bonuses and other incentive-based forms of compensation should be given back to the workers who lost their pensions and the consumers who lost their investments resulting from misconduct and erroneous accounting statements at the hands and direction of corporate executives. Furthermore, CEOs and CFOs must be responsible for a company's financial statement and certify its accuracy. This is a good business practice that is now, unfortunately, no longer the norm.

We must restore confidence in the accounting profession by enacting legislation that ensures accurate and responsible financial disclosure. CAARTA represents commonsense reform, which makes a deliberate attempt to safeguard American workers, investors, and consumers.

Mr. SHAYS. Mr. Chairman, I want to commend Chairman MIKE OXLEY and Chairman RICHARD BAKER for their work on the legislation we are debating. The reforms contained in this accounting bill represent a balanced approach between industry and government oversight and I am pleased to support it.

The Corporate and Auditing Accountability, Responsibility, and Transparency Act meets the tests for reform put forward by President Bush. It prohibits accounting firms from offering certain controversial consulting services to companies they're also auditing. And it establishes a new, public regulatory board to certify any accountant wishing to audit the financial statement required from public issuers of stock. This board will have enforcement powers and will be under the direction of the Securities and Exchange Commission.

Under CAARTA, all publicly-traded companies will be responsible for ensuring that their accounting firms are in good standing and for having their financial statement certified by the regulatory board.

Well, maybe I shouldn't be so quick to say ''all'' publicly-traded companies. You see, there are two giant private corporations that enjoy a very special privilege from the federal government: they are completely exempt from our federal securities laws.

Mr. Chairman, these companies are Fannie Mae and Freddie Mac, and all the important improvements this legislation makes won't apply one iota to them.

After studying the collapse of Enron and Global Crossing, the Financial Services Committee determined that a number of reforms were necessary to restore confidence in corporate America. These reforms build on the Securities Act of 1933 and the Securities Exchange Act of 1934, the two landmark securities laws to which all publicly-traded companies, except Fannie and Freddie, must adhere.

The reforms contained in this legislation will strengthen securities laws and accounting standards—except when it comes to Fannie and Freddie. This legislation improves transparency in our capital markets and protects investors—unless they're investing in Fannie Mae and Freddie Mac securities.

What this legislation highlights is that we have two separate rules in corporate America: those that apply to Fannie and Freddie, and those that apply to every other publicly-traded company.

The Financial Services Committee has had a number of hearings on the unfair advantages these two secondary mortgage companies have over the rest of the mortgage industry. With Chairman OXLEY's support, I hope we can continue to ask Fannie Mae and Freddie Mac why they can't play by the same rules as all other companies and why they continue to seek exemptions from federal laws designed to protect investors.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered as read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 3763

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Corporate and Auditing Accountability, Responsibility, and Transparency Act of 2002''.

(b) TABLE OF CONTENTS.—

SEC. 2. AUDITOR OVERSIGHT.

(a) CERTIFIED FINANCIAL STATEMENT REQUIREMENTS.—If a financial statement is required by the securities laws or any rule or regulation thereunder to be certified by an independent public or certified accountant, an accountant shall not be considered to be qualified to certify such financial statement, and the Securities and Exchange Commission shall not accept a financial statement certified by an accountant, unless such accountant—

(1) is subject to a system of review by a public regulatory organization that complies with the requirements of this section and the rules prescribed by the Commission under this section; and

(2) has not been determined in the most recent review completed under such system to be not qualified to certify such a statement.

(b) ESTABLISHMENT OF PRO.—The Commission shall by rule establish the criteria by which a public regulatory organization may be recognized for purposes of this section. Such criteria shall include the following requirements:

(1)(A) The board of such organization shall be comprised of five members, three of whom shall be public members who are not members of the accounting profession and two of whom shall be persons licensed to practice public accounting and who have recent experience in auditing public companies.

(B) Each member of the board of such organization shall be a person who meets such standards of financial literacy as are determined by the Commission.

(C) For purposes of this paragraph, a person shall not be considered a member of the accounting profession if such person has not worked in such profession for any of the last two years prior to the date of such person's appointment to the board.

(2) Such organization is so organized and has the capacity—

(A) to be able to carry out the purposes of this section and to comply, and to enforce compliance by accountants and persons associated with accountants, with the provisions of this Act, professional ethics and competency standards, and the rules of the organization;

(B) to perform a review of the work product (including the quality thereof) of an accountant or a person associated with an accountant; and

(C) to perform a review of any potential conflicts of interest between an accountant (or a person associated with an accountant) and the issuer, the issuer's board of directors and committees thereof, officers, and affiliates of such issuer, that may result in an impairment of auditor independence.

(3) Such organization shall have the authority to impose sanctions, which, if there is a finding of knowing or intentional misconduct, may include a determination that an accountant is not qualified to certify a financial statement, or any categories of financial statements, required by the securities laws, or that a person associated with an accountant is not qualified to participate in such certification, if, after conducting a review and providing fair procedures and an opportunity for a hearing, the organization finds that—

(A) such accountant or person associated with an accountant has violated the standards of independence, ethics, or competency in the profession;

(B) such accountant or person associated with an accountant has been found by the Commission or a court of competent jurisdiction to have violated the securities laws or a rule or regulation thereunder (provided in both cases that any applicable time period for appeal has expired);

(C) an audit conducted by such accountant or any person associated with an accountant has been materially affected by an impairment of auditor independence;

(D) such accountant or person associated with an accountant has performed both auditing services and consulting services in violation of

the rules prescribed by the Commission pursuant to subsection (c); or

(E) such accountant or any person associated with an accountant has impeded, obstructed, or otherwise not cooperated in such review.

(4) Any such organization shall disclose publicly, and make available for public comment, proposed procedures and methods for conducting such reviews.

(5) Any such organization shall have in place procedures to minimize and deter conflicts of interest involving the public members of such organization, and have in place procedures to resolve such conflicts.

(6) Any such organization shall have in place procedures for notifying the boards of accountancy of the States of the results of reviews and evidence under paragraphs (2) and (3).

(7) Any such organization shall have in place procedures for notifying the Commission of any findings of such reviews, including any findings regarding suspected violations of the securities laws.

(8) Any such organization shall consult with boards of accountancy of the States.

(9) Any such organization shall have in place a mechanism to allow the organization to operate on a self-funded basis. Such funding mechanism shall ensure that such organization is not solely dependent upon members of the accounting profession for such funding and operations.

(10) Any such organization shall have the authority to request, in a manner established by the Commission, that the Commission, by subpoena or otherwise, compel the testimony of witnesses or the production of any books, papers, correspondence, memoranda, or other records relevant to any accountant review proceeding or necessary or appropriate for the organization to carry out its purposes. The Commission shall comply with any such request from such an organization if the Commission determines that compliance with the request would assist the organization in its accountant review proceeding or in carrying out its purposes, unless the Commission determines that compliance would not be in the public interest. The issuance and enforcement of a subpoena requested under this paragraph shall be deemed to be made pursuant to, and shall be made in accordance with, the provisions of subsections (b) and (c) of section 21 of the Securities and Exchange Act of 1934 (15 U.S.C. 78u(b)–(c)). For purposes of taking evidence, the Commission in its discretion may designate the Board, or any member thereof, as officers pursuant to section 21(b) of such Act.

(c) PROHIBITION ON THE OFFER OF BOTH AUDIT AND CONSULTING SERVICES.—

(1) MODIFICATION OF REGULATIONS REQUIRED.—The Commission shall revise its regulations pertaining to auditor independence to require that an accountant shall not be considered independent with respect to an audit client if the accountant provides to the client the following nonaudit services, as such terms are defined in such regulations as in effect on the date of enactment of this Act, and subject to such conditions and exemptions as the Commission shall prescribe:

(A) financial information system design or implementation; or

(B) internal audit services.

(2) REVIEW OF PROHIBITED NONAUDIT SERVICES.—The Commission is authorized to review the impact on the independence of auditors of the scope of services provided by auditors to issuers in order to determine whether the list of prohibited nonaudit services under paragraph (1) shall be modified. In conducting such review, the Commission shall consider the impact of the provision of a service on an auditor's independence where provision of the service creates a conflict of interest with the audit client.

(3) ADDITIONS BY RULE.—After conducting the review required by paragraph (2) and at any other time, the Commission may, by rule consistent with the protection of investors and the public interest, modify the list of prohibited nonaudit services under paragraph (1).

(4) REPORT.—The Commission shall report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on its conduct of any reviews as required by this section. The report shall include a discussion of regulatory or legislative steps that are recommended or that may be necessary to address concerns identified in the study.

(5) CONFORMING REVISION.—The Commission shall revise its regulations pertaining to accountant fee disclosure items, as set forth in paragraphs (e)(1) through (e)(3) of item 9 from Schedule 14A (17 CFR 240.14a–101), in light of paragraph (1) of this subsection and after making a determination as to whether such disclosures are necessary.

(6) DEADLINE FOR RULEMAKING.—The Commission shall—

(A) within 90 days after the date of enactment of this Act, propose, and

(B) within 270 days after such date, prescribe, the revisions to its regulations required by this subsection.

(d) PRO ACCOUNTANT REVIEW PROCEEDINGS.—

(1) REVIEW PROCEEDING FINDINGS.—Any findings made pursuant to an accountant review conducted under this section that a financial statement audited by such accountant and submitted to the Commission may have been materially affected by an impairment of auditor independence, or by a violation of professional ethics and competency standards, shall be submitted to the Commission. The Commission shall promptly notify an issuer of any such finding that relates to the financial statements of such issuer.

(2) CONFIDENTIAL TREATMENT OF PROCEEDINGS PENDING SEC REVIEW.—

(A) NO DISCLOSURE.—Except as otherwise provided in this section, but notwithstanding any other provision of law, neither the Commission, a recognized public regulatory organization, nor any other person shall disclose any information concerning any accountant review proceeding and the findings therein.

(B) SPECIFIC WITHHOLDING NOT AUTHORIZED.—Nothing in this subsection shall—

(i) authorize a recognized public regulatory organization to withhold information from the Commission;

(ii) authorize such board or the Commission to withhold information concerning an accountant review proceeding from an accountant or person associated with an accountant that is the subject of such proceeding;

(iii) authorize the Commission to withhold information from Congress; or

(iv) prevent the Commission from complying with a request for information from any other Federal department or agency requesting information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States or the Commission.

(C) DURATION OF WITHHOLDING.—Neither the Commission nor the recognized public regulatory organization shall disclose the results of any such finding until the completion of any review by the Commission under subsections (e) and (f), or the conclusion of the 30-day period for seeking review if no motion seeking review is filed within such period.

(D) TREATMENT UNDER FOIA.—For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of such section 552.

(3) NONPRECLUSIVE EFFECT OF PRO FINDINGS.—A finding by a recognized public regulatory organization that an individual audit of an issuer met or failed to meet any applicable standard with respect to the quality of such audit shall not be construed in any action arising out of the securities laws as indicative of compliance or noncompliance with the securities laws or with any standard of liability arising thereunder.

(e) REVIEW OF SANCTIONS.—

(1) NOTICE.—If any recognized public regulatory organization—

(A) makes a finding with respect to or imposes any final disciplinary sanction on any accountant;

(B) prohibits or limits any person in respect to access to services offered by such organization; or

(C) makes a finding with respect to or imposes any final disciplinary sanction on any person associated with an accountant or bars any person from becoming associated with an accountant,

the recognized public regulatory organization shall promptly submit notice thereof with the Commission. The notice shall be in such form and contain such information as the Commission, by rule, may prescribe as necessary or appropriate in furtherance of the purposes of this section.

(2) REVIEW BY COMMISSION.—Any action with respect to which a recognized public regulatory organization is required by paragraph (1) of this subsection to submit notice shall be subject to review by the Commission, on its own motion, or upon application by any person aggrieved thereby filed within 30 days after the date such notice was filed with the Commission and received by such aggrieved person, or within such longer period as the Commission may determine. Application to the Commission for review, or the institution of review by the Commission on its own motion, shall not operate as a stay of such action unless the Commission otherwise orders, summarily or after notice and opportunity for hearing on the question of a stay (which hearing may consist solely of the submission of affidavits or presentation of oral arguments). The Commission shall establish for appropriate cases an expedited procedure for consideration and determination of the question of a stay.

(f) CONDUCT OF COMMISSION REVIEW.—

(1) BASIS FOR ACTION.—In any proceeding to review a final disciplinary sanction imposed by a recognized public regulatory organization on an accountant or a person associated with such accountant, after notice and opportunity for hearing (which hearing may consist solely of consideration of the record before the recognized public regulatory organization and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the sanction)—

(A) if the Commission finds that such accountant or person associated with an accountant has engaged in such acts or practices, or has omitted such acts, as the recognized public regulatory organization has found him to have engaged in or omitted, that such acts or practices, or omissions to act, are in violation of such provisions of this section, or of professional ethics and competency standards, and that such provisions are, and were applied in a manner, consistent with the purposes of this section, the Commission, by order, shall so declare and, as appropriate, affirm the sanction imposed by the recognized public regulatory organization, modify the sanction in accordance with paragraph (2) of this subsection, or remand to the recognized public regulatory organization for further proceedings; or

(B) if the Commission does not make any such finding, it shall, by order, set aside the sanction imposed by the recognized public regulatory organization and, if appropriate, remand to the recognized public regulatory organization for further proceedings.

(2) REDUCTION OF SANCTIONS.—If the Commission, having due regard for the public interest and the protection of investors, finds after a proceeding in accordance with paragraph (1) of this subsection that a sanction imposed by a recognized public regulatory organization upon an accountant or person associated with an accountant imposes any burden on competition not necessary or appropriate in furtherance of the purposes of this Act or is excessive or oppressive, the Commission may cancel, reduce, or require the remission of such sanction.

(g) REVIEW AND APPROVAL OF RULES.—

(1) SUBMISSION, PUBLICATION, AND COMMENT.—Each recognized public regulatory organization shall file with the Commission, in accordance with such rules as the Commission may prescribe, copies of any proposed rule or any proposed change in, addition to, or deletion from the rules of such recognized public regulatory organization (hereinafter in this subsection collectively referred to as a ''proposed rule change'') accompanied by a concise general statement of the basis and purpose of such proposed rule change. The Commission shall, upon the filing of any proposed rule change, publish notice thereof together with the terms of substance of the proposed rule change or a description of the subjects and issues involved. The Commission shall give interested persons an opportunity to submit written data, views, and arguments concerning such proposed rule change. No proposed rule change shall take effect unless approved by the Commission or otherwise permitted in accordance with the provisions of this subsection.

(2) APPROVAL OR PROCEEDINGS.—Within 35 days of the date of publication of notice of the filing of a proposed rule change in accordance with paragraph (1) of this subsection, or within such longer period as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the recognized public regulatory organization consents, the Commission shall—

(A) by order approve such proposed rule change; or

(B) institute proceedings to determine whether the proposed rule change should be disapproved. Such proceedings shall include notice of the grounds for disapproval under consideration and opportunity for hearing and be concluded within 180 days of the date of publication of notice of the filing of the proposed rule change. At the conclusion of such proceedings the Commission, by order, shall approve or disapprove such proposed rule change. The Commission may extend the time for conclusion of such proceedings for up to 60 days if it finds good cause for such extension and publishes its reasons for so finding or for such longer period as to which the recognized public regulatory organization consents.

(3) BASIS FOR APPROVAL OR DISAPPROVAL.—The Commission shall approve a proposed rule change of a recognized public regulatory organization if it finds that such proposed rule change is consistent with the requirements of this Act and the rules and regulations thereunder applicable to such organization. The Commission shall disapprove a proposed rule change of a recognized public regulatory organization if it does not make such finding. The Commission shall not approve any proposed rule change prior to the 30th day after the date of publication of notice of the filing thereof, unless the Commission finds good cause for so doing and publishes its reasons for so finding.

(4) RULES EFFECTIVE UPON FILING.—

(A) Notwithstanding the provisions of paragraph (2) of this subsection, a proposed rule change may take effect upon filing with the Commission if designated by the recognized public regulatory organization as (i) constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the recognized public regulatory organization, (ii) establishing or changing a due, fee, or other charge imposed by the recognized public regulatory organization, or (iii) concerned solely with the administration of the recognized public regulatory organization or other matters which the Commission, by rule, consistent with the public interest and the purposes of this subsection, may specify as outside the provisions of such paragraph (2).

(B) Notwithstanding any other provision of this subsection, a proposed rule change may be put into effect summarily if it appears to the Commission that such action is necessary for the protection of investors, or otherwise in accordance with the purposes of this title. Any proposed rule change so put into effect shall be filed promptly thereafter in accordance with the provisions of paragraph (1) of this subsection.

(C) Any proposed rule change of a recognized public regulatory organization which has taken effect pursuant to subparagraph (A) or (B) of this paragraph may be enforced by such organization to the extent it is not inconsistent with the provisions of this Act, the securities laws, the rules and regulations thereunder, and applicable Federal and State law. At any time within 60 days of the date of filing of such a proposed rule change in accordance with the provisions of paragraph (1) of this subsection, the Commission summarily may abrogate the change in the rules of the recognized public regulatory organization made thereby and require that the proposed rule change be refiled in accordance with the provisions of paragraph (1) of this subsection and reviewed in accordance with the provisions of paragraph (2) of this subsection, if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this Act. Commission action pursuant to the preceding sentence shall not affect the validity or force of the rule change during the period it was in effect, shall not be subject to court review, and shall not be deemed to be ''final agency action'' for purposes of section 704 of title 5, United States Code.

(h) COMMISSION ACTION TO CHANGE RULES.—The Commission, by rule, may abrogate, add to, and delete from (hereinafter in this subsection collectively referred to as ''amend'') the rules of a recognized public regulatory organization as the Commission deems necessary or appropriate to insure the fair administration of the recognized public regulatory organization, to conform its rules to requirements of this Act, the securities laws, and the rules and regulations thereunder applicable to such organization, or otherwise in furtherance of the purposes of this Act, in the following manner:

(1) The Commission shall notify the recognized public regulatory organization and publish notice of the proposed rulemaking in the Federal Register. The notice shall include the text of the proposed amendment to the rules of the recognized public regulatory organization and a statement of the Commission's reasons, including any pertinent facts, for commencing such proposed rulemaking.

(2) The Commission shall give interested persons an opportunity for the oral presentation of data, views, and arguments, in addition to an opportunity to make written submissions. A transcript shall be kept of any oral presentation.

(3) A rule adopted pursuant to this subsection shall incorporate the text of the amendment to the rules of the recognized public regulatory organization and a statement of the Commission's basis for and purpose in so amending such rules. This statement shall include an identification of any facts on which the Commission considers its determination so to amend the rules of the recognized public regulatory agency to be based, including the reasons for the Commission's conclusions as to any of such facts which were disputed in the rulemaking.

(4)(A) Except as provided in paragraphs (1) through (3) of this subsection, rulemaking under this subsection shall be in accordance with the procedures specified in section 553 of title 5, United States Code, for rulemaking not on the record.

(B) Nothing in this subsection shall be construed to impair or limit the Commission's power to make, or to modify or alter the procedures the Commission may follow in making, rules and regulations pursuant to any other authority under the securities laws.

(C) Any amendment to the rules of a recognized public regulatory organization made by the Commission pursuant to this subsection shall be considered for all purposes to be part of the rules of such recognized public regulatory organization and shall not be considered to be a rule of the Commission.

(i) COMMISSION OVERSIGHT OF THE PRO.—

(1) RECORDS AND EXAMINATIONS.—A public regulatory organization shall make and keep for prescribed periods such records, furnish such copies thereof, and make and disseminate such reports as the Commission, by rule, prescribes as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this Act or the securities laws.

(2) ADDITIONAL DUTIES; SPECIAL REVIEWS.—A public regulatory organization shall perform such other duties or functions as the Commission, by rule or order, determines are necessary or appropriate in the public interest or for the protection of investors and to carry out the purposes of this Act and the securities laws, including conducting a special review of a particular public accounting firm's quality control system or a special review of a particular aspect of some or all public accounting firms' quality control systems.

(3) ANNUAL REPORT; PROPOSED BUDGET.—

(A) SUBMISSION OF ANNUAL REPORT AND BUDGET.—A public regulatory organization shall submit an annual report and its proposed budget to the Commission for review and approval, by order, at such times and in such form as the Commission shall prescribe.

(B) CONTENTS OF ANNUAL REPORT.—Each annual report required by subparagraph (A) shall include—

(i) a detailed description of the activities of the public regulatory organization;

(ii) the audited financial statements of the public regulatory organization;

(iii) a detailed explanation of the fees and charges imposed by the public regulatory organization under subsection (b)(9); and

(iv) such other matters as the public regulatory organization or the Commission deems appropriate.

(C) TRANSMITTAL OF ANNUAL REPORT TO CONGRESS.—The Commission shall transmit each approved annual report received under subparagraph (A) to the Committee on Financial Services of the United States House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the United States Senate. At the same time it transmits a public regulatory organization's annual report under this subparagraph, the Commission shall include a written statement of its views of the functioning and operations of the public regulatory organization.

(D) PUBLIC AVAILABILITY.—Following transmittal of each approved annual report under subparagraph (C), the Commission and the public regulatory organization shall make the approved annual report publicly available.

(4) DISAPPROVAL OF ELECTION OF PRO MEMBER.—The Commission is authorized, by order, if in its opinion such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this Act or the securities laws, to disapprove the election of any member of a public regulatory organization if the Commission determines, after notice and opportunity for hearing, that the person elected is unfit to serve on the public regulatory organization.

(j) CLARIFICATION OF APPLICATION OF PRO AUTHORITY.—The authority granted to any such organization in this section shall only apply to the actions of accountants related to the certification of financial statements required by securities laws and not other actions or actions for other clients of the accounting firm or any accountant that does not certify financial statements for publicly traded companies.

(k) DEADLINE FOR RULEMAKING.—The Commission shall—

(1) within 90 days after the date of enactment of this Act, propose, and

(2) within 270 days after such date, prescribe, rules to implement this section.

(l) EFFECTIVE DATE; TRANSITION PROVISIONS.—

(1) EFFECTIVE DATE.—Except as provided in paragraph (2), subsection (a) of this section shall be effective with respect to any certified financial statement for any fiscal year that ends more than one year after the Commission recognizes a public regulatory organization pursuant to this section.

(2) DELAY IN ESTABLISHMENT OF BOARD.—If the Commission has failed to recognize any public regulatory organization pursuant to this section within one year after the date of enactment of this Act, the Commission shall perform the duties of such organization with respect to any certified financial statement for any fiscal year that ends before one year after any such board is recognized by the Commission.

SEC. 3. IMPROPER INFLUENCE ON CONDUCT OF AUDITS.

(a) RULES TO PROHIBIT.—It shall be unlawful in contravention of such rules or regulations as the Commission shall prescribe as necessary and appropriate in the public interest or for the protection of investors for any officer, director, or affiliated person of an issuer of any security registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) to take any action to fraudulently influence, coerce, manipulate, or mislead any independent public or certified accountant engaged in the performance of an audit of the financial statements of such issuer for the purpose of rendering such financial statements materially misleading. In any civil proceeding, the Commission shall have exclusive authority to enforce this section and any rule or regulation hereunder.

(b) NO PREEMPTION OF OTHER LAW.—The provisions of subsection (a) shall be in addition to, and shall not supersede or preempt, any other provision of law or any rule or regulation thereunder.

(c) DEADLINE FOR RULEMAKING.—The Commission shall—

(1) within 90 days after the date of enactment of this Act, propose, and

(2) within 270 days after such date, prescribe, the rules or regulations required by this section.

SEC. 4. REAL-TIME DISCLOSURE OF FINANCIAL INFORMATION.

(a) REAL-TIME ISSUER DISCLOSURES REQUIRED.—

(1) OBLIGATIONS.—Every issuer of a security registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) shall file with the Commission and disclose to the public, on a rapid and essentially contemporaneous basis, such information concerning the financial condition or operations of such issuer as the Commission determines by rule is necessary in the public interest and for the protection of investors. Such rule shall—

(A) specify the events or circumstances giving rise to the obligation to disclose or update a disclosure;

(B) establish requirements regarding the rapidity and timeliness of such disclosure;

(C) identify the means whereby the disclosure required shall be made, which shall ensure the broad, rapid, and accurate dissemination of the information to the public via electronic or other communications device;

(D) identify the content of the information to be disclosed; and

(E) without limiting the Commission's general exemptive authority, specify any exemptions or exceptions from such requirements.

(2) ENFORCEMENT.—The Commission shall have exclusive authority to enforce this section and any rule or regulation hereunder in civil proceedings.

(b) ELECTRONIC DISCLOSURE OF INSIDER TRANSACTIONS.—

(1) DISCLOSURES OF TRADING.—The Commission shall, by rule, require—

(A) that a disclosure required by section 16 of the Securities Exchange Act of 1934 (15 U.S.C. 78p) of the sale of any securities of an issuer, or any security futures product (as defined in section 3(a)(56) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(56))) or any security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act) that is based in whole or in part on the securities of such issuer, by an officer or director of the issuer of those securities, or by a beneficial owner of such securities, shall be made available electronically to the Commission and to the issuer by such officer, director, or beneficial owner before the end of the next business day after the day on which the transaction occurs;

(B) that the information in such disclosure be made available electronically to the public by the Commission, to the extent permitted under applicable law, upon receipt, but in no case later than the end of the next business day after the day on which the disclosure is received under subparagraph (A); and

(C) that, in any case in which the issuer maintains a corporate website, such information shall be made available by such issuer on that website, before the end of the next business day after the day on which the disclosure is received by the Commission under subparagraph (A).

(2) TRANSACTIONS INCLUDED.—The rule prescribed under paragraph (1) shall require the disclosure of the following transactions:

(A) Direct or indirect sales or other transfers of securities of the issuer (or any interest therein) to the issuer or an affiliate of the issuer.

(B) Loans or other extensions of credit extended to an officer, director, or other person affiliated with the issuer on terms or conditions not otherwise available to the public.

(3) OTHER FORMATS; FORMS.—In the rule prescribed under paragraph (1), the Commission shall provide that electronic filing and disclosure shall be in lieu of any other format required for such disclosures on the day before the date of enactment of this subsection. The Commission shall revise such forms and schedules required to be filed with the Commission pursuant to paragraph (1) as necessary to facilitate such electronic filing and disclosure.

SEC. 5. INSIDER TRADES DURING PENSION FUND BLACKOUT PERIODS PROHIBITED.

(a) PROHIBITION.—It shall be unlawful for any person who is directly or indirectly the beneficial owner of more than 10 percent of any class of any equity security (other than an exempted security) which is registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) or who is a director or an officer of the issuer of such security, directly or indirectly, to purchase (or otherwise acquire) or sell (or otherwise transfer) any equity security of any issuer (other than an exempted security), during any blackout period with respect to such equity security.

(b) REMEDY.—Any profit realized by such beneficial owner, director, or officer from any purchase (or other acquisition) or sale (or other transfer) in violation of this section shall inure to and be recoverable by the issuer irrespective of any intention on the part of such beneficial owner, director, or officer in entering into the transaction. Suit to recover such profit may be instituted at law or in equity in any court of competent jurisdiction by the issuer, or by the owner of any security of the issuer in the name and in behalf of the issuer if the issuer shall fail or refuse to bring such suit within 60 days after request or shall fail diligently to prosecute the same thereafter; but no such suit shall be brought more than 2 years after the date such profit was realized. This subsection shall not be construed to cover any transaction where such beneficial owner was not such both at the time of the purchase and sale, or the sale and purchase, of the security or security-based swap (as defined in section 206B of the Gramm-Leach-Bliley Act) involved, or any transaction or transactions which the Commission by rules and regulations may exempt as not comprehended within the purposes of this subsection.

(c) RULEMAKING PERMITTED.—The Commission may issue rules to clarify the application of this subsection, to ensure adequate notice to all persons affected by this subsection, and to prevent evasion thereof.

(d) DEFINITION.—For purposes of this section, the term ''beneficial owner'' has the meaning provided such term in rules or regulations issued by the Securities and Exchange Commission under section 16 of the Securities Exchange Act of 1934 (15 U.S.C. 78p).

SEC. 6. IMPROVED TRANSPARENCY OF CORPORATE DISCLOSURES.

(a) MODIFICATION OF REGULATIONS REQUIRED.—The Commission shall revise its regulations under the securities laws pertaining to the disclosures required in periodic financial reports and registration statements to require such reports to include adequate and appropriate disclosure of—

(1) the issuer's off-balance sheet transactions and relationships with unconsolidated entities or other persons, to the extent they are not disclosed in the financial statements and are reasonably likely to materially affect the liquidity or the availability of, or requirements for, capital resources, or the financial condition or results of operations of the issuer; and

(2) loans extended to officers, directors, or other persons affiliated with the issuer on terms or conditions that are not otherwise available to the public.

(b) DEADLINE FOR RULEMAKING.—The Commission shall—

(1) within 90 days after the date of enactment of this Act, propose, and

(2) within 270 days after such date, prescribe, the revisions to its regulations required by subsection (a).

(c) ANALYSIS REQUIRED.—

(1) TRANSPARENCY, COMPLETENESS, AND USEFULNESS OF FINANCIAL STATEMENTS.—The Commission shall conduct an analysis of the extent to which, consistent with the protection of investors and the public interest, disclosure of additional or reorganized information may be required to improve the transparency, completeness, or usefulness of financial statements and other corporate disclosures filed under the securities laws.

(2) ALTERNATIVES TO BE CONSIDERED.—In conducting the analysis required by paragraph (1), the Commission shall consider—

(A) requiring the identification of the key accounting principles that are most important to the issuer's reported financial condition and results of operation, and that require management's most difficult, subjective, or complex judgments;

(B) requiring an explanation, where material, of how different available accounting principles applied, the judgments made in their application, and the likelihood of materially different reported results if different assumptions or conditions were to prevail;

(C) in the case of any issuer engaged in the business of trading non-exchange traded contracts, requiring an explanation of such trading activities when such activities require the issuer to account for contracts at fair value, but for which a lack of market price quotations necessitates the use of fair value estimation techniques;

(D) establishing requirements relating to the presentation of information in clear and understandable format and language; and

(E) requiring such other disclosures, included in the financial statements or in other disclosure by the issuer, as would in the Commission's view improve the transparency of such issuer's financial statements and other required corporate disclosures.

(3) RULES REQUIRED.—If the Commission, on the basis of the analysis required by this subsection, determines that it is necessary in the public interest or for the protection of investors

and would improve the transparency of issuer financial statements, the Commission may prescribe rules reflecting the results of such analysis and the considerations required by paragraph (2). In prescribing such rules, the Commission may seek to minimize the paperwork and cost burden on the issuer consistent with achieving the public interest and investor protection purposes of such rules.

SEC. 7. IMPROVEMENTS IN REPORTING ON INSIDER TRANSACTIONS AND RELATIONSHIPS.

(a) SPECIFIC OBJECTIVES.—The Commission shall initiate a proceeding to propose changes in its rules and regulations with respect to financial reporting to improve the transparency and clarity of the information available to investors and to require increased financial disclosure with respect to the following:

(1) INSIDER RELATIONSHIPS AND TRANSACTIONS.—Relationships and transactions—

(A) between the issuer, affiliates of the issuer, and officers, directors, or employees of the issuer or such affiliates; and

(B) between officers, directors, employees, or affiliates of the issuer and entities that are not otherwise affiliated with the issuer,

to the extent such arrangement or transaction creates a conflict of interest for such persons. Such disclosure shall provide a description of such elements of the transaction as are necessary for an understanding of the business purpose and economic substance of such transaction (including contingencies). The disclosure shall provide sufficient information to determine the effect on the issuer's financial statements and describe compensation arrangements of interested parties to such transactions.

(2) RELATIONSHIPS WITH PHILANTHROPIC ORGANIZATIONS.—Relationships between the registrant or any executive officer of the registrant and any not-for-profit organization on whose board a director or immediate family member serves or of which a director or immediate family member serves as an officer or in a similar capacity. Relationships that shall be disclosed include contributions to the organization in excess of $10,000 made by the registrant or any executive officer in the last five years and any other activity undertaken by the registrant or any executive officer that provides a material benefit to the organization. Material benefit includes lobbying.

(3) INSIDER-CONTROLLED AFFILIATES.—Relationships in which the registrant or any executive officer exercises significant control over an entity in which a director or immediate family member owns an equity interest or to which a director or immediate family member has extended credit. Significant control should be defined with reference to the contractual and governance arrangements between the registrant or executive officer, as the case may be, and the entity.

(4) JOINT OWNERSHIP.—Joint ownership by a registrant or executive officer and a director or immediate family member of any real or personal property.

(5) PROVISION OF SERVICES BY RELATED PERSONS.—The provision of any professional services, including legal, financial advisory or medical services, by a director or immediate family member to any executive officer of the registrant in the last five years.

(b) DEADLINES.—The Commission shall complete the rulemaking required by this section within 180 days after the date of enactment of this Act.

SEC. 8. CODES OF CONDUCT.

(a) RULES REQUIRED.—Within 180 days after the date of enactment of this Act, the New York Stock Exchange, the American Stock Exchange and the Nasdaq Stock Market (or any successor to such entities), shall file with the Commission proposed rule changes that would prohibit the listing of any security issued by an issuer that has not adopted a senior financial officers code of ethics applicable to its principal financial officer, its comptroller or principal accounting officer, or persons performing similar functions that establishes such standards as are reasonably necessary to promote honest and ethical conduct, the avoidance of conflicts of interest, full, fair, accurate, timely and understandable disclosure in the issuer's periodic reports and compliance with applicable governmental rules and regulations. The Commission shall approve such proposed rule changes pursuant to the requirement of section 19(b)(2) of the Securities Act of 1934.

(b) OTHER EXCHANGES.—The Commission, by rule or regulation, may require any other national securities exchange, to propose rule changes necessary to comply with the provisions of subsection (a) of this section if the Commission determines such action is necessary or appropriate in the public interest and consistent with the protection of investors.

(c) FURTHER STANDARDS.—In addition to the requirements of subsections (a) and (b), the Commission may, by rule or regulation, prescribe further standards of conduct for senior financial officers as necessary or appropriate in the public interest and consistent with the protection of investors.

(d) CHANGES IN CODES OF CONDUCT.—Within 180 days after the date of enactment of this Act, the Commission shall revise its regulations concerning matters requiring prompt disclosure on Form 8K to require the immediate disclosure, by means of such Form and by the Internet or other electronic means, by any issuer of any change in, or waiver of, the code of ethics of such issuer.

SEC. 9. ENHANCED OVERSIGHT OF PERIODIC DISCLOSURES BY ISSUERS.

(a) REGULAR AND SYSTEMATIC REVIEW.—The Securities and Exchange Commission shall review disclosures made by issuers pursuant to the Securities Exchange Act of 1934 (including reports filed on form 10–K) on a basis that is more regular and systematic than that in practice on the date of enactment on this Act. Such review shall include a review of an issuer's financial statements.

(b) RISK RATING SYSTEM.—For purposes of the reviews required by subsection (a), the Commission shall establish a risk rating system whereby issuers receive a risk rating by the Commission, which shall be used to determine the frequency of such reviews. In designing such a risk rating system the Commission shall consider, among other factors the following:

(1) Emerging companies with disparities in price to earning ratios.

(2) Issuers with the largest market capitalization.

(3) Issuers whose operations significantly impact any material sector of the economy.

(4) Systemic factors such as the effect on niche markets or important subsectors of the economy.

(5) Issuers that experience significant volatility in their stock price as compared to other issuers.

(6) Any other factor the Commission may consider relevant.

(c) MINIMUM REVIEW PERIOD.—In no event shall an issuer be reviewed less than once every three years by the Commission.

(d) PROHIBITION OF DISCLOSURE OF RISK RATING.—Notwithstanding any other provision of law, the Commission shall not disclose the risk rating of any issuer described in subsection (b).

SEC. 10. RETENTION OF RECORDS.

(a) DUTY TO RETAIN RECORDS.—Any independent public or certified accountant who certifies a financial statement as required by the securities laws or any rule or regulation thereunder shall prepare and maintain for a period of no less than 7 years, final audit work papers and other information related to any accountants report on such financial statements in sufficient detail to support the opinion or assertion reached in such accountants report. The Commission may prescribe rules specifying the application and requirements of this section.

(b) ACCOUNTANT'S REPORT.—For purposes of subsection (a), the term ''accountant's report'' means a document in which an accountant identifies a financial statement and sets forth his opinion regarding such financial statement or an assertion that an opinion cannot be expressed.

SEC. 11. COMMISSION AUTHORITY TO BAR PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.

(a) COMMISSION AUTHORITY TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.—Notwithstanding any other provision of the securities laws, in any cease-and-desist proceeding under section 8A(a) of the Securities Act of 1933 or section 21C(a) of the Securities and Exchange Act of 1934, the Commission may issue an order to prohibit, conditionally or unconditionally, permanently or for such period of time as it shall determine, any person who has violated section 17(a)(1) of the Securities Act of 1933 or section 10(b) of the Securities Exchange Act of 1934 (or any rule or regulation thereunder) from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of the Securities Exchange Act of 1934 or that is required to file reports pursuant to section 15(d) of such Act if the person's conduct demonstrates substantial unfitness to serve as an officer or director of any such issuer.

(b) FINDING OF SUBSTANTIAL UNFITNESS.—In making any determination that a person's conduct demonstrates substantial unfitness to serve as an officer or director of any such issuer, the Commission shall consider—

(1) the severity of the persons conduct giving rise to the violation, and the persons role or position when he engaged in the violation;

(2) the person's degree of scienter;

(3) the person's economic gain as a result of the violation; and

(4) the likelihood that the conduct giving rise to the violation, or similar conduct as defined in subsection (a), may recur if the person is not so prohibited.

(c) AUTOMATIC STAY PENDING APPEAL.—The enforcement of any Commission order pursuant to subsection (a) shall be stayed—

(1) for a period of at least 60 days after the entry of any such order or decision; and

(2) upon the filing of a timely application for judicial review of such order or decision, pending the entry of a final order resolving the application for judicial review.

SEC. 12. DISGORGING INSIDERS PROFITS FROM TRADES PRIOR TO CORRECTION OF ERRONEOUS FINANCIAL STATEMENTS.

(a) ANALYSIS REQUIRED.—The Commission shall conduct an analysis of whether, and under what conditions, any officer or director of an issuer should be required to disgorge profits gained, or losses avoided, in the sale of the securities of such issuer during the six month period immediately preceding the filing of a restated financial statement on the part of such issuer.

(b) DISGORGEMENT RULES AUTHORIZED.—If the Commission determines that imposing the requirement described in subsection (a) is necessary or appropriate in the public interest or for the protection investors, and would not unduly impair the operations of issuers or the orderly operation of the securities markets, the Commission shall prescribe a rule requiring the disgorgement of all profits gained or losses avoided in the sale of the securities of the issuer by any officer or director thereof. Such rule shall—

(1) describe the conditions under which any officer or director shall be required to disgorge profits, including what constitutes a restatement for purposes of operation of the rule;

(2) establish exceptions and exemptions from such rule as necessary to carry out the purposes of this section;

(3) identify the scienter requirement that should be used in order to determine to impose the requirement to disgorge; and

(4) specify that the enforcement of such rule shall lie solely with the Commission, and that any profits so disgorged shall inure to the issuer.

(c) NO PREEMPTION OF OTHER LAW.—Unless otherwise specified by the Commission, in the case of any rule promulgated pursuant to subsection (b), such rule shall be in addition to, and shall not supersede or preempt, the Commission's authority to seek disgorgement under any other provision of law.

SEC. 13. SECURITIES AND EXCHANGE COMMISSION AUTHORITY TO PROVIDE RELIEF.

(a) PROCEEDS OF ENRON AND ANDERSEN ENFORCEMENT ACTIONS.—If in any administrative or judicial proceeding brought by the Securities and Exchange Commission against—

(1) the Enron Corporation, any subsidiary or affiliate of such Corporation, or any officer, director, or principal shareholder of such Corporation, subsidiary, or affiliate for any violation of the securities laws; or

(2) Arthur Andersen L.L.C., any subsidiary or affiliate of Arthur Andersen L.L.C., or any general or limited partner of Arthur Andersen L.L.C., or such subsidiary or affiliate, for any violation of the securities laws with respect to any services performed for or in relation to the Enron Corporation, any subsidiary or affiliate of such Corporation, or any officer, director, or principal shareholder of such Corporation, subsidiary, or affiliate;

the Commission obtains an order providing for an accounting and disgorgement of funds, such disgorgement fund (including any addition to such fund required or permitted under this section) shall be allocated in accordance with the requirements of this section.

(b) PRIORITY FOR FORMER ENRON EMPLOYEES.—The Commission shall, by order, establish an allocation system for the disgorgement fund. Such system shall provide that, in allocating the disgorgement fund amount the victims of the securities laws violations described in subsection (a), the first priority shall be given to individuals who were employed by the Enron Corporation, or a subsidiary or affiliate of such Corporation, and who were participants in an individual account plan established by such Corporation, subsidiary, or affiliate. Such allocations among such individuals shall be in proportion to the extent to which the nonforfeitable accrued benefit of each such individual under the plan was invested in the securities of such Corporation, subsidiary, or affiliate.

(c) ADDITION OF CIVIL PENALTIES.—If, in any proceeding described in subsection (a), the Commission assesses and collects any civil penalty, the Commission shall, notwithstanding section 21(d)(3)(C)(i) or 21A(d)(1) of the Securities Exchange Act of 1934, or any other provision of the securities laws, be payable to the disgorgement fund.

(d) ACCEPTANCE OF ADDITIONAL DONATIONS.—The Commission is authorized to accept, hold, administer, and utilize gifts, bequests and devises of property, both real and personal, to the United States for the disgorgement fund. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the disgorgement fund and shall be available for allocation in accordance with subsection (b).

(e) DEFINITIONS.—As used in this section:

(1) DISGORGEMENT FUND.—The term ''disgorgement fund'' means a disgorgement fund established in any administrative or judicial proceeding described in subsection (a).

(2) SUBSIDIARY OR AFFILIATE.—The term ''subsidiary or affiliate'' when used in relation to a person means any entity that controls, is controlled by, or is under common control with such person.

(3) OFFICER, DIRECTOR, OR PRINCIPAL SHAREHOLDER.—The term ''officer, director, or principal shareholder'' when used in relation to the Enron Corporation, or any subsidiary or affiliate of such Corporation, means any person that is subject to the requirements of section 16 of the Securities Exchange Act of 1934 (15 U.S.C. 78p) in relation to the Enron Corporation, or any subsidiary or affiliate of such Corporation.

(4) NONFORFEITABLE; ACCRUED BENEFIT; INDIVIDUAL ACCOUNT PLAN.—The terms ''nonforfeitable'', ''accrued benefit'', and ''individual account plan'' have the meanings provided such terms, respectively, in paragraphs (19), (23), and (34) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(19), (23), (34)).

SEC. 14. STUDY OF RULES RELATING TO ANALYST CONFLICTS OF INTEREST.

(a) STUDY AND REVIEW REQUIRED.—The Commission shall conduct a study and review of any final rules by any self-regulatory organization registered with the Commission related to matters involving equity research analysts conflicts of interest. Such study and report shall include a review of the effectiveness of such final rules in addressing matters relating to the objectivity and integrity of equity research analyst reports and recommendations.

(b) REPORT REQUIRED.—The Commission shall submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on such study and review no later than 180 days after any such final rules by any self-regulatory organization registered with the Commission are delivered to the Commission. Such report shall include recommendations to the Congress, including any recommendations for additional self-regulatory organization rulemaking regarding matters involving equity research analysts. The Commission shall annually submit an update on such review.

SEC. 15. REVIEW OF CORPORATE GOVERNANCE PRACTICES.

(a) STUDY OF CORPORATE PRACTICES.—The Commission shall conduct a study and review of current corporate governance standards and practices to determine whether such standards and practices are serving the best interests of shareholders. Such study and review shall include an analysis of—

(1) whether current standards and practices promote full disclosure of relevant information to shareholders;

(2) whether corporate codes of ethics are adequate to protect shareholders, and to what extent deviations from such codes are tolerated;

(3) to what extent conflicts of interests are aggressively reviewed, and whether adequate means for redressing such conflicts exist;

(4) to what extent sufficient legal protections exist or should be adopted to ensure that any manager who attempts to manipulate or unduly influence an audit will be subject to appropriate sanction and liability, including liability to investors or shareholders pursuing a private cause of action for such manipulation or undue influence;

(5) whether rules, standards, and practices relating to determining whether independent directors are in fact independent are adequate;

(6) whether rules, standards, and practices relating to the independence of directors serving on audit committees are uniformly applied and adequate to protect investor interests;

(7) whether the duties and responsibilities of audit committees should be established by the Commission; and

(8) what further or additional practices or standards might best protect investors and promote the interests of shareholders.

(b) PARTICIPATION OF STATE REGULATORS.—In conducting the study required under subsection (a), the Commission shall seek the views of the securities and corporate regulators of the various States.

(c) REPORT REQUIRED.—The Commission shall submit a report on the analysis required under subsection (a) as a part of the Commission's next annual report submitted after the date of enactment of this Act.

SEC. 16. STUDY OF ENFORCEMENT ACTIONS.

(a) STUDY REQUIRED.—The Commission shall review and analyze all enforcement actions by the Commission involving violations of reporting requirements imposed under the securities laws, and restatements of financial statements, over the last five years to identify areas of reporting that are most susceptible to fraud, inappropriate manipulation, or inappropriate earnings management, such as revenue recognition and the accounting treatment of off-balance sheet special purpose entities.

(b) REPORT REQUIRED.—The Commission shall report its findings to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate within 180 days of the date of enactment of this Act and shall use such findings to revise its rules and regulations, as necessary. The report shall include a discussion of regulatory or legislative steps that are recommended or that may be necessary to address concerns identified in the study.

SEC. 17. STUDY OF CREDIT RATING AGENCIES.

(a) STUDY REQUIRED.—The Commission shall conduct a study of the role and function of credit rating agencies in the operation of the securities market. Such study shall examine—

(1) the role of the credit rating agencies in the evaluation of issuers of securities;

(2) the importance of that role to investors and the functioning of the securities markets;

(3) any impediments to the accurate appraisal by credit rating agencies of the financial resources and risks of issuers of securities;

(4) any measures which may be required to improve the dissemination of information concerning such resources and risks when credit rating agencies announce credit ratings;

(5) any barriers to entry into the business of acting as a credit rating agency, and any measures needed to remove such barriers; and

(6) any conflicts of interest in the operation of credit rating agencies and measures to prevent such conflicts or ameliorate the consequences of such conflicts.

(b) REPORT REQUIRED.—The Commission shall submit a report on the analysis required by subsection (a) to the President, the Committee on Financial Services of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate within 180 days after the date of enactment of this Act. The report shall include a discussion of regulatory or legislative steps that are recommended or that may be necessary to address concerns identified in the study.

SEC. 18. STUDY OF INVESTMENT BANKS

(a) GAO STUDY.—The Comptroller General shall conduct a study on the role played by investment banks and financial advisors in assisting public companies in manipulating their earnings and obfuscating their true financial condition. The study should address the role of the investment banks—

(1) in the collapse of the Enron Corporation, including with respect to the design and implementation of derivatives transactions, transactions involving special purpose vehicles, and other financing arrangements that may have had the effect of altering the company's reported financial statements in ways that obscured the true financial picture of the company;

(2) in the failure of Global Crossing, including with respect to transactions involving swaps of fiber optic cable capacity, in designing transactions that may have had the effect of altering the company's reported financial statements in ways that obscured the true financial picture of the company; and

(3) generally, in creating and marketing transactions designed solely to enable companies

to manipulate revenue streams, obtain loans, or move liabilities off balance sheets without altering the economic and business risks faced by the companies or any other mechanism to obscure a company's financial picture.

(b) REPORT.—The General Accounting Office shall report to the Congress within 180 days after the date of enactment of this Act on the results of the study required by this section. The report shall include a discussion of regulatory or legislative steps that are recommended or that may be necessary to address concerns identified in the study.

SEC. 19. STUDY OF MODEL RULES FOR ATTORNEYS OF ISSUERS.

(a) IN GENERAL.—The Comptroller General shall conduct a study of the Model Rules of Professional Conduct promulgated by the American Bar Association and rules of professional conduct applicable to attorneys established by the Commission to determine—

(1) whether such rules provide sufficient guidance to attorneys representing corporate clients who are issuers required to file periodic disclosures under section 13 or 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o), as to the ethical responsibilities of such attorneys to—

(A) warn clients of possible fraudulent or illegal activities of such clients and possible consequences of such activities;

(B) disclose such fraudulent or illegal activities to appropriate regulatory or law enforcement authorities; and

(C) manage potential conflicts of interests with clients; and

(2) whether such rules provide sufficient protection to corporate shareholders, especially with regards to conflicts of interest between attorneys and their corporate clients.

(b) REPORT REQUIRED.—The Comptroller General shall report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the results of the study required by this section. Such report shall include any recommendations of the General Accounting Office with regards to—

(1) possible changes to the Model Rules and the rules of professional conduct applicable to attorneys established by the Commission to provide increased protection to shareholders;

(2) whether restrictions should be imposed to require that an attorney, having represented a corporation or having been employed by a firm which represented a corporation, may not be employed as general counsel to that corporation until a certain period of time has expired; and

(3) regulatory or legislative steps that are recommended or that may be necessary to address concerns identified in the study.

SEC. 20. ENFORCEMENT AUTHORITY.

For the purposes of enforcing and carrying out this Act, the Commission shall have all of the authorities granted to the Commission under the securities laws. Actions of the Commission under this Act, including actions on rules or regulations, shall be subject to review in the same manner as actions under the securities laws.

SEC. 21. EXCLUSION FOR INVESTMENT COMPANIES.

Sections 4, 6, 9, and 15 of this Act shall not apply to an investment company registered under section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a–8).

SEC. 22. DEFINITIONS.

As used in this Act:

(1) BLACKOUT PERIOD.—The term ''blackout period'' with respect to the equity securities of any issuer—

(A) means any period during which the ability of at least fifty percent of the participants or beneficiaries under all applicable individual account plans maintained by the issuer to purchase (or otherwise acquire) or sell (or otherwise transfer) an interest in any equity of such issuer is suspended by the issuer or a fiduciary of the plan; but

(B) does not include—

(i) a period in which the employees of an issuer may not allocate their interests in the individual account plan due to an express investment restriction—

(I) incorporated into the individual account plan; and

(II) timely disclosed to employees before joining the individual account plan or as a subsequent amendment to the plan; or

(ii) any suspension described in subparagraph (A) that is imposed solely in connection with persons becoming participants or beneficiaries, or ceasing to be participants or beneficiaries, in an applicable individual account plan by reason of a corporate merger, acquisition, divestiture, or similar transaction.

(2) BOARDS OF ACCOUNTANCY OF THE STATES.—The term ''boards of accountancy of the States'' means any organization or association chartered or approved under the law of any State with responsibility for the registration, supervision, or regulation of accountants.

(3) COMMISSION.—The term ''Commission'' means the Securities and Exchange Commission.

(4) INDIVIDUAL ACCOUNT PLAN.—The term ''individual account plan'' has the meaning provided such term in section 3(34) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(34)).

(5) ISSUER.—The term ''issuer'' shall have the meaning set forth in section 2(a)(4) of the Securities Act of 1933 (15 U.S.C. 77b(a)(4)).

(6) PERSON ASSOCIATED WITH AN ACCOUNTANT.—The term ''person associated with an accountant'' means any partner, officer, director, or manager of such accountant (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or under common control with such accountant, or any employee of such accountant who performs a supervisory role in the auditing process.

(7) RECOGNIZED PUBLIC REGULATORY ORGANIZATION.—The term ''recognized public regulatory organization'' means a public regulatory organization that the Commission has recognized as meeting the criteria established by the Commission under subsection (b) of section 2.

(8) SECURITIES LAWS.—The term ''securities laws'' means the Securities Act of 1933 (15 U.S.C. 77a et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), the Trust Indenture Act of 1939 (15 U.S.C. 77aaa et seq.), the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.), the Investment Advisers Act of 1940 (15 U.S.C. 80b et seq.), and the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.), notwithstanding any contrary provision of any such Act.

The CHAIRMAN. No amendment to the committee amendment in the nature of a substitute is in order except those printed in House Report 107–418. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

It is now in order to consider amendment No. 1 printed in House Report 107–418.

AMENDMENT NO. 1 OFFERED BY MR. OXLEY

Mr. OXLEY. Mr. Chairman, I offer amendment No. 1 made in order pursuant to the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. OXLEY:

Page 9, line 24, strike ''study'' and insert ''reviews''.

Page 11, line 10, insert ''or'' after ''review''.

Page 11, line 17, strike ''board'' and insert ''organization''.

Page 33, line 7, strike ''DEFINITION'' and insert ''DEFINITIONS''; on line 8, strike ''term 'beneficial owner' has the meaning'' and insert ''terms 'officer', 'director', and 'beneficial owner' have the meanings''; and line 9, strike ''term'' and insert ''terms''.

Page 39, strike line 5 and all that follows through page 40, line 9; and on page 40, line 10, strike ''(d) CHANGES IN CODES OF CONDUCT.—''.

Page 42, lines 9 and 11, strike ''accountants report'' and insert ''accountant's report''.

Page 42, line 17, insert ''or her'' after ''his'', and beginning on line 18, strike ''an opinion cannot be expressed'' and insert ''he or she cannot express an opinion''.

Page 53, line 23, strike ''the role played by'' and insert ''whether'', and on line 24, strike ''in assisting'' and insert ''assisted''.

Page 54, line 18, insert ''which may have been'' before ''designed solely''.

Page 57, line 9, insert ''7, 8,'' after ''6,''.

The CHAIRMAN. Pursuant to House Resolution 395, the gentleman from Ohio (Mr. OXLEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Ohio (Mr. OXLEY).

Mr. OXLEY. Mr. Chairman, I yield myself 5 minutes to explain the amendment.

Mr. Chairman, this manager's amendment clarifies the language in a few portions of the legislation to give greater effect to the committee's intent in reporting out H.R. 3763.

The amendment clarifies that certain terms used in the bill are meant to be consistent with how those terms are used in the securities laws. It also removes some language that the committee had adopted which would have required self-regulatory organizations to undertake specific rule-makings. Because this is not standard practice under the securities laws, that language was deleted, with the consent of its original sponsor, the gentlewoman from New York (Mrs. MALONEY). However, important provisions relating to the requirement that issuers may make public any waiver of their code of ethics was retained.

The amendment also clarifies a section directing the GAO to conduct a study of investment banks. The original sponsor of the language, the gentleman from New York (Mr. LAFALCE) agrees with these changes, which were designed to ensure that the GAO study is fair, impartial, and accurate.

Lastly, the amendment specifies that certain provisions of the bill are not designed to apply to investment companies that are currently registered with the SEC. Because these investment companies are already fully regulated by the SEC under the Investment Company Act of 1940, application of the noted provisions to them would be inappropriate.

Mr. Chairman, these changes mostly fall within the realm of technical and conforming amendments. I know of no opposition to these amendments, and I certainly urge their adoption.

Mr. Chairman, I reserve the balance of my time.

Mr. CAPUANO. Mr. Chairman, I rise to claim the time on my side.

The CHAIRMAN. The gentleman from Massachusetts (Mr. CAPUANO) is recognized for 5 minutes.

Mr. CAPUANO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have no objection to the manager's amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. OXLEY. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Virginia (Mr. CANTOR).

Mr. CANTOR. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the manager's amendment and the underlying bill. Mr. Chairman, the aim of this legislation is to ensure a continued faith in our capital markets, and to allow America's families and the investing public to continue to benefit from the free flow of accurate information.

This bill, the manager's amendment, provides a surgical strike approach to address the issues arising out of the Enron bankruptcy without hampering our markets' ability to thrive and the benefit they provide to America's families.

We have heard discussion today on the floor, Mr. Chairman, about the issues that arose under the Enron bankruptcy: the issue about the blackout period, the fact that we ought not have employees blacked out while executives have the ability to sell company stock. That is addressed.

We also have addressed in the bill the disclosure of off-balance-sheet transactions, that they all must be disclosed.

The other side speaks about the fact that certain specified nonaudit services are not prohibited under this legislation, but I would bring to the body's attention that there were 10 nonaudit services that the SEC proposed restrictions on. Of these ten, seven were prohibited by the SEC's final independent rules, and two, two of them, the financial systems work and internal auditing ability, are prohibited under the chairman's bill.

The one remaining nonaudit service was expert services, which the SEC decided in its final rule should not be prohibited. Accordingly, Mr. Chairman, the other side is largely proposing redundant legislation that is already in place under existing rules, except for one.

There is one major problem with the proposal coming from the other side. By adopting word for word the SEC's proposed rules, the other side would codify prohibitory and definitional language that the SEC, through notice and comment rule-making, has already determined to be unacceptable.

Mr. Chairman, I urge adoption of the manager's amendment and the underlying bill.

Mr. OXLEY. Mr. Chairman, I am pleased to yield 1 minute to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Chairman, I thank the gentleman for yielding time to me.

Enron was a great tragedy; it was a tragedy for the employees, for the investors, and it was a tragedy for the American public. It was a tragedy for our Nation.

We clearly need legislation. We need legislation that will give investors better access to information necessary to judge a firm's performance, the financial risk, the condition of that company. We need legislation that will give investors prompt information that is critical to decide whether or not they should make an investment.

We also need legislation that will deal with dishonest and unscrupulous CEOs, legislation that will bar them from serving as an officer of a company, that will force them to disclose critical information about what they are doing when they buy or sell stock in that company.

This legislation before us addresses all of those issues. It would be a greater tragedy if we were, in this body, to introduce legislation that would create unnecessary and burdensome red tape for American industries, that would nationalize the accounting industry. It would be inappropriate for us to put forward legislation that would create ambiguous and difficult-to-understand standards.

This is a good bill. I urge all colleagues on both sides of the aisle to support it. I commend the chairman and the subcommittee chairman who worked on this very important legislation.

Mr. OXLEY. Mr. Chairman, I yield the final 30 seconds, with apologies, to my good friend, the gentleman from California (Mr. ROYCE).

Mr. ROYCE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I will be brief. By creating an independent regulatory organization comprised of a majority of financial experts from outside of the accounting profession, this bill brings much needed reform and oversight to the status quo ante of self-regulation within the auditing profession.

By requiring that CEOs and other corporate insiders disclose their trades in company stock within 48 hours, within 48 hours of making that trade, this bill will increase the speed and transparency of information disclosure necessary for the efficient operation of our capital markets.

By preventing these same executives from unloading these shares during the lockdown of an employee pension account, it ensures that all stakeholders in a company are treated equitably and fairly, not as first- and second-class shareholders in equity.

For these reasons, I urge support for the manager's amendment and for the underlying bill. I thank the chairman, the gentleman from Ohio (Mr. OXLEY), for the Corporate and Auditing Accountability, Responsibility, Transparency Act of 2002.

The CHAIRMAN. Does any Member rise in opposition?

If not, the question is on the amendment offered by the gentleman from Ohio (Mr. OXLEY).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 107–418.

AMENDMENT NO. 2 OFFERED BY MR. CAPUANO

Mr. CAPUANO. Mr. Chairman, I offer amendment No. 2.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. CAPUANO:

Page 3, beginning on line 21, strike paragraph (1) of section 2(b) through page 4, line 9, and insert the following:

(1)(A) The board of such organization shall be comprised of five members—

(i) two of whom shall be persons who are licensed to practice public accounting and who have recent experience in auditing public companies;

(ii) two of whom may be persons who are licensed to practice public accounting, if such person has not worked in the accounting profession for any of the last two years prior to the date of such person's appointment to the board; and

(iii) one of whom shall be a person who has never been licensed to practice public accounting.

(B) Each member of the board of such organization shall be a person who meets such standards of financial literacy as are determined by the Commission.

The CHAIRMAN. Pursuant to House Resolution 395, the gentleman from Massachusetts (Mr. CAPUANO) and a Member in opposition each will control 10 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. CAPUANO).

Mr. CAPUANO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment is relatively simple. It does one small item in the proposed bill which simply guarantees that one, only one of the five seats, will be someone who has never been licensed as an accountant.

It simply is the best way that I could think of to guarantee that the general public has at least one voice at the table. The other four seats are just as submitted in the current draft; namely, two seats shall be people who are licensed to practice accounting, and two people may have a license to practice accounting, as long as they have not practiced in the last 2 years.

It is exactly what the bill says, with the sole exception of one person who has never been licensed. I think that is the least we can do to guarantee the general public, the investing public, has at least one seat at the table without having been subject to practice for the last 30 or 40 years.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. For what purpose does the gentleman from Ohio (Mr. OXLEY) rise?

Mr. OXLEY. Mr. Chairman, I claim the time in opposition to the amendment, though I am not opposed to the amendment.

The CHAIRMAN. Without objection, the gentleman from Ohio (Mr. OXLEY) is recognized for 10 minutes.

There was no objection.

Mr. OXLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank my friend, the gentleman from Massachusetts (Mr. CAPUANO), a fine member of the Committee, for his good work on this amendment. I rise in strong support of it. By clarifying that at least two members of the five-member public reporting organization created by CARTA must be certified public accountants, the Capuano amendment recognizes the need for accounting expertise.

Equally important, it guarantees that at least one member of the board, and potentially three, is not a CPA. That would guarantee a level of independence from the accounting profession that is absolutely essential to keeping our financial reporting system the best in the world.

Mr. Chairman, I thank the gentleman and urge all Members to vote aye.

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Mr. OXLEY. Mr. Chairman, I support the Capuano amendment.

Mr. Chairman, I have no further speakers, and I yield back the balance of my time.

Mr. CAPUANO. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. CAPUANO).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider Amendment No. 3 printed in House Report 107–418.

AMENDMENT NO. 3 OFFERED BY MR. SHERMAN

Mr. SHERMAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. SHERMAN:

In section 21 strike ''and 15'' amd insert ''and 16'' and after section 13, insert the following new section (and redesignate the succeeding sections and conform the table of contents accordingly):

SEC. 14. AUDITOR MINIMUM CAPITAL.

(a) REGULATION REQUIRED.—The Commission shall revise its regulations pertaining to auditor independence to require that an accountant shall not be considered independent unless such accountant complies with such capital adequacy standards as the Commission shall prescribe by regulation.

(b) MINIMUM STANDARD.—The capital adequacy standards established by the Commission pursuant to this section shall require that the net capital of an accountant be equal to not less than one-half of the annual audit revenue received by such accountant from issuers registered with the Commission.

(c) TREATMENT OF CAPITAL AND REVENUE.—For purposes of this section—

(1) net capital shall include the sum of capital, reserves, and malpractice insurance available to the accountant for the performance of audit functions; and

(2) annual audit revenue shall include the sum of all audit fees received by the accountant, but shall not include any fees for non-audit services, as such terms are defined in regulations of the Commission in effect on the date of enactment of this Act.

The CHAIRMAN. Pursuant to House Resolution 395, the gentleman from California (Mr. SHERMAN) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. Mr. Chairman, I yield myself such as I may consume.

Mr. Chairman, I know there are others that would like to speak in favor of this amendment, but this whole process has gone more quickly than expected, so we will see if they can make it here to the floor.

Mr. Chairman, the financial auditing system is the only one where the umpire is paid by one of the teams. That is to say, we have a situation where the auditor must make tough judgment calls, particularly as to how to apply generally accepted accounting principals which are not mechanical but, rather, require judgment. And the firm must make those judgments relative to the client, sometimes being the difference between whether the stock sells for $20 a share or $40 a share. The auditing firm must make that decision affecting the clients when they are being paid by that client.

The one financial check on this is the fact that if the auditor does not make the right decision, but is rather negligent, they may be sued. The other check on this, of course, is the integrity and the professionalism of the individual auditors involved in the process. But our system, our capitalist system works well when we rely on the good spirit of people but also on financial incentives, financial checks and balances. Those financial checks and balances, however, ring hollow in the present system.

Back when I was practicing—and, Mr. Chairman, that was a long time ago, I had hair when I was doing it, that tells us how long ago it was—we had general partnerships that were the Big Eight, now the Big Five accounting firms. That meant that every partner's personal assets were on the line if the firm committed malpractice. So of course the firms purchased malpractice insurance. And it meant that if an investor was hurt by malpractice, that that investor would at least get some compensation.

Now our corporate laws have changed. There are professional corporations, limited liability companies, and limited liability partnerships.

As a result, those investors hurt by auditor malpractice can only look to the assets of the firm. It makes sense that we make sure that there are at least some assets there so that investors hurt by accounting malpractice at least get some compensation.

That is not the case at the present time. Arthur Andersen is supposed to be paying $217 million, not in relation to Enron, but in relation to the Baptist Foundation of Arizona audit in which they also committed malpractice. And now it looks like those investors are not going to be paid. It looks like the Enron investors are not going to get a penny from Arthur Andersen. Why? Because Arthur Andersen has virtually no malpractice insurance and virtually no reserves.

Mr. Chairman, if you are going to drive your car, you might hurt somebody. And that is why every State in this Union requires you to have some sort of reserve or auto insurance. If you are going to operate a fleet of thousands of taxis, certainly you would have insurance, because driving down Main Street you might make a mistake and hurt somebody.

Well, driving on Wall Street is also potentially dangerous. And those who drive down Wall Street and can cause billions of dollars of harm if they are not careful, should also have the same insurance required of every driver in this country. Wall Street is as dangerous for pedestrians as Main Street, and that is why I have proposed this amendment.

I want to be very clear on what it does not do. It does not have an effect on the 99 percent of CPA firms that do not audit public companies. It has virtually no effect on the regional firms that do a very few SEC audits. It requires them to have such minimal capital reserves that if they just own their own computers, they meet the test. They probably would have malpractice insurance anyway.

This bill affects the Big Five firms. It says that those firms that do 99.5 percent of all the SEC auditing have to have reserves or they have to have malpractice insurance. It ensures that if investors are hit on Wall Street, they will at least get some recompense. We provide that assurances to pedestrians. We ought to provide it to investors as well.

Mr. Chairman, I reserve the balance of my time.

Mr. OXLEY. Mr. Chairman, I claim the time in opposition to the amendment.

The CHAIRMAN. The gentleman from Ohio (Mr. OXLEY) is recognized for 10 minutes.

Mr. OXLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the amendment before us requires audit firms to establish and maintain huge capital reserves, at least 50 percent of annual audit revenue. The Sherman amendment was offered in committee and defeated by an overwhelming margin of 49 to 9. Though well intentioned, it would establish a burdensome and wholly unprecedented requirement, expanding government's reach into the financing and structuring of audits firms. Minimum capital requirements would harm small audit firms in particular and would result in less stability for public companies, higher audit cost for public companies, lower profits for investors, and more speculative lawsuits.

Clearly this is a case of using a sledgehammer to crack a nut.

I urge all Members to oppose this amendment and support the base bill.

Mr. Chairman, I reserve the balance of my time.

Mr. SHERMAN. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from California has 5 minutes remaining.

Mr. SHERMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me respond to the comments of our distinguished chairman.

This is hardly a sledgehammer. Keep in mind that 20 years ago, every one of the accounting firms, big and small, had far more reserves available to those who were affected by accounting malpractice. Twenty, 30 years ago, they were all general partnerships, so they had malpractice insurance. One of the reasons they had it is that the personal assets of every partner were on the line. The assets available to the creditors of Arthur Andersen 30 years ago would have been tens of billions of dollars, adjusted for inflation, talking about 2002 dollars. Today we have an empty shell.

I remind the House that when they ask poor people in each district who need to drive somewhere to work to earn the minimum wage, we insist they have liability insurance, because while we are concerned about their ability to drive, we are also concerned that those who are hurt by negligence get at least something. And yet we turn to what will probably be the Big Four accounting firms, each with many billions of dollars of revenue, and say that they do not have to have any liability insurance.

Is that a fair society? Do we really believe that driving down Wall Street is not as hazardous as driving down any street in America? Certainly all the automobile accidents in this country will not add up to the losses suffered by Enron investors. If we require those who drive to have insurance and we do not regard that as an undue burden on driving, how can we say that auditing publicly traded corporations, an activity engaged in by only five accounting firms for the most part, maybe two or three others, are we going to say that the five or eight or nine largest accounting firms in the country do not need any liability insurance? I do not think we should. I think at this time it is reasonable to say that if you are engaging in activity that only exists because the securities law requires it, if you are receiving billions of dollars in fees because publicly-traded companies are required by Federal law to have an audit, then you ought to have liability insurance.

I will give another example. If a small plumbing contractor wishes to do the plumbing on a Federal building or a State construction project, surely we would require a completion bond or other insurance that the work will be done appropriately. How can we turn to individual drivers and say they must have insurance, the smallest companies who do construction work, and say they must have insurance, and then turn to the Big Four accounting firms and say they can walk away scot-free no matter what liability a court imposes on them? It is an illusory liability. The Enron investors will probably get nothing from Arthur Andersen.

I do not think that is a fair system. I think instead it is reasonable to require that those who engage in activities which may make them liable to someone else have reasonable amounts of insurance. I want to repeat, this bill will affect only the Big Four or, today, Big Five accounting firms. It will have no effect on the 99 percent of firms who do no SEC auditing and will have no effect or virtually no effect on the four, five, or six other regional firms who may have a very few SEC audits. Only when a firm is deriving a very large percentage of its revenue from SEC audit does this bill have any effect.

So I ask my colleagues to require that investors who are mamed on Wall Street at least be able to get some amounts of compensation, as they would if they were hurt walking across the street in their hometown.

Mr. Chairman, I reserve the balance of my time.

Mr. OXLEY. Mr. Chairman, I yield 3 minutes to the gentleman from Richmond, Virginia (Mr. CANTOR).

Mr. CANTOR. Mr. Chairman, I rise in opposition to the gentleman from California's (Mr. SHERMAN) amendment, and with all due respect, I beg to differ. We are not talking about insurance here. What we are talking about is a totally unprecedented and, in my opinion, unjustified expansion of government's reach into the financing and structuring of accounting firms.

Let us address the first issue that the gentleman from Ohio (Mr. OXLEY) made here, that this particular amendment would really contribute to the instability of any public company that was required to have audited financial statements. Just imagine if the auditing firm dipped below the required level of reserve while that firm was in the middle of an audit. That public company who is required to have the audited financial statements would be left in the lurch. There would be no other option in that firm than to go out and seek another accounting firm to restart the audit or pick up where the one that is now disqualified left off, thus adding to the cost of having audited financial statements. In addition, I think it would take away from the quality of the audit itself.

Mr. Chairman, I would also say that in any other instance where the government requires a certain capital, minimum capital requirement, for instance the banking industry, there is some type of quasi-guarantee relationship that the government has and in some sense is the insurer of the industry. In this particular case, there is no relationship by the government to the auditing firm. In the case of the banks, the government is there to provide some type of confidence to the depositors that their personal funds will be insured to a certain extent. Here there is no such relationship and, in fact, auditing firms are precluded from maintaining any deposits from individuals or from clients.

Think about the effect that this amendment would have on small accounting firms. Many firms with reduced access to capital and costly insurance will be now precluded from seeking or acquiring business elsewhere. When we are talking about a firm having to have 50 percent of the annual audit fee in reserve, that is a tremendous financial and capital hurdle for most American businesses, not just to mention auditing firms. Such a requirement to have that type of reserve will certainly add to the cost of the financial audit, ultimately adding to the cost and taking away the benefit to the investors in that company.

Mr. Chairman, I would say this amendment goes in the wrong direction and I urge my colleagues to oppose the amendment.

□ 1245

The CHAIRMAN. The Chair will advise Members that the gentleman from Ohio (Mr. OXLEY) has 6 minutes remaining. The gentleman the California (Mr. SHERMAN) has 30 seconds remaining.

Mr. SHERMAN. Mr. Chairman, I yield myself the remaining time.

This bill will not adversely affect small accounting firms. It restores a system similar to what we had 30 years ago when every firm had malpractice insurance because the LLC and LLP structures had yet to be invented under State law. We in the federal government require that an audit be conducted because of the securities law, and we ought to require that those who will rely on those financial statements will get some compensation in the event that auditor malpractice takes place.

State governments require insurance to drive a car. We ought to require insurance to drive on Wall Street.

Mr. OXLEY. Mr. Chairman, I yield myself such time as I may consume.

Before yielding back, I would only reiterate the fact that we debated this in committee, the same amendment. The gentleman from California was able to get nine votes in favor of his amendment, 49 against. I think the committee understood the issue and reacted accordingly.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise in support of the Sherman amendment to H.R. 3763, the Corporate and Auditing Accountability and Responsibility Act.

This amendment would establish capital standards for accounting companies that audit publicly traded companies.

This amendment would require the SEC to set capital standards at a level no lower than

half of the firm's annual audit revenues. Moreover, it allows auditors to apply capital, reserves and malpractice insurance to meet this net capital requirement.

Accounting firms that fail to maintain required levels of capital reserves would be prohibited from auditing publicly traded companies.

As evidenced by the relationship between Enron and its auditor, Arthur Andersen, there are many flaws in the system that needs fixing. This amendment is another step in the right direction.

It is very likely that because Arthur Andersen did not carry adequate malpractice insurance, the Enron shareholders, many of them former Enron employees, will not see any monetary compensation from their auditor. This amendment does not and will not hurt small accounting firms because nearly all SEC audits are done by the big five accounting firms.

It is important to note that this amendment is being offered so that auditors of SEC reporting companies will to have enough capital and insurance to cover the liability they incur when they perform a large audit and would only affect auditors performing audits for companies required to file disclosures with the SEC.

This is an important amendment and I urge you to support it.

Mr. OXLEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. SHERMAN).

The amendment was rejected.

The CHAIRMAN. It is now in order to consider amendment No. 4 printed in House Report 107–418.

AMENDMENT NO. 4 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. KUCINICH

Mr. KUCINICH. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment No. 4 in the nature of a substitute offered by Mr. KUCINICH:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Investor, Shareholder, and Employee Protection Act of 2002''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The failure of accounting firms to provide accurate audits of its clients is not a new or isolated problem.

(2) Accounting firms have been implicated in failed audits that have cost investors billions of dollars when earnings restatements sent stock prices tumbling.

(3) Auditors have an inherent conflict of interest. They are hired, and fired, by their audit clients.

(4) This conflict of interest pressures auditors to sign off on substandard financial statements rather than risk losing a large client.

(5) Auditing a public company for the benefit of small as well as large investors requires independence.

(6) Therefore the only truly independent audit is one by a governmental agency.

(7) The Federal Bureau of Audits, closely regulated by the Commission, will provide honest audits of all publicly traded companies.

SEC. 3. ESTABLISHMENT OF BUREAU.

(a) ESTABLISHMENT.—There is hereby established within the Commission an independent regulatory agency to be known as the Federal Bureau of Audits.

(b) FUNCTION OF THE BUREAU.—The Bureau shall conduct an annual audit of the financial statements that are required be submitted by reporting issuers and to be certified under the securities laws or the rules or regulations thereunder.

(c) OFFICERS.—

(1) BUREAU HEAD.—The head of the Bureau shall be a Director, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) ADDITIONAL OFFICERS.—There shall also be in the Bureau a Deputy Director and an Inspector General, each of whom shall be appointed by the President, by and with the advice and consent of the Senate.

(3) TERMS.—The Director, Deputy Director, and Inspector General shall be appointed for terms of 12 years, except that—

(A) the first term of office of the Deputy Director shall be eight years; and

(B) the first term of office of the Inspector General shall be 4 years.

(d) INDEPENDENCE.—Except as provided in sections 4 and 5, in the performance of their functions, the officers, employees, or other personnel of the Bureau shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent of any other part of the Commission.

(e) ADMINISTRATIVE SUPPORT.—The Commission shall provide to the Bureau such support and facilities as the Director determines it needs to carry out its functions.

(f) RULES.—The Bureau is authorized to establish such procedural and administrative rules as are necessary to the exercise of its functions, but the Bureau may not establish any auditing standards within the jurisdiction of the Commission under sections 4 and 5.

(g) ADDITIONAL AUTHORITY.—In carrying out any of its functions, the Bureau shall have the power to hold hearings, sign and issue subpoenas, administer oaths, examine witnesses, and receive evidence at any place in the United States it may designate. The Bureau may, by one or more of its officers or by such agents as it may designate, conduct any hearing or other inquiry necessary or appropriate to its functions, except that nothing in this subsection shall be deemed to supersede the provisions of section 556 of title 5, United States Code relating to hearing examiners.

(h) CONFLICT OF INTEREST PROVISIONS.—A person previously employed by the Bureau may not accept employment or compensation from an issuer audited by the Bureau or an accountant that provides audit related services to an issuer audited by the Bureau for 10 years after the last day of employment at the Bureau. Any current employee of the Bureau shall be required to place all investments in a blind trust, in accordance with regulations prescribed by the Commission. The employees of the Bureau who conduct the audits shall be exempt from the civil service pay system under section 4802 of title 5, United States Code, and shall be paid salaries that are competitive with similar private sector employment.

(i) LEGAL REPRESENTATION.—Except as provided in section 518 of title 28, United States Code, relating to litigation before the Supreme Court, attorneys designated by the Director of the Bureau may appear for, and represent the Bureau in, any civil action brought in connection with any function carried out by the Bureau pursuant to this Act or as otherwise authorized by law.

SEC. 4. ASSUMPTION OF AUTHORITY BY COMMISSION OVER AUDITING STANDARDS.

(a) ASSUMPTION OF AUTHORITY.—Pursuant to its authority under the securities laws to require the certification, in accordance with the rules of the Commission, of financial statements and other documents of reporting issuers of securities, the Commission shall, by rule, establish and revise as necessary auditing standards for audits of such financial statements.

(b) INCORPORATION OF CURRENT STANDARDS.—In adopting auditing standards under this section, the Commission shall incorporate generally accepted auditing standards in effect on the date of enactment of this Act, with such modifications as the Commission determines are necessary and appropriate in the public interest and for the protection of investors.

(c) ADDITIONAL REQUIREMENTS FOR RULES.—The rules prescribed by the Commission under subsection (a)—

(1) shall be available for public comment for not less than 90 days;

(2) shall be prescribed not less than 180 days after the date of enactment of this Act; and

(3) shall be effective on the first January 1 that occurs after the end of such 180 days.

SEC. 5. FEES FOR THE RECOVERY OF COSTS OF OPERATIONS.

(a) IN GENERAL.—The Commission shall in accordance with this section assess and collect a fee on each reporting issuer whose financial statements are audited by the Bureau. This section applies as of the first fiscal year that begins after the date of enactment of this Act (referred to in this section as the 'first applicable fiscal year').

(b) TOTAL FEE REVENUES; INDIVIDUAL FEE AMOUNTS.—The total fee revenues collected under subsection (a) for a fiscal year shall be the amounts appropriated under subsection (d)(2) for such fiscal year. Individual fees shall be assessed by the Commission on the basis of an estimate by the Commission of the amount necessary to ensure that the sum of the fees collected for such fiscal year equals the amount so appropriated.

(c) FEE WAIVER OR REDUCTION.—The Commission shall grant a waiver from or a reduction of a fee assessed under subsection (a) if the Commission finds that the fee to be paid will exceed the anticipated present and future costs of the operations of the Bureau.

(d) CREDITING AND AVAILABILITY OF FEES.—

(1) IN GENERAL.—Fees collected for a fiscal year pursuant to subsection (a) shall be credited to the appropriation account for salaries and expenses of the Bureau and shall be available until expended without fiscal year limitation.

(2) APPROPRIATIONS.—

(A) FIRST FISCAL YEAR.—For the first applicable fiscal year, there shall be available for the salaries and expenses of the Bureau $5,150,000,000.

(B) SUBSEQUENT FISCAL YEARS.—For each of the four fiscal years following the first applicable fiscal year, there shall be available for the salaries and expenses of the Bureau an amount equal to the amount made available by paragraph (1) for the first applicable fiscal year, multiplied by the adjustment factor for such fiscal year (as defined in subsection (f)).

(e) COLLECTION OF UNPAID FEES.—In any case where the Commission does not receive payment of a fee assessed under subsection (a) within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to subchapter II of chapter 37 of title 31, United States Code.

(f) DEFINITION OF ADJUSTMENT FACTOR.—For purposes of this section, the term 'adjustment factor' applicable to a fiscal year is the lower of—

(1) the Consumer Price Index for all urban consumers (all items; United States city average) for April of the preceding fiscal year divided by such Index for April of the first applicable fiscal year; or

(2) the total of discretionary budget authority provided for programs in categories other than the defense category for the immediately preceding fiscal year (as reported in the Office of Management and Budget sequestration preview report, if available, required under section 254(c) of the Balanced Budget and Emergency Deficit Control Act of 1985) divided by such budget authority for the first applicable fiscal year (as reported in the Office of Management and Budget final sequestration report submitted for such year).

For purposes of this subsection, the terms ''budget authority'' and ''category'' have the meaning given such terms in the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 5. DEFINITIONS.

As used in this Act:

(1) COMMISSION.—The term ''Commission'' means the Securities and Exchange Commission.

(2) SECURITIES LAWS.—The term ''securities laws'' means the Securities Act of 1933 (15 U.S.C. 77a et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), the Trust Indenture Act of 1939 (15 U.S.C. 77aaa et seq.), the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.), the Investment Advisers Act of 1940 (15 U.S.C. 80b et seq.), and the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.).

(3) REPORTING ISSUER.—The term ''reporting issuer'' means any registrant under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*) or any other issuer required to file periodic reports under section 13 or 15 of such Act (15 U.S.C. 78m, 78o).

The CHAIRMAN. Pursuant to House Resolution 395, the gentleman from Ohio (Mr. KUCINICH) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I include for the RECORD an article in the New Yorker entitled ''The Accountants' War,'' and it has many interesting details about the collapse of accounting responsibilities in this country. It says that Enron was forced to reveal that its profits had been off by about 20 percent over 3 years and that as early as 1997 Arthur Andersen had known that Enron was inflating its income, but when Enron declined to correct the numbers, Andersen certified them anyway.

[From the New Yorker, Apr. 22, 2002]

THE ACCOUNTANTS' WAR

(By Jane Mayer)

Nothing, it has been said, is duller than accounting—until someone is defrauded. And after every modern financial disaster—the stock-market crash of 1929, the bankruptcy of the Penn Central Railroad in 1970, the savings-and-loan crisis of the eighties, and now the bankruptcy of the Enron Corporation—investors have tended to ask the same question: where were the auditors?

Arthur Levitt, Jr., who was the chairman of the Securities and Exchange Commission under President Bill Clinton, believes that in the years leading up to Enron's collapse the auditors were busy organizing themselves into a lobbying force on Capitol Hill—one that has been singularly effective. Levitt, who issued a series of warnings about the accounting profession in those years, suggests that the aim of the so-called Big Five accounting firms—PricewaterhouseCoopers, Deloitte & Touche, Ernst & Young, K.P.M.G., and Arthur Andersen, Enron's auditor—was to weaken federal oversight, block proposed reform and overpower the federal regulators who stood in their way. ''They waged a war against us, a total war,'' Levitt said.

Some have portrayed Enron's crash and the woes of Arthur Andersen simply as huge business failures. ''There are always going to be bad apples,'' said Jay Velasquez, a former aide to Senator Phil Gramm, who is now a Washington lobbyist for the accounting profession, and who has fought increased regulation. Barry Melancon, who heads the American Institute of Certified Public Accountants, the profession's trade group, which has three hundred and fifty thousand members, fears that those who are trying to impose political solutions will overreact. ''We live in a free-market system,'' Melancon told me. ''Businesses fail. People are not infallible.''

But Levitt casts the Enron story in starker terms. It is, as he puts it, ''the story of the nineties''—a battle between public and private interests that is being fought at a time when there is more corporate money in politics than ever before. ''This is about corporate greed,'' Levitt told me. ''It is the result of two decades of erosion of business ethics. It was the ultimate nexus of business and politics. If there was ever an example where money and lobbying damaged the public interest, this was clearly it.''

Levitt, who is seventy-one and has silver hair, exhibits a starchy correctness. He still seems bitter about his war with the accounting trade, and called one adversary ''an oily weasel'' and another ''a sly mongoose'' as he spoke about the influence of money on politics. ''It used to be that if industries had a problem they would try to work it out with the regulatory authorities,'' he said, in his sleek office at the Carlyle Group, in midtown Manhattan, surrounded by mementos of years in public life. ''Now they bypass the regulators completely, and go right to Congress.'' Their campaign contributions lend them clout. ''It's almost impossible to compete with the effect that money has on these congressmen.'' Enron's campaign contributions and its political power have received much attention, but two of the top five accounting firms—Arthur Andersen and Deloitte—and the accountants' trade association actually spent more during the 2000 elections. ''The money was enormous,'' Levitt said. ''Look at the end result.''

Not many years ago, Levitt was considered a consummate Wall Street insider, even an operator. In 1993, when President Clinton picked him to run the Securities and Exchange Commission, he was a centrist, a well-connected fundraiser who had contributed to both parties. He had founded his own lobbying organization, the American Business Conference, to advocate the interests of small business on Capitol Hill. He was also someone with a knack for cultivating famous and powerful friends. In the nineteen-sixties, he joined a successful start-up New York firm as a stockbroker, and he eventually counted among his clients Leonard Bernstein, Aaron Copland, and Kenneth Clark. Three of Levitt's original partners were Sanford Weill, who became the chairman of Citigroup; Arthur Carter, now the publisher of the New York Observer; and Roger Berlind, who became a Broadway producer. (Levitt had his own ties to Broadway; his aunt was Ethel Merman). Levitt thrived, too, and by the late sixties he was running Shearson Hayden Stone, which later became Shearson Lehman Brothers.

In 1977, after being asked to head a search committee for the next leader of the American Stock Exchange, he got the job himself. A few years later, he was thinking of investing in The National Journal, a policy-oriented magazine in Washington, when he learned of the publication's interest in acquiring Roll Call, a struggling newspaper on Capitol Hill. Levitt declined to invest in The National Journal but bought Roll Call himself, for about five hundred thousand dollars. Seven years later, he sold it for fifteen million dollars.

At the same time, Levitt was drawn to public life. He had grown up in a political household, the only son of Arthur Levitt, Sr., a Democrat who for twenty-four years was the New York State comptroller. Both his father and his mother, a public-school teacher in Brooklyn, were dependent on public pensions for their retirement, and they cared deeply about the protection of small investors.

When Levitt began his S.E.C. job, he acknowledged the populist tradition of the Roosevelt Administration, which created the S.E.C. in 1934, to insure the integrity of American financial markets. The agency's new Web site carried the motto of his most famous predecessor, William O. Douglas: ''We are the investors' advocates.'' The S.E.C.'s basic requirement was that all publicly traded companies register with the agency and submit to annual independent audits. Douglas liked to say that the S.E.C. was ''the shotgun behind the door.'' But Levitt soon discovered that the agency's arsenal was no match for the bull markets of the nineties. The new economy spawned new accounting schemes that raised concerns almost from the start.

One early fight was over stock options. Many pointed out that the accounting convention that kept these expenses, unlike ordinary executive compensation, off the books was deceptive. It meant that investors could not see a company's real liabilities. Levitt recalls that when he took office the first thing that Senators David Boren and Carl Levin, who were both active in regulatory reform, told him was that he ''had to do something about stock options.''

Congress soon got involved in the stock-option fight, and the politicization of accounting became more apparent than ever. Supporters of Wall Street and Silicon Valley, including many ordinarily pro-regulatory Democrats, fought against changing the stock-option rules; one, for example, was Senator Joseph Lieberman, of Connecticut, a state with a large concentration of Fortune 500 companies, many of which are campaign contributors. More surprising, the accounting profession, rather than remaining neutral, joined forces with its clients to fight the change. Together, they exerted pressure on the organization that sets the rules for the accounting business, the Financial Accounting Standards Board, or F.A.S.B. ''This was a defining moment for me,'' Levitt said. A lawyer who was with the S.E.C. at the time says, ''The accountants were going beyond good accounting. They were advocating a business position. They wanted to keep their customers happy. It was quite unseemly.''

At first, Levitt played a hesitant role. In what he now regards as his ''biggest mistake'' at the commission, he, too, urged the F.A.S.B. to back off. His rationale, he said, was a fear that, if the board tried to resist the anti-regulatory feeling then sweeping Congress, it would be crushed altogether. (Sarah Teslik, the executive director of the Council of Institutional Investors, an advocate for shareholders, is among those who

argue that Levitt ''wasn't the hero he makes himself out of be.'') Levitt told me that the episode showed him that the accounting trade was undergoing a cultural transformation. Instead of overseeing corporate America, it was joining forces with it. ''The kind of greed that produced Enron and Arthur Anderson was symbolized by the way the companies dealt with stock options,'' he said. ''I realized something was wrong.''

Until the Second World War, the American accounting industry has stayed close to its eighteenth-century roots in bookkeeping. But with the rise of information technology the accounting firms branched into consulting. During the nineteen-nineties, the Big Five doubled their collective revenues, to $26.1 billion. Their consulting practices, in particular, were hugely profitable, and brought in three times as much revenue as auditing did, according to a study soon to be published in The Accounting Review. Auditors started coming under pressure to attract non-audit business. At some firms, like Andersen, auditors compensation depended upon their ability to sell other services to clients; equity partners began to be paid like investment bankers. Inevitably, there were conflicts between the independent role required of an auditor and the applicant role of a salesman trying to expand services.

At Enron, for example, Andersen did consulting on taxes and on internal auditing. Both projects threatened to put the outside auditors in the awkward position of assessing their own company's work. The relationship was further compromised by the fact that Enron's management included many former Andersen employees, among them the company's president, vice-president, and chief accounting officer. Auditors were thus in the position of judging former colleagues—and prospective bosses.

More than a year ago, well before Enron's problems became public, an internal e-mail revealed that fourteen top Andersen partners had pointed out several of the financial schemes that eventually contributed to Enron's fall. In a discussion about retaining Enron as a client the partners considered whether Enron's ''aggressive . . . transaction structuring'' was too risky. It appears from the e-mail, however, that the partners' concerns were outweighed by possible future rewards. The e-mail noted that their fees ''could reach $100 million per year.''

''If you get too friendly and too relaxed, you can wind up nodding your head yes when you should be saying no,'' said Charles Bowsher, a former head of the General Accounting Office, who worked at Andersen for many years and has been retained to help reform the firm. ''There's a lot of art in addition to science in accounting.'' Bowsher says that ''most fraud flourishes in gray areas.'' But James Cox, a professor of corporate and securities law at Duke University, suggests that Enron's accounting gimmickry was black-and-white. ''It was not even close,'' he said. ''It was dead wrong.''

Levitt said that, as the country's senior guardian of fair markets, he watched the transformation of the accounting profession with alarm. ''The brakes on the worst instincts of the business community weren't working,'' he says. ''The gatekeepers were letting down the gates.'' The number of audit failures afflicting corporate America was increasing; Lynn Turner, who served under Levitt as the chief accountant at the S.E.C., estimates that investors lost a hundred billion dollars owing to faulty, misleading, or fraudulent audits in the six years preceding Enron's crash. Many of the best-known corporations in the country were affected, among them Cendant, W. R. Grace, Sunbeam, Xerox, Lucent, and Oxford Health Plans. In fact, the number of publicly traded companies forced to re-state their earnings went from three in 1981 to a hundred and fifty-eight last year, according to a doctoral thesis at New York University's Stern School of Business. (Barry Melancon, of the American Institute of Certified Public Accountants, calls concern over these numbers misleading, noting that they represent ''fewer than one per cent of the audits performed.'')

Shareholder lawsuits against the accounting firms proliferated. In response, the Big Five and their trade association united as a political force. According to the nonpartisan Center for Responsive Politics, between 1989 and 2001 accounting firms spent nearly thirty-nine million dollars on political contributions. The contributions were bipartisan, reaching more than half the current members of the House and ninety-four of a hundred senators.

By 1995, this investment had started to pay off. Congress passed the Private Securities Litigation Reform Act, making it harder for shareholders to sue businesses and their auditors when the businesses failed. The legislation was championed by the Speaker of the House, Newt Gingrich, as part of his Contract with America. ''What we were after was trying to get rid of the frivolous, meritless cases,'' Mark Gitenstein, a lawyer and lobbyist who helped shape the legislation, said. ''We convinced Congress that you needed a system that did a better job of screening the marginal cases from the serious ones.'' The resulting legislation, Professor Cox said, reversed ''eighty years of federal procedure.''

At first, Levitt tried to fight the private-securities bill, but when it became clear that the federal regulators couldn't compete with the accountants' clout in Congress, he looked for a compromise. ''It was a case where the industry had more power that the regulators,'' he said. Then, as now, there were approximately seventy-five lobbyists for every member of the House and Senate; in the Gingrich era, they were more integrated into the lawmaking process than ever before. Jeffrey Peck, a former Democratic Senate aide who was then the head of Arthur Andersen's Washington lobbying office and is now an outside lobbyist for the firm, says that after this fight there was ''really bad feeling'' between Levitt and the profession. ''It was as if two people had gone out on a first date and had a bad time,'' he says. ''But the rules required them to keep dating.''

Levitt told me that he has always been proud of his ability to create consensus, and in the spring of 1996 he tried to involve the profession in reforming itself. He urged the big accounting firms to strengthen their oversight system and toughen discipline for transgressors. He proposed giving investors and other members of the public a bigger role. But, he said, the accountants resisted, and progress was made only after ''huge fights.''

Rules governing auditors' independence hadn't been updated in two decades. To examine the growing number of questions about conflicts of interest, Levitt created a new board, whose membership was divided between independent business leaders and people from the accounting industry. ''They were constantly deadlocked by differences of opinion,'' Levitt said, and added, ''When I asked for support, I never got it. I never heard in any speech they''—the accountants—''gave the words 'public interest.' They were so stilted, and terse, and non-productive—I realized it was an industry that completely lacked leadership.''.

The accounting industry hired Harvey Pitt, who was known as one of the smartest and most aggressive private-securities lawyers in the country. Pitt responded to Levitt's call for greater public oversight by arguing, in a lengthy white paper, that the accounting firms were better off policing themselves. ''The staff regarded his white paper as a kick in the stomach, because it was so one-sided and confrontational,'' Levitt said. One S.E.C. official recalls that Pitt made the negotiations over the new board ''the most horrible ever,'' and Lynn Turner says, ''It was doomed from day one.''

Pitt, who was appointed by President George W. Bush to succeed Levitt as chairman of the S.E.C., said, ''There was a lot of misperception about what the white paper said. For some reason, early on people seemed to get in their mind that I opposed what Levitt did,'' to reform accounting. ''I tried to give him may own help on a personal basis.''

In the summer of 1998, Levitt received a report about a problem in Pricewaterhouse's Tampa office. According to the report, nine executives there had made eighty investments in companies that they were supposed to be auditing—a violation of the most basic independence standards. Under the S.E.C.'s direction, the firm initiated a company-wide investigation. To the shame of the entire profession, it turned up more than eight thousand such violations. The S.E.C. fined Pricewaterhouse two and a half million dollars, and called for an investigation into compliance with independence rules at the rest of the Big Five firms; Levitt asked an independent group, the Public Oversight Board, which had been created after the Penn Central collapse, to undertake this task.

Levitt also took his battle public, in the fall of 1998, he gave a speech that attacked the ''number game.'' He said, ''Accounting is being perverted. Auditors who want to retain their clients are under pressure not to stand in the way.'' He explained, ''Auditors and analysts are participants in a game of nods and winks. . . . I fear we are witnessing an erosion in the quality of earnings, and therefore the quality of financial reporting.'' In conclusion, he said, ''Today American markets enjoy the confidence of the world. How many half-truths and accounting sleights of hand will it take to tarnish that faith?''

The Public Oversight Board, made up of major business figures, was supposed to act as the profession's conscience. But in May, 2000, before its investigation could be completed, the P.O.B.'s head, Charles Bowsher, received a letter from officials at the American Institute of Certified Public Accountants, which finances the board, announcing that it would ''not approve nor authorize'' funding for further investigations. Bowsher, who had himself been a high-ranking officer with Arthur Andersen before becoming the head of the General Accounting Office, says that he was shocked; the industry was effectively stopping the investigation. Melvin Laird, a former Secretary of Defense, who was the longest-serving member of the P.O.B., called it ''the worst incident in my seventeen years.'' Barry Melancon, the head of the trade association, defended the association's position. ''We were never opposed to the concept,'' he told me, referring to the investigation. ''We just felt the P.O.B. was undertaking a project that it couldn't define.''

At the same time, the S.E.C. was uncovering a huge case of accounting fraud involving the garbage-disposal company Waste Management: Arthur Andersen had put an unqualified seal of approval on numbers that the government said it either knew or should have known were misleading. As if in anticipation of the revolving-door conflicts at Enron, practically ever C.F.O. and C.A.O. in Waste Management's history had come from Andersen, S.E.C. enforcement documents from the investigation reveal something

else: at least two of the partners who were singled out for scrutiny by the S.E.C. remained in influential positions at Andersen while being investigated, and both have now surfaced in connection with the Enron affair. (One executive, Robert Kutsenda, who was later barred by the S.E.C. from auditing public companies for a year, was placed in charge of redesigning the firm's policy on which documents to retain and which to shred, an issue in the Enron case. Kutsenda and Steve Samek, who was also investigated in the Waste Management case but not publicly sanctioned, were among those involved in the discussion of whether to retain Enron as a client. None of the executives involved in the Waste Management matter were fired by Andersen, which last year agreed to pay a seven-million-dollar penalty to the S.E.C., without admitting or denying guilt, after it was charged with fraud. In addition, two of the Andersen partners targeted by the S.E.C. in the fraud case now serve on the profession's standard-setting board, the F.A.S.B.)

By 2000, Levitt, faced with what he calls the Big Five's ''fortress mentality,'' had initiated a series of meetings with the firms at which he insisted that they needed to do more to police themselves. Levitt's message, Turner told me, was that the firms could either cooperate with an investigation into their compliance with independence rules or ''we'll issue the subpoenas tomorrow—take your pick.''

In the spring of 2000, the S.E.C. announced that it planned to draft new rules that would greatly restrict accountants' ability to consult for the same companies they audited. Arthur Andersen reportedly argued that this would cut its market potential by forty per cent, and vowed to fight back. A June meeting in Deloitte's New York headquarters with the heads of the three firms who most vehemently opposed the new rules ''was so icy you could have stored cold meat in that room,'' Turner says. The heads of Andersen, Deloitte, and K.P.M.G. joined Melancon on one side of a conference table. (Pricewaterhouse and Ernst & Young were more supportive of Levitt, and didn't attend.) Levitt and two S.E.C. officials were on the other. When Levitt made it clear that he intended to move forward, Andersen's chief executive, Robert Grafton, declared, ''This is war.''

''It was unbelievable, just unbelievable,'' Turner recalled. ''They all went after Arthur. They made clear that everything was fair game.'' Turner says that the attitude of the firms was ''You know we're going to win anyway in the end, so why not save us the expense, and give up now?''

''As soon as I left that meeting,'' Levitt told me, ''it was clear the fight was going to Capitol Hill.'' Such clashes over commercial interests are commonplace in Congress, but ''this wasn't about legislation,'' he said. ''It was about S.E.C. rule-making—we're supposed to be an independent agency. I'd never seen anything like it at the S.E.C.''

During this period, Levitt said, he got a letter from Representative W.J. (Billy) Tauzin, of Louisiana, the chairman of the House Energy and Commerce Committee, who has received more than two hundred and eighty thousand dollars from the accounting industry over the past decade. The letter consisted of four pages of pointed questions. In a not very veiled threat, Tauzin asked how many violations Levitt and the other members of the S.E.C. would have if their stock holdings were subjected to the independence rules being proposed for the accountants. He also demanded that Levitt produce proof that non-audit consulting undermines auditors' accuracy. ''It was a shot across the bow from the industry,'' Levitt says. ''They were saying, 'If you go forward, expect a lot of pain.' ''

In the following weeks, he said, Tauzin ''badgered me relentlessly. He knew what the accountants were doing before I did. He was working very closely with them. I don't mean to sound cynical, but is it because he loves accountants?'' At one point, relations between the two men grew so bad that Levitt hung up on Tauzin, because he felt that ''his words and his tone were threatening.''

Tauzin was not alone. In the four weeks after Levitt announced his intention to go through with the proposed new rules, forty-six more congressmen wrote to him questioning them. Data from the Center for Responsive Politics show that in 2000 the accountants contributed more than ten million dollars to political campaigns and spent $12.6 million on federal lobbying. Arthur Andersen alone nearly doubled its lobbying budget in the second half of the year, to $1.6 million. Among the lobbyists hired by the industry were Vic Fazio, a former congressman; Jack Quinn, a former Clinton White House counsel; Ed Gillespie, a former Bush campaign adviser; Patrick Griffin, Clinton's former congressional liaison; Dan Brouillette, a former aide to Tauzin who is now an Assistant Energy Secretary; and a number of other former Hill staff people.

Now, however, Tauzin has joined in the public outrage toward Enron and Andersen; in a House hearing that he chaired, he called the case ''an old-fashioned example of theft by insiders, and a failure of those responsible for them to prevent that theft.'' He told me that money hadn't influenced his earlier defense of the accountants. ''Donations have never bought anybody any slack with this committee,'' he said. ''I'm not saying that contributions don't have the power to corrupt. They do. But I always assume people contribute to me because they like the work I do.''

By early fall of 2000, Levitt says, he began to hear another kind of threat; lobbyists told him that if he didn't back off there would be a push to cut the S.E.C.'s funding. ''They were going to place a rider on our appropriations budget,'' Levitt said, still sounding as if he could not believe it. Jay Velasquez, a lobbyist for the accountants at the time, confirmed this. ''You have to consider all your options,'' he said. ''There is no doubt that the rider was a consideration. In these battles, everything is on the table.'' Henry Bonilla, a Texas Republican with an anti-regulatory temperament who is a member of the House Appropriations Committee, was prepared to attach the rider. Bowsher, the former G.A.O. head, says that such threats were once unthinkable. ''In the old days, the S.E.C. was off limits to that kind of pressure. It was a place the private sector respected. Nobody, nobody, would have thought about asking Congress to cut the budget.''

Representative Tom Udall, a Democrat from New Mexico, says that his staff urged him to sign a widely circulated letter to Levitt opposing the proposed rules, because so many of his colleagues had. ''There's sort of a herd mentality,'' he said. He refused; he knew Levitt slightly, through mutual friends in Santa Fe. ''Levitt was out to solve these things before people realized there was a problem. That's the sign of a leader. But the special interests have such a hold on members of Congress that they were able to stop a lot of things.''

Levitt initiated a nationwide series of public hearings about accounting abuses, fighting back as if he were involved in a political campaign. Damon Silvers, an A.F.L.–C.I.O. official who supported the S.E.C.'s position, recalls that ''Levitt looked like a figure from some old movie—he was sitting at a huge desk at the S.E.C. with a bank of phones, talking on several lines at once.''

But by then Levitt's eight-year term at the S.E.C. was about to expire, and the accounting-industry supporters developed a new strategy: they started to oppose the rule's substance on procedural grounds, arguing that there hadn't been enough time for public hearings. ''Of course, we knew that by calling for more time it would mean the end of Levitt,'' one lobbyist said.

With the accounting firms threatening to take the S.E.C. to court if he went ahead with the rules, Levitt tried to strike a deal with the three firms who opposed him, at which point the two firms who had previously supported him turned against him. That night, one aide recalled, Levitt gave up. ''I lost it,'' Levitt said.

In the end, he kept negotiating, and the S.E.C. agreed to let the firms continue to consult for the companies they audited. But the firms agreed to disclose the details to investors. ''I knew it wasn't enough, but I thought we'd be overruled by Congress in one fashion or another,'' Levitt said. ''The part of me that was insecure wanted a bird in the hand.''

Almost exactly a year later, Enron's outside auditor, Arthur Andersen L.L.P., a company whose image had virtually defined Midwestern probity, made an astonishing admission. During the previous three years, when it had vouched for Enron's financial statements, the company's net income had actually been inflated by almost six hundred million dollars. In a financial market where stocks plummet if corporate earnings fall a penny short of projections, Enron was forced to reveal that its profits had been off by about twenty per cent over three years. As early as 1997, Andersen had known that Enron was inflating its income. But when Enron declined to correct the numbers Andersen certified them anyway. Within six months, Enron had filed for bankruptcy and Andersen had been indicted on charges of obstruction of justice for destroying documents related to its Enron work. Investors lost an estimated ninety-three billion dollars, a sum nearly equal to the amount of the economic-stimulus package that President Bush requested for the entire country. In the year before Enron's crash, Andersen had collected a million dollars a week from Enron for its expertise. More than half of that, Andersen acknowledged, in compliance with the new S.E.C. rule, was for non-auditing work.

''If these reforms had been in place earlier, we wouldn't have had an Enron,'' Lynn Turner told me. He laughed, but the laugh sounded a little forced as he spoke about Congress's newfound interest in reform. ''Maybe the congressman were listening more than I thought—we just weren't giving them enough money,'' he said.

Not long ago, Levitt was called to testify before Congress about what went wrong at Arthur Andersen. ''It was a play within a play,'' he told me. He said that he has little hope for meaningful change in the profession, despite all the bills under consideration, and despite commitments from Harvey Pitt, his successor at the S.E.C. Before Enron collapsed, Pitt promised the accountants ''kinder and gentler'' treatment than Levitt had shown them, but he has since sharpened his rhetoric and proposed a great many reforms. Pitt told me that his work for the accountants has made him better able to persuade them to change their ways because, ''to put it bluntly, I know where the bodies are buried.'' But Pitt dismissed Levitt's approach—separating auditing from consulting—as ''a simplistic solution to a complex problem,'' and told me that he thought it could prove counterproductive. ''A firm that does only audits may be incompetent,'' he said.

''That's the same argument that the accountants put forward,'' Levitt said with a sigh. ''I didn't accept it then, and I accept it

even less today. I have to conclude it's specious. It's very sad. The Administration is missing a glorious opportunity to reform this industry.''

The failure of Arthur Andersen to provide an accurate audit of Enron for several years is not a new or isolated problem. All of the Big Five accounting firms have been implicated in failed audits that cost investors billions of dollars when earnings restatements sent stock tumbling. I have here a chart that shows how failed audits have cost investors billions, how a company named MicroStrategy with PricewaterhouseCoopers, the auditor, lost $10 billion, $10.4 billion in lost market capitalization; and the list is a pretty extensive list.

For-profit private auditors have an inherent conflict of interest. They are hired and fired by their audit clients. If their draft audit does not please the firm they are auditing, they may lose future business unless they change their ways to please the firm.

As a result, auditors have a strong incentive to sign-off on substandard financial statements rather than risk losing a client. The integrity and the independence of the audit is undermined by the profit-seeking motive of the private auditing firm.

This amendment which I have brought before the House would ensure the independence of the audit, and I am offering a substitute amendment. Actually, this bill creates a Federal bureau of audits to regulate corporate America's books by auditing all publicly traded companies.

Americans rely on the FBI to protect them from criminals and terrorists, but who protects the American shareholders from corporate criminals? The Enron scandal suggests that we need audit cops, the Federal bureau of audits. This is a conservative pro-free market amendment to the Corporate and Auditing Accountability, Responsibility, and Transparency Act because it guarantees shareholders accurate and partial information about their investments that requires an absolute separation between the auditors and companies they audit.

Mr. Chairman, I reserve the balance of my time.

Mr. OXLEY. Mr. Chairman, I rise to claim the time in opposition to the amendment.

The CHAIRMAN. The gentleman from Ohio (Mr. OXLEY) is recognized for 10 minutes.

Mr. OXLEY. Mr. Chairman, I yield myself such time as I may consume.

This amendment offered by my friend from Ohio would basically create a Federal bureau of audits. The Kucinich amendment would actually put the Federal Government in charge of auditing the 17,000 public companies in the United States, essentially nationalizing the accounting profession; and that is simply not a good idea. In fact, it is really quite dangerous.

Overnight we would go from having the strongest capital market system in the world, with the best accounting, most integrity and most transparent disclosures to investors, to becoming the laughingstock of the global economy. Remember, this is the same Federal Government that cannot deliver a letter on time, cannot keep out illegal immigrants, and cannot buy a hammer for under $500.

The amendment would create a massive bureaucracy that is almost unimaginable, produce truly disastrous results, reducing substantially the quality of public audits and financial disclosures to investors. America's nearly 100 million investors, and investors from all over the world for that matter, would no longer have confidence in the audited financial statements of our 17,000 public companies.

It is not hyperbole to say this amendment would do great damage to our capital markets; but if my colleagues think the solution to the Enron problem is attacking with the creativity and efficiency of the DMV, then they should support this amendment. If they think, as I do, that a fair and balanced approach by experts is the best way to protect American investors, they should support the base bill and oppose this amendment.

Mr. Chairman, I strongly urge all Members to vote ''no'' on this very dangerous proposal, and later I will tell my colleagues what I really think.

Mr. Chairman, I reserve the balance of my time.

Mr. KUCINICH. Mr. Chairman, I yield myself such time as I may consume.

It is good to see my friend from Ohio's feelings about this, particularly in light of the fact that America's investors have lost over $100 billion in a system where people are allowed to profit where they cook the books.

Mr. Chairman, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), who knows firsthand from the constituents she represents in Texas what happens under this current system.

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman from Ohio (Mr. KUCINICH) very much for his distinguished leadership on this issue, and I cannot thank the gentleman from New York (Mr. LAFALCE) enough for the leadership he has given to this, and may I personally on the floor of the House thank him for the assistance he has given to ex-Enron employees. We are very much appreciative of that.

Let me announce to the House that right now we are in the midst of very, very intense negotiations to simply be able to provide a refund of the severance pay that is owed over 4,000 employees that was canceled out by the bankruptcy filing over the weekend; and the day after it was cancelled, 4,000 of my constituents and Houstonians were laid out into the street.

I believe, unlike one of the journalists who suggested that those of us who represent Enron are trying to reconstruct ourselves, and I would like to take him on on that issue, I think what we are trying to do is to think out of the box and be able to respond to what the American people would like. They want some very strong legislation that answers these concerns, and that is why I am supporting the Brad Sherman amendment. I am supporting the LaFalce substitute, and I come to the floor for the gentleman from Ohio (Mr. KUCINICH) because I believe that the previous announcement is incorrect.

The American people want a strong oversight bureau such as the Federal bureau of audits within the SEC. One of the problems was the weakness of the SEC in dealing with the debacle that occurred. We are not castigating those hardworking employees that are now trying to rebuild Enron in another name and do its business selling gas, but what we are saying is because there was no one looking into the dark of night, turning the light bulb on and letting us know about these audits that were coming in, individuals who could divest themselves of their investments, independent individuals who are not consulting and auditing at the same time, not only did we bring a company down that we in Houston believe was a great corporate citizen, giving to all the charities around; but we have put a taint on corporate America.

It is imperative that we pass the Kucinich amendment, the Sherman amendment, and the LaFalce substitute.

Mr. Chairman, I rise today in support of the Kucinich substitute to H.R. 3763, the Corporate and Auditing Accountability and Responsibility Act.

This substitute would create a new office, the Federal Bureau of Audits, within the SEC. This office would be responsible for performing annual audits on the financial statements of all publicly-traded companies and replaces the current system of private auditors.

This new office would be afforded adequate powers to investigate, such as the power to hold hearings, issue subpoenas, administer oaths and examine witnesses. Moreover, Bureau employees would be required to place their investments in a blind trust and they would be prohibited from taking jobs or consulting fees from any company audited by the bureau for 10 years from the time they leave the agency.

I believe that this substitute adequately addresses the relationship between audit firms and companies that hire them. This Congress has witnessed and investigated in detail the conflict of interest that could occur in such a partnership.

Moreover, it guarantees shareholders accurate, impartial information about their investments. Many of my constituents in the 18th Congressional District were employed by Enron and deceived by shady auditing practices. They are now jobless and it is the responsibility of this body to see that this never happens again.

I urge my colleagues to vote for the Kucinich substitute.

Mr. OXLEY. Mr. Chairman, I am pleased to yield 2 minutes to the gentlewoman from New York (Mrs.

KELLY), the chairman of the Subcommittee on Oversight and Investigations of the Committee on Financial Services.

Mrs. KELLY. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Ohio (Mr. KUCINICH). This amendment is not balanced. It goes too far, and I do not believe it would do anything but great harm to the businesses of this country.

The free market is important, and it is important that we do not do things that will have unintended consequences and choke that free market. This amendment could do away with all accounting firms because, as the amendment states, and I quote, ''The only truly independent audit is one by a government agency.''

As we heard, the amendment creates the Federal bureau of audits. I guess it is modeled after the FBI so I can see auditors storming into companies with their calculators drawn, demanding individuals to freeze and drop their pencils.

The amendment seems to envision that the most efficient and effective auditor would be the U.S. Government. Somehow I just cannot agree with that, and I think this amendment is important for us to take a good look at for its unintended consequences.

I think the author is looking to combine the same level of efficiency to accounting that HUD brought to housing, perhaps. I imagine that the author is looking for the effectiveness of the IRS in its customer service.

Finally, with the accounting expertise of the Department of Defense with $100 hammers, I am sure our corporations will be in the best hands possible.

This amendment does not understand, I think, the concepts of reasonable, responsive response from our government, and I think this amendment needs to be defeated. I urge Members on both sides of the aisle to think about this and join us in the opposition to the amendment.

Mr. KUCINICH. Mr. Chairman, I yield myself such time as I may consume.

I want to point out that Arthur Andersen not only participated in a fraud, it manipulated this Congress to ensure that the firm could participate in other frauds with deceptive company executives.

Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. FILNER).

Mr. FILNER. Mr. Chairman, I thank the gentleman from Ohio (Mr. KUCINICH) for yielding me the time.

I rise in support of the Kucinich and Progressive Caucus substitute to H.R. 3763. This substitute restores integrity to investor-owned companies by ensuring that the investors and taxpayers and employees get an accurate assessment of a corporation.

We know that the Enron debacle demonstrated how corrupting the so-called free market is when corporate officials and auditing firms are intertwined. When we create the Federal bureau of audits we remove this corrupting influence, and appointments for 12 years remove the temptation of Congress to tamper with the watchdog duties.

So let us remove the conflict of interest between corporations and auditing firms they can hire and fire. We can guarantee shareholders accurate and impartial information about their investments, and that is the true free market solution to this problem.

The underlying bill is more than a no no bill. It is a no no no no no no no no bill because does the bill help the SEC recover ill-gotten gains from corporate executives? No. Does it make CEOs responsible for their companies' public disclosures? No. Does it help the SEC send those who commit fraud to jail? No. Does it bar bad executives from serving in other companies? No. Does it make auditors independent? No. Does it ensure the oversight board is independent? No. Does it give the oversight board a clear mandate? No. Does it require auditors to be rotated? No. Does it close the revolving doors between accountants and their clients? No.

The underlying bill could be termed the Ken Lay Protection Act. We can no longer have the fox guarding the hen house. The Kucinich amendment fixes the problem.

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The CHAIRMAN. The Chair advises Members that the gentleman from Ohio (Mr. OXLEY) has 6 minutes remaining and the gentleman from Ohio (Mr. KUCINICH) has 2½ minutes remaining.

Mr. OXLEY. Mr. Chairman, I would inquire of the Chair whether the gentleman from Ohio has further speakers.

Mr. KUCINICH. Right here. I will be closing. Mr. Chairman, I have the right to close on this?

The CHAIRMAN. The Chair will advise the Member that the gentleman from Ohio (Mr. OXLEY) has the right to close.

Mr. KUCINICH. Mr. Chairman, I reserve the balance of my time.

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana (Mr. BAKER).

Mr. BAKER. Mr. Chairman, I thank the gentleman for yielding me this time.

The Kucinich amendment is an interesting one in its practical effect. We are going to create a government entity that is going to have the sole and specific authority to evaluate the financial condition of 17,000 public corporations. Now, if anyone has tried to read a single financial statement and understand it and then evaluate its accuracy, one can pretty quickly determine that this is a responsibility beyond any magnitude that anyone could possibly comprehend.

The amendment, I am sure, is based on a good-faith effort to be responsive to the Enron crisis, but this would be the crisis of all crises. We would have a complete inability to have a free flow of information from the corporation to their investors without this intervening government regulatory body giving its stamp of approval.

I do not know how many of you have ever had any difficulty, let us say, with the IRS in trying to work through its maze of regulatory constraints and get a direct answer overnight on whether or not you are filing the form properly. This is like taking the IRS and sticking it in the corporate board room of every corporation in America. This will not work.

I understand the gentleman's concerns and share those concerns. Many innocent third parties were harmed by the failure of Enron, Global Crossing, and perhaps others yet to be disclosed. And I feel for those individuals who likely will never get any of those funds back in their retirement accounts or who have lost their jobs. But let us make it clear, there are ongoing criminal investigations, and prosecutions certainly to follow, because under the simplest of rules, under rule 10(b)5 of the SEC's regulations, there was fraud committed. People are going to jail.

What we are trying to do is to create a manner in which a free flow of accurate information can be given to investors to make quality decisions. That is what the underlying bill will do.

Mr. KUCINICH. Mr. Chairman, I yield myself 1 minute.

Americans are urged to own a piece of the rock; invest in corporate America. We have gone from a psychology of owning a piece of the rock to owning a piece of the Brooklyn Bridge. Because what is happening is that investors are not being given accurate information by accountants who have an inherent conflict of interest.

It is said the pen is mightier than the sword. Well, this pencil is mightier than the free market, apparently, because a pencil can change the nature of the free market by misstating earnings and then restating earnings and having the value of the stock drop. And then what happens to investors? Nothing. They lose it all.

We need to take a stand here. A free market requires accurate information to operate efficiently. My amendment is the only amendment that guarantees accurate information for investors, and my amendment is profoundly conservative. It is totally dedicated to protecting and conserving the property of investors.

Who is taking a stand here for the investors, to make sure that investors get information that is accurate and upon which they can make decisions on how they are going to spend their money?

Mr. Chairman, I reserve the balance of my time.

Mr. OXLEY. Mr. Chairman, I understand I have the right to close and I plan to do so, and would so indicate to my friend.

Mr. KUCINICH. How much time remains, Mr. Chairman?

The CHAIRMAN. The gentleman from Ohio (Mr. KUCINICH) has 1½ minutes remaining, the gentleman from

Ohio (Mr. OXLEY) has 4 minutes remaining.

Mr. KUCINICH. Mr. Chairman, I continue to reserve the balance of my time, unless the gentleman is going to close right now.

Mr. OXLEY. I am prepared to close.

Mr. LAFALCE. Mr. Chairman, will the gentleman from Ohio yield me 1 minute?

Mr. OXLEY. Mr. Chairman, I am pleased to yield 1 minute to the gentleman from New York (Mr. LAFALCE).

Mr. LAFALCE. Mr. Chairman, I want to commend the gentleman from Ohio (Mr. KUCINICH) for his good-faith effort to deal with the problem, and if we were starting anew, I might well favor this approach.

We do have examiners for our banks, our national banks and our State banks, and they work for the government. We do have examiners for our thrifts, and they work for the government. We do have examiners for our credit unions, and they work for the government. It works. And the reason we had examiners for the government is because we trusted them. We thought that they would be representing the public interest.

We devised this system in an era when most people put almost all of their money in banks, in thrifts, in credit unions. That is no longer the case. Now, most people are putting most of their hard-earned money in publicly traded corporations.

And while I suspect the amendment of the gentleman from Ohio (Mr. KUCINICH) goes further than we can politically do at this juncture, I commend him for at least raising the issue.

Mr. KUCINICH. Mr. Chairman, I yield myself the balance of my time.

Let us go to middle America, where men and women who work hard all their lives to establish some kind of a financial nest egg put their faith not only in the market, but in this country, and invest in various corporate enterprises. Mr. and Mrs. Middle America are the backbone of this economy. They work, they help produce taxes for this country, and they help produce wealth that can continue to grow and make America the strong country which it is.

What happens when they cannot have confidence that the earnings statements of the companies in which they are investing are real? What if there is no credibility for a market that one day goes up and the other day goes down because people are lying about their books?

There is something that is at stake here that is much larger than this bill that is before the House for debate. And what is at stake here is the confidence that people need to have in our free market system. And the only way you can rescue that in a climate where the accounting industry has basically stolen a march on regulators is to retrieve the role of the government in assuring that people's investments are going to be protected.

That is what this amendment is about. The free market economy again requires accurate information to operate efficiently. And so I ask all of my colleagues, where is your commitment to free markets today? Where will you stand when your constituents ask what happened to my investment; why did they lie to me; and why did you not do something about it?

Mr. OXLEY. Mr. Chairman, I yield myself the balance of my time.

I would welcome my friend from Ohio to the conservative ranks if I really thought this amendment was conservative in nature, but it is hardly that. This is a big government solution. It is a one-size-fits-all solution. It is essentially the neutron bomb. I guess his message is, if you have lost faith in the free market, you need to have faith in big government.

I do not think people are ready to make that leap. I think they understand intuitively, based on their investments, that they trust the free market, and they trust that our markets are the most open and efficient markets in the world, represented by the American marketplace. That is really the message.

And, indeed, people have changed dramatically. Probably just a few years ago when I first came to Congress, two-thirds of people's savings were in bank accounts and only a third in equities. That is totally turned around now. We have become a Nation of investors from a Nation of savers, and that is a positive development. We have 46 million in 401(k) plans that are invested in those accounts. We have over half of the households today invested in equities.

We have the most robust market in the history of the world. Let us not change that. Let us not endanger that free market with the Kucinich amendment. I ask the Members to vote against the Kucinich amendment and for the underlying bill.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time has expired.

The question is on the amendment in the nature of a substitute offered by the gentleman from Ohio (Mr. KUCINICH).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. KUCINICH. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 39, noes 381, not voting 14, as follows:

[Roll No. 107]

AYES—39

Abercrombie	Davis (IL)	Hilliard
Baldwin	Evans	Jackson (IL)
Berkley	Filner	Jackson-Lee (TX)
Bonior	Frank	Kaptur
Clayton	Green (TX)	Kennedy (RI)
Clyburn	Gutierrez	Kucinich
Conyers	Hastings (FL)	Lee
Lewis (GA)	Pascrell	Stark
McDermott	Pastor	Thompson (MS)
McKinney	Payne	Waters
Mink	Roybal-Allard	Watson (CA)
Olver	Sanders	Woolsey
Owens	Schakowsky	
	Solis	

NOES—381

Ackerman	Dicks	Kennedy (MN)
Aderholt	Dingell	Kerns
Akin	Doggett	Kildee
Allen	Dooley	Kilpatrick
Andrews	Doolittle	Kind (WI)
Armey	Doyle	King (NY)
Baca	Dreier	Kingston
Bachus	Duncan	Kirk
Baird	Dunn	Kleczka
Baker	Edwards	Knollenberg
Baldacci	Ehlers	Kolbe
Ballenger	Ehrlich	LaFalce
Barcia	Emerson	LaHood
Barr	Engel	Lampson
Barrett	Eshoo	Langevin
Bartlett	Etheridge	Lantos
Barton	Everett	Larsen (WA)
Bass	Farr	Larson (CT)
Becerra	Fattah	Latham
Bentsen	Ferguson	LaTourette
Bereuter	Flake	Leach
Berman	Fletcher	Levin
Berry	Foley	Lewis (CA)
Biggert	Forbes	Lewis (KY)
Bilirakis	Ford	Linder
Bishop	Fossella	Lipinski
Blumenauer	Frelinghuysen	LoBiondo
Blunt	Frost	Lofgren
Boehlert	Gallegly	Lowey
Boehner	Ganske	Lucas (KY)
Bonilla	Gekas	Lucas (OK)
Bono	Gephardt	Luther
Boozman	Gibbons	Lynch
Borski	Gillmor	Maloney (CT)
Boswell	Gilman	Maloney (NY)
Boucher	Gonzalez	Manzullo
Boyd	Goode	Markey
Brady (PA)	Goodlatte	Mascara
Brady (TX)	Gordon	Matheson
Brown (FL)	Goss	Matsui
Brown (OH)	Graham	McCarthy (MO)
Brown (SC)	Granger	McCarthy (NY)
Bryant	Graves	McCollum
Burr	Green (WI)	McCrery
Burton	Greenwood	McGovern
Buyer	Grucci	McHugh
Callahan	Gutknecht	McInnis
Calvert	Hall (OH)	McIntyre
Camp	Hall (TX)	McKeon
Cannon	Hansen	McNulty
Cantor	Harman	Meehan
Capito	Hastings (WA)	Meek (FL)
Capps	Hayes	Meeks (NY)
Capuano	Hayworth	Menendez
Cardin	Hefley	Mica
Carson (IN)	Herger	Millender-McDonald
Carson (OK)	Hill	Miller, Dan
Castle	Hilleary	Miller, Gary
Chabot	Hinchey	Miller, George
Chambliss	Hinojosa	Miller, Jeff
Clay	Hobson	Mollohan
Clement	Hoeffel	Moore
Coble	Hoekstra	Moran (KS)
Collins	Holden	Moran (VA)
Combest	Holt	Morella
Condit	Honda	Murtha
Cooksey	Hooley	Myrick
Costello	Horn	Nadler
Cox	Hostettler	Napolitano
Coyne	Hoyer	Neal
Cramer	Hulshof	Nethercutt
Crane	Hunter	Ney
Crenshaw	Hyde	Northup
Crowley	Inslee	Norwood
Cubin	Isakson	Nussle
Culberson	Israel	Oberstar
Cummings	Issa	Obey
Cunningham	Istook	Ortiz
Davis (CA)	Jefferson	Osborne
Davis (FL)	Jenkins	Ose
Davis, Jo Ann	John	Otter
Davis, Tom	Johnson (CT)	Oxley
Deal	Johnson (IL)	Pallone
DeFazio	Johnson, E. B.	Paul
Delahunt	Johnson, Sam	Pelosi
DeLauro	Jones (NC)	Pence
DeLay	Jones (OH)	Peterson (MN)
DeMint	Kanjorski	Peterson (PA)
Deutsch	Keller	Petri
Diaz-Balart	Kelly	

Phelps	Scott	Thomas
Pickering	Sensenbrenner	Thompson (CA)
Pitts	Serrano	Thornberry
Platts	Sessions	Thurman
Pombo	Shadegg	Tiahrt
Pomeroy	Shaw	Tiberi
Portman	Shays	Tierney
Price (NC)	Sherman	Toomey
Putnam	Sherwood	Towns
Quinn	Shimkus	Turner
Radanovich	Shows	Udall (CO)
Rahall	Shuster	Udall (NM)
Ramstad	Simmons	Upton
Rangel	Simpson	Velazquez
Rehberg	Skeen	Visclosky
Reyes	Skelton	Vitter
Reynolds	Slaughter	Walden
Rivers	Smith (MI)	Walsh
Roemer	Smith (NJ)	Wamp
Rogers (KY)	Smith (TX)	Watkins (OK)
Rogers (MI)	Snyder	Watt (NC)
Rohrabacher	Souder	Watts (OK)
Ros-Lehtinen	Spratt	Waxman
Ross	Stearns	Weldon (FL)
Rothman	Stenholm	Weldon (PA)
Roukema	Strickland	Weller
Royce	Stump	Wexler
Rush	Stupak	Whitfield
Ryan (WI)	Sullivan	Wicker
Ryun (KS)	Sununu	Wilson (NM)
Sabo	Sweeney	Wilson (SC)
Sanchez	Tancredo	Wolf
Sandlin	Tanner	Wu
Sawyer	Tauscher	Wynn
Saxton	Tauzin	Young (AK)
Schaffer	Taylor (MS)	Young (FL)
Schiff	Taylor (NC)	
Schrock	Terry	

NOT VOTING—14

Blagojevich	Houghton	Smith (WA)
DeGette	Pryce (OH)	Thune
English	Regula	Traficant
Gilchrest	Riley	Weiner
Hart	Rodriguez	

□ 1333

Messrs. BACA, KINGSTON, SAXTON, Mrs. DAVIS of California, Messrs. CUMMINGS, GEORGE MILLER of California, BURR of North Carolina and Ms. CARSON of Indiana changed their vote from ''aye'' to ''no.''

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. ENGLISH. Mr. Speaker, on rollcall vote No. 107, I was unavoidably detained at an event with several of my colleagues and missed the vote. Had I been present, I would have voted ''no.''

Mr. WEINER. Mr. Speaker, on Wednesday, April 24, 2002, I was unavoidably detained and missed rollcall vote No. 107. Had I been present, I would have voted ''no.''

The CHAIRMAN. It is now in order to consider amendment No. 5 printed in House Report 107–418.

AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 5 OFFERED BY MR. LAFALCE

Mr. LAFALCE. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute No. 5 offered by Mr. LAFALCE:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Corporate and Auditing Accountability, Responsibility, and Transparency Act of 2002''.

(b) TABLE OF CONTENTS.—

SEC. 2. AUDITOR OVERSIGHT.

(a) CERTIFIED FINANCIAL STATEMENT REQUIREMENTS.—If a financial statement is required by the securities laws or any rule or regulation thereunder to be certified by an independent public or certified accountant, an accountant shall not be considered to be qualified to certify such financial statement, and the Securities and Exchange Commission shall not accept a financial statement certified by an accountant, unless such accountant—

(1) is subject to a system of review by a public regulatory organization that complies with the requirements of this section and the rules prescribed by the Commission under this section; and

(2) has not been determined in the most recent review completed under such system to be not qualified to certify such a statement.

(b) ESTABLISHMENT OF PRO.—

(1) ESTABLISHMENT REQUIRED.—Not later than 90 days after the date of enactment of this section, the Commission shall establish a public regulatory organization to perform the duties set forth in this section.

(2) CHAIRMAN.—The Chairman of the public regulatory organization shall be appointed by the Commission for a term of 5 years.

(3) APPOINTMENT OF PUBLIC REGULATORY ORGANIZATION MEMBERS.—There shall be 6 additional public regulatory organization members, who shall be selected jointly by the Chairman of the public regulatory organization and the Chairman of the Commission.

(4) ACCOUNTANT MEMBERS.—Up to 2 of the members may be present or former certified public accountants, provided such members—

(A) are not currently in public practices;

(B) have not been a person associated with a public accounting firm for a period of at least 3 years; and

(C) agree to not be a person associated with a public accounting firm or to receive consulting fees from a public accounting firm for a period of 5 years after leaving the public regulatory organization.

(5) NOMINATIONS.—In making appointments of members, the Chairman of the public regulatory organization and the Chairman of the Commission shall consult with, and make appointments from nominations received from—

(A) institutional investors;

(B) public employee pension plans;

(C) pension plans organized pursuant to the Employee Retirement Income Security Act of 1974; and

(D) pension plans organized pursuant to the Taft-Hartley Act.

(6) TERMS.—The members of the public regulatory organization shall have terms of 4 years, except that the Chairman of the public regulatory organization and the Chairman of the Commission shall adopt procedures for staggering the initial terms of the members first so appointed to provide for a reasonable overlapping of the terms of office of subsequently elected members.

(7) FULL-TIME BASIS.—The members of the public regulatory organization shall serve on a full-time basis, severing all business ties with former firms or employers prior to beginning service on the public regulatory organization.

(8) RULES.—Following selection of the initial members of the public regulatory organization, the public regulatory organization shall propose and adopt rules, which shall provide for—

(A) the operation and administration of the public regulatory organization, including the compensation of the members of the public regulatory organization, which shall be at a level comparable to similar professional positions in the private sector;

(B) the appointment and compensation of such employees, attorneys, and consultants as may be necessary or appropriate to carry out the public regulatory organization's functions under this section;

(C) the registration of public accounting firms with the public regulatory organization pursuant to subsections (d); and

(D) the matters described in subsections (e) and (f).

(9) FUNDING OF THE PUBLIC REGULATORY ORGANIZATION.—

(A) SELF-FINANCING.—The public regulatory organization shall establish rules for the assessment and collection of fees sufficient to recover the costs and expenses of the public regulatory organization and to permit the public regulatory organization to operate on a self-financing basis.

(B) ASSESSMENT AND COLLECTION.—The fees shall be assessed on issuers that file any financial statements, reports, or other documents with the Commission under the securities laws that must be certified by a public accounting firm. The fees shall be collected through the public accounting firm that certifies such statement, report, or document.

(C) PAYMENT A CONDITION OF REGISTRATION.—The public regulatory organization shall terminate or suspend the registration under subsection (d) of any public accounting firm that fails to collect and transmit a fee assessed under this subsection.

(c) PROHIBITION ON THE OFFER OF BOTH AUDIT AND CONSULTING SERVICES.—

(1) MODIFICATION OF REGULATIONS REQUIRED.—The Commission shall revise its regulations pertaining to auditor independence to require that an accountant shall not be considered independent with respect to an audit client if the accountant provides to the client the following nonaudit services, subject to such conditions and exemptions as the Commission shall prescribe:

(A) financial information system design or implementation; or

(B) internal audit services.

(2) AUDIT COMMITTEE APPROVAL OF NONAUDIT SERVICES.—The Commission shall

revise its regulations pertaining to auditor independence to require that—

(A) an accountant shall not be considered to be independent for purposes of certifying the financial statements or other documents of an issuer required to be filed with the Commission under the securities laws for any fiscal year of the issuer if, during such fiscal year, the accountant provides any nonaudit services unless the provision of such nonaudit services was approved in advance by the audit committee or, in the absence of an audit committee, the equivalent board committee or the entire board of directors; and

(B) in approving such services, the audit committee shall evaluate the impact of the provision of such services on the independence of the auditor.

(3) REVIEW OF PROHIBITED NONAUDIT SERVICES.—The Commission is authorized to review the impact on the independence of auditors of the scope of services provided by auditors to issuers in order to determine whether the list of prohibited nonaudit services under paragraph (1) shall be modified. In conducting such review, the Commission shall consider the impact of the provision of a service on an auditor's independence where provision of the service creates a conflict of interest with the audit client.

(4) ADDITIONS BY RULE.—After conducting the review required by paragraph (3) and at any other time, the Commission may, by rule consistent with the protection of investors and the public interest, modify the list of prohibited nonaudit services under paragraph (1).

(5) REPORT.—The Commission shall report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on its conduct of any reviews as required by this section. The report shall include a discussion of regulatory or legislative steps that are recommended or that may be necessary to address concerns identified in the study.

(6) DEFINITIONS.—For purposes of this subsection:

(A) FINANCIAL INFORMATION SYSTEM DESIGN OR IMPLEMENTATION.—The term ''financial information systems design or implementation'' means designing or implementing a hardware or software system used to generate information that is significant to the audit client's financial statements taken as a whole, not including services an accountant performs in connection with the assessment, design, and implementation of internal accounting controls and risk management controls.

(B) INTERNAL AUDIT SERVICES.—The term ''internal audit services'' means internal audit services for an audit client or an affiliate of an audit client, not including nonrecurring evaluations of discrete items or programs and operational internal audits unrelated to the internal accounting controls, financial systems, or financial statements.

(7) DEADLINE FOR RULEMAKING.—The Commission shall—

(A) within 90 days after the date of enactment of this Act, propose, and

(B) within 270 days after such date, prescribe,

the revisions to its regulations required by this subsection.

(d) REGISTRATION WITH PUBLIC REGULATORY ORGANIZATION.—

(1) REGISTRATION REQUIRED.—Beginning 1 year after the date on which all initial members of the public regulatory organization have been selected in accordance with subsection (b), it shall be unlawful for a public accounting firm to furnish an accountant's report on any financial statement, report, or other document required to be filed with the Commission under any Federal securities law, unless such firm is registered with the public regulatory organization.

(2) APPLICATION FOR REGISTRATION.—A public accounting firm may be registered under this subsection by filing with the public regulatory organization an application for registration in such form and containing such information as the public regulatory organization, by rule, may prescribe. Each application shall include—

(A) the names of all clients of the public accounting firm for which the firm furnishes accountant's reports on financial statements, reports, or other documents filed with the Commission;

(B) financial information of the public accounting firm for its most recent fiscal year, including its annual revenues from accounting and auditing services, its assets, and its liabilities;

(C) a statement of the public accounting firm's policies and procedures with respect to quality control of its accounting and auditing practice;

(D) information relating to criminal, civil, or administrative actions or formal disciplinary proceedings pending against such firm, or any person associated with such firm, in connection with an accountant's report furnished by such firm;

(E) a list of persons associated with the public accounting firm who are certified public accountants, including any State professional license or certification number for each such person; and

(F) such other information that is reasonably related to the public regulatory organization's responsibilities as the public regulatory organization considers necessary or appropriate.

(3) PERIODIC REPORTS.—Once in each year, or more frequently as the public regulatory organization, by rule, may prescribe, each public accounting firm registered with the public regulatory organization shall submit reports to the public regulatory organization updating the information contained in its application for registration and containing such additional information that is reasonably related to the public regulatory organization's responsibilities as the public regulatory organization, by rule, may prescribe.

(4) EXEMPTIONS.—The Commission, by rule or order, upon its own motion or upon application, may conditionally or unconditionally exempt any public accounting firm or any accountant's report, or any class of public accounting firms or any class of accountant's reports, from any provisions of this section or the rules or regulations issued hereunder, if the Commission finds that such exemption is consistent with the public interest, the protection of investors, and the purposes of this section.

(5) CONFIDENTIALITY.—The public regulatory organization may, by rule, designate portions of the filings required pursuant to paragraphs (2) and (3) as privileged and confidential. This paragraph shall be considered to be a statute described in section 552(b)(3)(B) of title 5, United States Code, for purposes of that section 552.

(e) DUTIES REGARDING QUALITY CONTROL.—

(1) OBJECTIVES; ATTAINMENT.—The public regulatory organization shall seek to promote a high level of professional conduct among public accounting firms registered with the public regulatory organization, to improve the quality of audit services provided by such firms, and, in general, to protect investors and promote the public interest. The public regulatory organization shall attain these objectives—

(A) by establishing standards regarding the performance of financial audits in accordance with the requirements of paragraph (2);

(B) by the direct performance of quality reviews and inspections of audits in accordance with the requirements of paragraphs (3) and (4); and

(C) by the supervision and oversight of peer review organizations in accordance with the requirements of paragraph (5).

(2) AUDIT QUALITY STANDARDS.—

(A) IN GENERAL.—The public regulatory organization shall, by rule, establish quality standards applicable to the conduct of audit services provided by public accounting firms. Such standards shall include—

(i) independence standards;

(ii) quality control standards;

(iii) professional and ethical standards; and

(iv) such other standards as the public regulatory organization determines to be necessary to carry out the objectives specified in paragraph (1).

(B) SPECIFIC CONTENTS OF STANDARDS.—In establishing the quality standards required by subparagraph (A), the public regulatory organization shall also establish—

(i) procedures for the monitoring by public accounting firms of their compliance with professional ethical standards established by the public regulatory organization, including its independence from its audit clients;

(ii) procedures for the assignment of personnel to audit engagements;

(iii) procedures for consultation within a public accounting firm or with other accountants relating to accounting and auditing questions;

(iv) procedures for the supervision of audit work;

(v) procedures for the review of decisions to accept and retain audit clients;

(vi) procedures for the internal inspection of the public accounting firms own compliance with such policies and procedures;

(vii) requirements for public accounting firms to prepare and maintain for a period of no less than 7 years, audit work papers and other information related to any audit report, in sufficient detail to support the conclusions reached in an audit report issued by a public accounting firm; and

(viii) procedures establishing ''concurring'' or ''second'' partner review systems for the evaluation and review of audit work by a partner that is not in charge of the conduct of the audit.

(3) DIRECT REVIEWS OF PUBLIC ACCOUNTING FIRMS.—The public regulatory organization shall, by rule, establish procedures for the conduct of a continuing program of inspections of each public accounting firm registered with the public regulatory organization to assess compliance by such firm, and by persons associated with such firm, with applicable provisions of this Act, the securities laws, the rules and regulations thereunder, the rules adopted by the public regulatory organization, and professional standards. Except as provided in paragraph (5), the public regulatory organization shall annually inspect each public accounting firm that audits more than 100 issuers on an ongoing annual basis, to the extent practicable, and all other public accounting firms no less than at least once every 3 years. In conducting such inspections, the public regulatory organization shall, among other things, inspect selected audit and review engagements. The review shall include evaluations of the firm's quality control procedures and compliance with all legal and ethical requirements. In connection with each review, the public regulatory organization shall prepare a report of its findings and such report, accompanied by any letter of comments by the public regulatory organization or reviewer and any letter of response from the firm under review, shall be made available to the public. The public regulatory organization shall take any appropriate disciplinary

or remedial action based on its findings after completion of such review and an opportunity for a hearing.

(4) QUALITY REVIEW OF INDIVIDUAL AUDITS.—The public regulatory organization shall, by rule, establish procedures for the conduct of direct inspection and review of individual audits of issuers and standards under which it will evaluate audit service quality. A finding by the public regulatory organization that an individual audit of an issuer did or did not meet the standards of the public regulatory organization with respect to the quality of the audit shall not be construed in any action arising out of the securities laws as indicative of compliance or noncompliance with the securities laws or with any standard of liability arising thereunder.

(5) USE OF PROFESSIONAL PEER REVIEW ORGANIZATIONS.—

(A) OPTION TO UTILIZE PEER REVIEW ORGANIZATIONS.—The public regulatory organization may, by rule, establish requirements for the use of peer review organizations for the purposes of conducting the continuing program of inspections to assess compliance as required by paragraph (3) of each public accounting firm registered with the public regulatory organization. Such rule shall provide for appropriate oversight and supervision of such peer review organization by the public regulatory organization to ensure that such inspections meet the requirements of such paragraph.

(B) PENALTIES.—If the public regulatory organization establishes requirements for the conduct of peer reviews under subparagraph (A), the violation by a public accounting firm or a person associated with such a firm of a rule of the peer review organization to which the firm belongs shall constitute grounds for—

(i) the imposition of disciplinary sanctions by the public regulatory organization pursuant to subsection (g); and

(ii) denial to the public accounting firm or person associated with such firm of the privilege of appearing or practicing before the Commission.

(6) CONFIDENTIALITY.—Except as otherwise provided by this section, all reports, memoranda, and other information provided to the public regulatory organization solely for purposes of paragraph (3) or (4), or to a peer review organization certified by the public regulatory organization, shall be confidential, unless such confidentiality is expressly waived by the person or entity that created or provided the information.

(f) DISCIPLINARY DUTIES OF PUBLIC REGULATORY ORGANIZATION.—The public regulatory organization shall have the following duties and powers:

(1) INVESTIGATIONS AND DISCIPLINARY PROCEEDINGS.—The public regulatory organization shall establish fair procedures for investigating and disciplining public accounting firms registered with the public regulatory organization, and persons associated with such firms, for violations of the Federal securities laws, the rules or regulations issued thereunder, the rules adopted by the public regulatory organization, or professional standards in connection with the preparation of an accountant's report on a financial statement, report, or other document filed with the Commission.

(2) INVESTIGATION PROCEDURES.—

(A) IN GENERAL.—The public regulatory organization may conduct an investigation of any act, practice, or omission by a public accounting firm registered with the public regulatory organization, or by any person associated with such firm, in connection with the preparation of an accountant's report on a financial statement, report, or other document filed with the Commission that may violate any applicable provision of the Federal securities laws, the rules and regulations issued thereunder, the rules adopted by the public regulatory organization, or professional standards, whether such act, practice, or omission is the subject of a criminal, civil, or administrative action, or a disciplinary proceeding, or otherwise is brought to the attention of the public regulatory organization.

(B) POWERS OF PUBLIC REGULATORY ORGANIZATION.—For purposes of an investigation under this paragraph, the public regulatory organization may, in addition to such other actions as the public regulatory organization determines to be necessary or appropriate—

(i) require the testimony of any person associated with a public accounting firm registered with the public regulatory organization, with respect to any matter which the public regulatory organization considers relevant or material to the investigation;

(ii) require the production of audit workpapers and any other document or information in the possession of a public accounting firm registered with the public regulatory organization, or any person associated with such firm, wherever domiciled, that the public regulatory organization considers relevant or material to the investigation, and may examine the books and records of such firm to verify the accuracy of any documents or information so supplied; and

(iii) request the testimony of any person and the production of any document in the possession of any person, including a client of a public accounting firm registered with the public regulatory organization, that the public regulatory organization considers relevant or material to the investigation.

(C) SUSPENSION OR REVOCATION OF REGISTRATION FOR NONCOMPLIANCE.—The refusal of any person associated with a public accounting firm registered with the public regulatory organization to testify, or the refusal of any such person to produce documents or otherwise cooperate with the public regulatory organization, in connection with an investigation or hearing under this section, shall be cause for suspending or barring such person from associating with a public accounting firm registered with the public regulatory organization, or such other appropriate sanction authorized by paragraph (3)(B) as the public regulatory organization shall determine. The refusal of any public accounting firm registered with the public regulatory organization to produce documents or otherwise cooperate with the public regulatory organization, in connection with an investigation or hearing under this section, shall be cause for the suspension or revocation of the registration of such firm, or such other appropriate sanction authorized by paragraph (3)(B) as the public regulatory organization shall determine.

(D) REFERRAL TO COMMISSION.—

(i) IN GENERAL.—If the public regulatory organization is unable to conduct or complete an investigation or hearing under this section because of the refusal of any client of a public accounting firm registered with the public regulatory organization, or any other person, to testify, produce documents, or otherwise cooperate with the public regulatory organization in connection with such investigation, the public regulatory organization shall report such refusal to the Commission.

(ii) INVESTIGATION.—The Commission may designate the public regulatory organization or one or more officers of the public regulatory organization who shall be empowered, in accordance with such procedures as the Commission may adopt, to subpoena witnesses, compel their attendance, and require the production of any books, papers, correspondence, memoranda, or other records relevant to any investigation by the public regulatory organization. Attendance of witnesses and the production of any records may be required from any place in the United States or any State at any designated place of hearing. Enforcement of a subpoena issued by the public regulatory organization, or an officer of the public regulatory organization, pursuant to this subparagraph shall occur in the manner provided for in section 21(c). Examination of witnesses subpoenaed pursuant to this subparagraph shall be conducted before an officer authorized to administer oaths by the laws of the United States or of the place where the examination is held.

(iii) REFERRALS TO COMMISSION.—The public regulatory organization may refer any investigation to the Commission, as the public regulatory organization deems appropriate.

(E) IMMUNITY FROM CIVIL LIABILITY.—An employee of the public regulatory organization engaged in carrying out an investigation or disciplinary proceeding under this section shall be immune from any civil liability arising out of such investigation or disciplinary proceeding in the same manner and to the same extent as an employee of the Federal Government in similar circumstances.

(3) DISCIPLINARY PROCEDURES.—

(A) DECISION TO DISCIPLINE.—In a proceeding by the public regulatory organization to determine whether a public accounting firm, or a person associated with such firm, should be disciplined, the public regulatory organization shall bring specific charges, notify such firm or person of the charges, give such firm or person an opportunity to defend against such charges, and keep a record of such actions.

(B) SANCTIONS.—If the public regulatory organization, after conducting a review and providing an opportunity for a hearing, finds that a public accounting firm, or a person associated with such firm, has engaged in any act, practice, or omission in violation of the Federal securities laws, the rules or regulations issued thereunder, the rules adopted by the public regulatory organization, or professional standards, the public regulatory organization may impose such disciplinary sanctions as it deems appropriate, including—

(i) temporary or permanent revocation or suspension of registration under this section;

(ii) limitation of activities, functions, and operations;

(iii) fine;

(iv) censure;

(v) in the case of a person associated with a public accounting firm, suspension or bar from being associated with a public accounting firm registered with the public regulatory organization; and

(vi) any such other disciplinary sanction or remedial action as the public regulatory organization has established by rule that the public regulatory organization determines to be appropriate to prevent the recurrence of the violation.

(C) STATEMENT REQUIRED.—A determination by the public regulatory organization to impose a disciplinary sanction shall be supported by a written statement by the public regulatory organization that shall be made available to the public and that sets forth—

(i) any act or practice in which the public accounting firm or person associated with such firm has been found to have engaged, or which such firm or person has been found to have omitted;

(ii) the specific provision of the Federal securities laws, the rules or regulations issued thereunder, the rules adopted by the public regulatory organization, or professional standards which any such act, practice, or omission is deemed to violate; and

(iii) the sanction imposed and the reasons therefor.

(D) PROHIBITION ON ASSOCIATION.—It shall be unlawful—

(i) for any person as to whom a suspension or bar is in effect willfully to be or to become associated with a public accounting firm registered with the public regulatory organization, in connection with the preparation of an accountant's report on any financial statement, report, or other document filed with the Commission, without the consent of the public regulatory organization or the Commission; and

(ii) for any public accounting firm registered with the public regulatory organization to permit such a person to become, or remain, associated with such firm without the consent of the public regulatory organization or the Commission, if such firm knew or, in the exercise of reasonable care should have known, of such suspension or bar.

(4) REPORTING OF SANCTIONS.—If the public regulatory organization imposes a disciplinary sanction against a public accounting firm, or a person associated with such firm, the public regulatory organization shall report such sanction to the Commission, to the appropriate State or foreign licensing public regulatory organization or public regulatory organizations with which such firm or such person is licensed or certified to practice public accounting, and to the public. The information reported shall include—

(A) the name of the public accounting firm, or person associated with such firm, against whom the sanction is imposed;

(B) a description of the acts, practices, or omissions upon which the sanction is based;

(C) the nature of the sanction; and

(D) such other information respecting the circumstances of the disciplinary action (including the name of any client of such firm affected by such acts, practices, or omissions) as the public regulatory organization deems appropriate.

(5) DISCOVERY AND ADMISSIBILITY OF PUBLIC REGULATORY ORGANIZATION MATERIAL.—

(A) DISCOVERABILITY.—

(i) IN GENERAL.—Except as provided in subparagraph (C), all reports, memoranda, and other information prepared, collected, or received by the public regulatory organization, and the deliberations and other proceedings of the public regulatory organization and its employees and agents in connection with an investigation or disciplinary proceeding under this section shall not be subject to any form of civil discovery, including demands for production of documents and for testimony of individuals, in connection with any proceeding in any State or Federal court, or before any State or Federal administrative agency. This subparagraph shall not apply to any information provided to the public regulatory organization that would have been subject to discovery from the person or entity that provided it to the public regulatory organization, but is no longer available from that person or entity.

(ii) EXEMPTION.—Submissions to the public regulatory organization by or on behalf of a public accounting firm or person associated with such a firm or on behalf of any other participant in a public regulatory organization proceeding (other than a public hearing), including documents generated by the public regulatory organization itself, shall be exempt from discovery to the same extent as the material described in clause (i), whether in the possession of the public regulatory organization or any other person, if such submission—

(I) is prepared specifically for the purpose of the public regulatory organization proceeding; and

(II) addresses the merits of the issues under investigation by the public regulatory organization.

(iii) HEARINGS PUBLIC.—Except as otherwise ordered by the public regulatory organization on its own motion or on the motion of a party, all hearings under this paragraph shall be open to the public.

(B) ADMISSIBILITY.—

(i) IN GENERAL.—Except as provided in subparagraph (C), all reports, memoranda, and other information prepared, collected, or received by the public regulatory organization, the deliberations and other proceedings of the public regulatory organization and its employees and agents in connection with an investigation or disciplinary proceeding under this section, the fact that an investigation or disciplinary proceeding has been commenced, and the public regulatory organization's determination with respect to any investigation or disciplinary proceeding shall be inadmissible in any proceeding in any State or Federal court or before any State or Federal administrative agency.

(ii) TREATMENT OF CERTAIN DOCUMENTS.—Submissions to the public regulatory organization by or on behalf of a public accounting firm or person associated with such a firm or on behalf of any other participant in a public regulatory organization proceeding, including documents generated by the public regulatory organization itself, shall be inadmissible to the same extent as the material described in clause (i), if such submission—

(I) is prepared specifically for the purpose of the public regulatory organization proceedings; and

(II) addresses the merits of the issues under investigation by the public regulatory organization.

(C) AVAILABILITY AND ADMISSIBILITY OF INFORMATION.—

(i) IN GENERAL.—All information referred to in subparagraphs (A) and (B) shall be—

(I) available to the Commission;

(II) available to any other Federal department or agency in connection with the exercise of its regulatory authority to the extent that such information would be available to such agency from the Commission as a result of a Commission enforcement investigation;

(III) available to Federal and State authorities in connection with any criminal investigation or proceeding;

(IV) admissible in any action brought by the Commission or any other Federal department or agency pursuant to its regulatory authority, to the extent that such information would be available to such agency from the Commission as a result of a Commission enforcement investigation and in any criminal action; and

(V) available to State licensing public regulatory organizations to the extent authorized in paragraph (6).

(ii) OTHER LIMITATIONS.—Any documents or other information provided to the Commission or other authorities pursuant to clause (i) shall be subject to the limitations on discovery and admissibility set forth in subparagraphs (A) and (B).

(6) PARTICIPATION BY STATE LICENSING PUBLIC REGULATORY ORGANIZATIONS.—

(A) NOTICE.—When the public regulatory organization institutes an investigation pursuant to paragraph (2)(A), it shall notify the State licensing public regulatory organizations in the States in which the public accounting firm or person associated with such firm engaged in the act or failure to act alleged to have violated professional standards, of the pendency of the investigation, and shall invite the State licensing public regulatory organizations to participate in the investigation.

(B) ACCEPTANCE BY STATE PUBLIC REGULATORY ORGANIZATION.—If a State licensing public regulatory organization elects to join in the investigation, its representatives shall participate, pursuant to rules established by the public regulatory organization, in investigating the matter and in presenting the evidence justifying the charges in any hearing pursuant to paragraph (3)(A).

(C) STATE SANCTIONS PERMITTED.—If the public regulatory organization or the Commission imposes a sanction upon a public accounting firm or person associated with such a firm, and that determination either is not subjected to judicial review or is upheld on judicial review, a State licensing public regulatory organization may impose a sanction on the basis of the public regulatory organization's report pursuant to paragraph (4). Any sanction imposed by the State licensing public regulatory organization under this clause shall be inadmissible in any proceeding in any State or Federal court or before any State or Federal administrative agency.

(g) REVIEW AND APPROVAL OF RULES.—

(1) SUBMISSION, PUBLICATION, AND COMMENT.—Each recognized public regulatory organization shall file with the Commission, in accordance with such rules as the Commission may prescribe, copies of any proposed rule or any proposed change in, addition to, or deletion from the rules of such recognized public regulatory organization (hereinafter in this subsection collectively referred to as a ''proposed rule change'') accompanied by a concise general statement of the basis and purpose of such proposed rule change. The Commission shall, upon the filing of any proposed rule change, publish notice thereof together with the terms of substance of the proposed rule change or a description of the subjects and issues involved. The Commission shall give interested persons an opportunity to submit written data, views, and arguments concerning such proposed rule change. No proposed rule change shall take effect unless approved by the Commission or otherwise permitted in accordance with the provisions of this subsection.

(2) APPROVAL OR PROCEEDINGS.—Within 35 days of the date of publication of notice of the filing of a proposed rule change in accordance with paragraph (1) of this subsection, or within such longer period as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the recognized public regulatory organization consents, the Commission shall—

(A) by order approve such proposed rule change; or

(B) institute proceedings to determine whether the proposed rule change should be disapproved. Such proceedings shall include notice of the grounds for disapproval under consideration and opportunity for hearing and be concluded within 180 days of the date of publication of notice of the filing of the proposed rule change. At the conclusion of such proceedings the Commission, by order, shall approve or disapprove such proposed rule change. The Commission may extend the time for conclusion of such proceedings for up to 60 days if it finds good cause for such extension and publishes its reasons for so finding or for such longer period as to which the recognized public regulatory organization consents.

(3) BASIS FOR APPROVAL OR DISAPPROVAL.—The Commission shall approve a proposed rule change of a recognized public regulatory organization if it finds that such proposed rule change is consistent with the requirements of this Act and the rules and regulations thereunder applicable to such organization. The Commission shall disapprove a proposed rule change of a recognized public regulatory organization if it does not make such finding. The Commission shall not approve any proposed rule change prior to the

30th day after the date of publication of notice of the filing thereof, unless the Commission finds good cause for so doing and publishes its reasons for so finding.

(4) RULES EFFECTIVE UPON FILING.—

(A) Notwithstanding the provisions of paragraph (2) of this subsection, a proposed rule change may take effect upon filing with the Commission if designated by the recognized public regulatory organization as (i) constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the recognized public regulatory organization, (ii) establishing or changing a due, fee, or other charge imposed by the recognized public regulatory organization, or (iii) concerned solely with the administration of the recognized public regulatory organization or other matters which the Commission, by rule, consistent with the public interest and the purposes of this subsection, may specify as outside the provisions of such paragraph (2).

(B) Notwithstanding any other provision of this subsection, a proposed rule change may be put into effect summarily if it appears to the Commission that such action is necessary for the protection of investors, or otherwise in accordance with the purposes of this title. Any proposed rule change so put into effect shall be filed promptly thereafter in accordance with the provisions of paragraph (1) of this subsection.

(C) Any proposed rule change of a recognized public regulatory organization which has taken effect pursuant to subparagraph (A) or (B) of this paragraph may be enforced by such organization to the extent it is not inconsistent with the provisions of this Act, the securities laws, the rules and regulations thereunder, and applicable Federal and State law. At any time within 60 days of the date of filing of such a proposed rule change in accordance with the provisions of paragraph (1) of this subsection, the Commission summarily may abrogate the change in the rules of the recognized public regulatory organization made thereby and require that the proposed rule change be refiled in accordance with the provisions of paragraph (1) of this subsection and reviewed in accordance with the provisions of paragraph (2) of this subsection, if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this Act. Commission action pursuant to the preceding sentence shall not affect the validity or force of the rule change during the period it was in effect, shall not be subject to court review, and shall not be deemed to be ''final agency action'' for purposes of section 704 of title 5, United States Code.

(h) COMMISSION ACTION TO CHANGE RULES.—The Commission, by rule, may abrogate, add to, and delete from (hereinafter in this subsection collectively referred to as ''amend'') the rules of a recognized public regulatory organization as the Commission deems necessary or appropriate to insure the fair administration of the recognized public regulatory organization, to conform its rules to requirements of this Act, the securities laws, and the rules and regulations thereunder applicable to such organization, or otherwise in furtherance of the purposes of this Act, in the following manner:

(1) The Commission shall notify the recognized public regulatory organization and publish notice of the proposed rulemaking in the Federal Register. The notice shall include the text of the proposed amendment to the rules of the recognized public regulatory organization and a statement of the Commission's reasons, including any pertinent facts, for commencing such proposed rulemaking.

(2) The Commission shall give interested persons an opportunity for the oral presentation of data, views, and arguments, in addition to an opportunity to make written submissions. A transcript shall be kept of any oral presentation.

(3) A rule adopted pursuant to this subsection shall incorporate the text of the amendment to the rules of the recognized public regulatory organization and a statement of the Commission's basis for and purpose in so amending such rules. This statement shall include an identification of any facts on which the Commission considers its determination so to amend the rules of the recognized public regulatory agency to be based, including the reasons for the Commission's conclusions as to any of such facts which were disputed in the rulemaking.

(4)(A) Except as provided in paragraphs (1) through (3) of this subsection, rulemaking under this subsection shall be in accordance with the procedures specified in section 553 of title 5, United States Code, for rulemaking not on the record.

(B) Nothing in this subsection shall be construed to impair or limit the Commission's power to make, or to modify or alter the procedures the Commission may follow in making, rules and regulations pursuant to any other authority under the securities laws.

(C) Any amendment to the rules of a recognized public regulatory organization made by the Commission pursuant to this subsection shall be considered for all purposes to be part of the rules of such recognized public regulatory organization and shall not be considered to be a rule of the Commission.

(i) COMMISSION OVERSIGHT OF THE PRO.—

(1) RECORDS AND EXAMINATIONS.—A public regulatory organization shall make and keep for prescribed periods such records, furnish such copies thereof, and make and disseminate such reports as the Commission, by rule, prescribes as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this Act or the securities laws.

(2) ADDITIONAL DUTIES; SPECIAL REVIEWS.—A public regulatory organization shall perform such other duties or functions as the Commission, by rule or order, determines are necessary or appropriate in the public interest or for the protection of investors and to carry out the purposes of this Act and the securities laws, including conducting a special review of a particular public accounting firm's quality control system or a special review of a particular aspect of some or all public accounting firms' quality control systems.

(3) ANNUAL REPORT; PROPOSED BUDGET.—

(A) SUBMISSION OF ANNUAL REPORT AND BUDGET.—A public regulatory organization shall submit an annual report and its proposed budget to the Commission for review and approval, by order, at such times and in such form as the Commission shall prescribe.

(B) CONTENTS OF ANNUAL REPORT.—Each annual report required by subparagraph (A) shall include—

(i) a detailed description of the activities of the public regulatory organization;

(ii) the audited financial statements of the public regulatory organization;

(iii) a detailed explanation of the fees and charges imposed by the public regulatory organization under subsection (b)(9); and

(iv) such other matters as the public regulatory organization or the Commission deems appropriate.

(C) TRANSMITTAL OF ANNUAL REPORT TO CONGRESS.—The Commission shall transmit each approved annual report received under subparagraph (A) to the Committee on Financial Services of the United States House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the United States Senate. At the same time it transmits a public regulatory organization's annual report under this subparagraph, the Commission shall include a written statement of its views of the functioning and operations of the public regulatory organization.

(D) PUBLIC AVAILABILITY.—Following transmittal of each approved annual report under subparagraph (C), the Commission and the public regulatory organization shall make the approved annual report publicly available.

(4) DISAPPROVAL OF ELECTION OF PRO MEMBER.—The Commission is authorized, by order, if in its opinion such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this Act or the securities laws, to disapprove the election of any member of a public regulatory organization if the Commission determines, after notice and opportunity for hearing, that the person elected is unfit to serve on the public regulatory organization.

(j) CLARIFICATION OF APPLICATION OF PRO AUTHORITY.—The authority granted to any such organization in this section shall only apply to the actions of accountants related to the certification of financial statements required by securities laws and not other actions or actions for other clients of the accounting firm or any accountant that does not certify financial statements for publicly traded companies.

(k) DEADLINE FOR RULEMAKING.—The Commission shall—

(1) within 90 days after the date of enactment of this Act, propose, and

(2) within 270 days after such date, prescribe,

rules to implement this section.

(l) EFFECTIVE DATE; TRANSITION PROVISIONS.—

(1) EFFECTIVE DATE.—Except as provided in paragraph (2), subsection (a) of this section shall be effective with respect to any certified financial statement for any fiscal year that ends more than one year after the Commission recognizes a public regulatory organization pursuant to this section.

(2) DELAY IN ESTABLISHMENT OF BOARD.—If the Commission has failed to recognize any public regulatory organization pursuant to this section within one year after the date of enactment of this Act, the Commission shall perform the duties of such organization with respect to any certified financial statement for any fiscal year that ends before one year after any such board is recognized by the Commission.

SEC. 3. IMPROPER INFLUENCE ON CONDUCT OF AUDITS.

(a) RULES TO PROHIBIT.—It shall be unlawful in contravention of such rules or regulations as the Commission shall prescribe as necessary and appropriate in the public interest or for the protection of investors for any officer, director, or affiliated person of an issuer of any security registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*) to take any action to fraudulently influence, coerce, manipulate, or mislead any independent public or certified accountant engaged in the performance of an audit of the financial statements of such issuer for the purpose of rendering such financial statements materially misleading. In any civil proceeding, the Commission shall have exclusive authority to enforce this section and any rule or regulation hereunder.

(b) NO PREEMPTION OF OTHER LAW.—The provisions of subsection (a) shall be in addition to, and shall not supersede or preempt, any other provision of law or any rule or regulation thereunder.

(c) DEADLINE FOR RULEMAKING.—The Commission shall—

(1) within 90 days after the date of enactment of this Act, propose, and

(2) within 270 days after such date, prescribe,

the rules or regulations required by this section.

SEC. 4. REAL-TIME DISCLOSURE OF FINANCIAL INFORMATION.

(a) REAL-TIME ISSUER DISCLOSURES REQUIRED.—

(1) OBLIGATIONS.—Every issuer of a security registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*) shall file with the Commission and disclose to the public, on a rapid and essentially contemporaneous basis, such information concerning the financial condition or operations of such issuer as the Commission determines by rule is necessary in the public interest and for the protection of investors. Such rule shall—

(A) specify the events or circumstances giving rise to the obligation to disclose or update a disclosure;

(B) establish requirements regarding the rapidity and timeliness of such disclosure;

(C) identify the means whereby the disclosure required shall be made, which shall ensure the broad, rapid, and accurate dissemination of the information to the public via electronic or other communications device;

(D) identify the content of the information to be disclosed; and

(E) without limiting the Commission's general exemptive authority, specify any exemptions or exceptions from such requirements.

(2) ENFORCEMENT.—The Commission shall have exclusive authority to enforce this section and any rule or regulation hereunder in civil proceedings.

(b) ELECTRONIC DISCLOSURE OF INSIDER TRANSACTIONS.—

(1) DISCLOSURES OF TRADING.—The Commission shall, by rule, require—

(A) that a disclosure required by section 16 of the Securities Exchange Act of 1934 (15 U.S.C. 78p) of the sale of any securities of an issuer, or any security futures product (as defined in section 3(a)(56) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(56))) or any security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act) that is based in whole or in part on the securities of such issuer, by an officer or director of the issuer of those securities, or by a beneficial owner of such securities, shall be made available electronically to the Commission and to the issuer by such officer, director, or beneficial owner before the end of the next business day after the day on which the transaction occurs;

(B) that the information in such disclosure be made available electronically to the public by the Commission, to the extent permitted under applicable law, upon receipt, but in no case later than the end of the next business day after the day on which the disclosure is received under subparagraph (A); and

(C) that, in any case in which the issuer maintains a corporate website, such information shall be made available by such issuer on that website, before the end of the next business day after the day on which the disclosure is received by the Commission under subparagraph (A).

(2) TRANSACTIONS INCLUDED.—The rule prescribed under paragraph (1) shall require the disclosure of the following transactions:

(A) Direct or indirect sales or other transfers of securities of the issuer (or any interest therein) to the issuer or an affiliate of the issuer.

(B) Loans or other extensions of credit extended to an officer, director, or other person affiliated with the issuer on terms or conditions not otherwise available to the public.

(3) OTHER FORMATS; FORMS.—In the rule prescribed under paragraph (1), the Commission shall provide that electronic filing and disclosure shall be in lieu of any other format required for such disclosures on the day before the date of enactment of this subsection. The Commission shall revise such forms and schedules required to be filed with the Commission pursuant to paragraph (1) as necessary to facilitate such electronic filing and disclosure.

SEC. 5. INSIDER TRADES DURING PENSION FUND BLACKOUT PERIODS PROHIBITED.

(a) PROHIBITION.—It shall be unlawful for any person who is directly or indirectly the beneficial owner of more than 10 percent of any class of any equity security (other than an exempted security) which is registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*) or who is a director or an officer of the issuer of such security, directly or indirectly, to purchase (or otherwise acquire) or sell (or otherwise transfer) any equity security of any issuer (other than an exempted security), during any blackout period with respect to such equity security.

(b) REMEDY.—Any profit realized by such beneficial owner, director, or officer from any purchase (or other acquisition) or sale (or other transfer) in violation of this section shall inure to and be recoverable by the issuer irrespective of any intention on the part of such beneficial owner, director, or officer in entering into the transaction. Suit to recover such profit may be instituted at law or in equity in any court of competent jurisdiction by the issuer, or by the owner of any security of the issuer in the name and in behalf of the issuer if the issuer shall fail or refuse to bring such suit within 60 days after request or shall fail diligently to prosecute the same thereafter; but no such suit shall be brought more than 2 years after the date such profit was realized. This subsection shall not be construed to cover any transaction where such beneficial owner was not such both at the time of the purchase and sale, or the sale and purchase, of the security or security-based swap (as defined in section 206B of the Gramm-Leach-Bliley Act) involved, or any transaction or transactions which the Commission by rules and regulations may exempt as not comprehended within the purposes of this subsection.

(c) RULEMAKING PERMITTED.—The Commission may issue rules to clarify the application of this subsection, to ensure adequate notice to all persons affected by this subsection, and to prevent evasion thereof.

(d) DEFINITION.—For purposes of this section, the term ''beneficial owner'' has the meaning provided such term in rules or regulations issued by the Securities and Exchange Commission under section 16 of the Securities Exchange Act of 1934 (15 U.S.C. 78p).

SEC. 6. IMPROVED TRANSPARENCY OF CORPORATE DISCLOSURES.

(a) MODIFICATION OF REGULATIONS REQUIRED.—The Commission shall revise its regulations under the securities laws pertaining to the disclosures required in periodic financial reports and registration statements to require such reports to include adequate and appropriate disclosure of—

(1) the issuer's off-balance sheet transactions and relationships with unconsolidated entities or other persons, to the extent they are not disclosed in the financial statements and are reasonably likely to materially affect the liquidity or the availability of, or requirements for, capital resources, or the financial condition or results of operations of the issuer; and

(2) loans extended to officers, directors, or other persons affiliated with the issuer on terms or conditions that are not otherwise available to the public.

(b) DEADLINE FOR RULEMAKING.—The Commission shall—

(1) within 90 days after the date of enactment of this Act, propose, and

(2) within 270 days after such date, prescribe,

the revisions to its regulations required by subsection (a).

(c) ANALYSIS REQUIRED.—

(1) TRANSPARENCY, COMPLETENESS, AND USEFULNESS OF FINANCIAL STATEMENTS.—The Commission shall conduct an analysis of the extent to which, consistent with the protection of investors and the public interest, disclosure of additional or reorganized information may be required to improve the transparency, completeness, or usefulness of financial statements and other corporate disclosures filed under the securities laws.

(2) ALTERNATIVES TO BE CONSIDERED.—In conducting the analysis required by paragraph (1), the Commission shall consider—

(A) requiring the identification of the key accounting principles that are most important to the issuer's reported financial condition and results of operation, and that require management's most difficult, subjective, or complex judgments;

(B) requiring an explanation, where material, of how different available accounting principles applied, the judgments made in their application, and the likelihood of materially different reported results if different assumptions or conditions were to prevail;

(C) in the case of any issuer engaged in the business of trading non-exchange traded contracts, requiring an explanation of such trading activities when such activities require the issuer to account for contracts at fair value, but for which a lack of market price quotations necessitates the use of fair value estimation techniques;

(D) establishing requirements relating to the presentation of information in clear and understandable format and language; and

(E) requiring such other disclosures, included in the financial statements or in other disclosure by the issuer, as would in the Commission's view improve the transparency of such issuer's financial statements and other required corporate disclosures.

(3) RULES REQUIRED.—If the Commission, on the basis of the analysis required by this subsection, determines that it is necessary in the public interest or for the protection of investors and would improve the transparency of issuer financial statements, the Commission may prescribe rules reflecting the results of such analysis and the considerations required by paragraph (2). In prescribing such rules, the Commission may seek to minimize the paperwork and cost burden on the issuer consistent with achieving the public interest and investor protection purposes of such rules.

SEC. 7. IMPROVEMENTS IN REPORTING ON INSIDER TRANSACTIONS AND RELATIONSHIPS.

(a) SPECIFIC OBJECTIVES.—The Commission shall initiate a proceeding to propose changes in its rules and regulations with respect to financial reporting to improve the transparency and clarity of the information available to investors and to require increased financial disclosure with respect to the following:

(1) INSIDER RELATIONSHIPS AND TRANSACTIONS.—Relationships and transactions—

(A) between the issuer, affiliates of the issuer, and officers, directors, or employees of the issuer or such affiliates; and

(B) between officers, directors, employees, or affiliates of the issuer and entities that are not otherwise affiliated with the issuer,

to the extent such arrangement or transaction creates a conflict of interest for such persons. Such disclosure shall provide a description of such elements of the transaction

as are necessary for an understanding of the business purpose and economic substance of such transaction (including contingencies). The disclosure shall provide sufficient information to determine the effect on the issuer's financial statements and describe compensation arrangements of interested parties to such transactions.

(2) RELATIONSHIPS WITH PHILANTHROPIC ORGANIZATIONS.—Relationships between the registrant or any executive officer of the registrant and any not-for-profit organization on whose board a director or immediate family member serves or of which a director or immediate family member serves as an officer or in a similar capacity. Relationships that shall be disclosed include contributions to the organization in excess of $10,000 made by the registrant or any executive officer in the last five years and any other activity undertaken by the registrant or any executive officer that provides a material benefit to the organization. Material benefit includes lobbying.

(3) INSIDER-CONTROLLED AFFILIATES.—Relationships in which the registrant or any executive officer exercises significant control over an entity in which a director or immediate family member owns an equity interest or to which a director or immediate family member has extended credit. Significant control should be defined with reference to the contractual and governance arrangements between the registrant or executive officer, as the case may be, and the entity.

(4) JOINT OWNERSHIP.—Joint ownership by a registrant or executive officer and a director or immediate family member of any real or personal property.

(5) PROVISION OF SERVICES BY RELATED PERSONS.—The provision of any professional services, including legal, financial advisory or medical services, by a director or immediate family member to any executive officer of the registrant in the last five years.

(b) DEADLINES.—The Commission shall complete the rulemaking required by this section within 180 days after the date of enactment of this Act.

SEC. 8. ENHANCED OVERSIGHT OF PERIODIC DISCLOSURES BY ISSUERS.

(a) REGULAR AND SYSTEMATIC REVIEW.—The Securities and Exchange Commission shall review disclosures made by issuers pursuant to the Securities Exchange Act of 1934 (including reports filed on form 10–K) on a basis that is more regular and systematic than that in practice on the date of enactment on this Act. Such review shall include a review of an issuer's financial statements.

(b) RISK RATING SYSTEM.—For purposes of the reviews required by subsection (a), the Commission shall establish a risk rating system whereby issuers receive a risk rating by the Commission, which shall be used to determine the frequency of such reviews. In designing such a risk rating system the Commission shall consider, among other factors the following:

(1) Emerging companies with disparities in price to earning ratios.

(2) Issuers with the largest market capitalization.

(3) Issuers whose operations significantly impact any material sector of the economy.

(4) Systemic factors such as the effect on niche markets or important subsectors of the economy.

(5) Issuers that experience significant volatility in their stock price as compared to other issuers.

(6) Any other factor the Commission may consider relevant.

(c) MINIMUM REVIEW PERIOD.—In no event shall an issuer be reviewed less than once every three years by the Commission.

(d) PROHIBITION OF DISCLOSURE OF RISK RATING.—Notwithstanding any other provision of law, the Commission shall not disclose the risk rating of any issuer described in subsection (b).

SEC. 9. RETENTION OF RECORDS.

(a) DUTY TO RETAIN RECORDS.—Any independent public or certified accountant who certifies a financial statement as required by the securities laws or any rule or regulation thereunder shall prepare and maintain for a period of no less than 7 years, final audit work papers and other information related to any accountants report on such financial statements in sufficient detail to support the opinion or assertion reached in such accountants report. The Commission may prescribe rules specifying the application and requirements of this section.

(b) ACCOUNTANT'S REPORT.—For purposes of subsection (a), the term ''accountant's report'' means a document in which an accountant identifies a financial statement and sets forth his opinion regarding such financial statement or an assertion that an opinion cannot be expressed.

SEC. 10. REMOVAL OF UNFIT CORPORATE OFFICERS.

(a) REMOVAL IN JUDICIAL PROCEEDINGS.—

(1) SECURITIES ACT OF 1933.—Section 20(e) of the Securities Act of 1933 (15 U.S.C. 77t(e)) is amended by striking ''substantial unfitness'' and inserting ''unfitness''.

(2) SECURITIES EXCHANGE ACT OF 1934.—Section 21(d)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)(2)) is amended by striking ''substantial unfitness'' and inserting ''unfitness''.

(b) REMOVAL IN ADMINISTRATIVE PROCEEDINGS.—

(1) SECURITIES ACT OF 1933.—Section 8A of the Securities Act of 1933 (15 U.S.C. 77h–1) is amended by adding at the end the following new subsection:

''(f) AUTHORITY TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 17(a)(1) of this title from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of the Securities Exchange Act of 1934 or that is required to file reports pursuant to section 15(d) of that Act if the person's conduct demonstrates unfitness to serve as an officer or director of any such issuer.''.

(2) SECURITIES EXCHANGE ACT OF 1934.—Section 21C of the Securities Exchange Act of 1934 (15 U.S.C. 78u–3) is amended by adding at the end the following new subsection:

''(f) AUTHORITY TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 10(b) of this title or the rules or regulations thereunder from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of this title or that is required to file reports pursuant to section 15(d) of this title if the person's conduct demonstrates unfitness to serve as an officer or director of any such issuer.''.

SEC. 11. DISGORGEMENT REQUIRED.

(a) ADMINISTRATIVE ACTIONS.—Within 30 days after the date of enactment of this Act, the Securities and Exchange Commission shall prescribe regulations to require disgorgement, in a proceeding pursuant to its authority under section 21A, 21B, or 21C (15 U.S.C. 78u–1, 78u–2, 78u–3), of salaries, commissions, fees, bonuses, options, profits from securities transactions, and losses avoided through securities transactions obtained by an officer or director of an issuer during or for a fiscal year or other reporting period if such officer or director engaged in misconduct resulting in, or made or caused to be made in, the filing of a financial statement for such fiscal year or reporting period which—

(1) was at the time, and in the light of the circumstances under which it was made, false or misleading with respect to any material fact; or

(2) omitted to state a material fact necessary in order to make the statements made, in the light of the circumstances in which they were made, not misleading,

(b) JUDICIAL PROCEEDINGS.—Section 21(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)) is amended by adding at the end the following new paragraph:

''(5) ADDITIONAL DISGORGEMENT AUTHORITY.—In any action or proceeding brought or instituted by the Commission under the securities laws against any person—

''(A) for engaging in misconduct resulting in, or making or causing to be made in, the filing of a financial statement which—

''(i) was at the time, and in the light of the circumstances under which it was made, false or misleading with respect to any material fact; or

''(ii) omitted to state a material fact necessary in order to make the statements made, in the light of the circumstances in which they were made, not misleading; or

''(B) for engaging in, causing, or aiding and abetting any other violation of the securities laws or the rules and regulations thereunder,

such person, in addition to being subject to any other appropriate order, may be required to disgorge any or all benefits received from any source in connection with the conduct constituting, causing, or aiding and abetting the violation, including (but not limited to) salary, commissions, fees, bonuses, options, profits from securities transactions, and losses avoided through securities transactions.''.

SEC. 12. CEO AND CFO ACCOUNTABILITY FOR DISCLOSURE.

(a) REGULATIONS REQUIRED.—The Securities and Exchange Commission shall by rule require, for each company filing periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o(d)), that the principal executive officer or officers and the principal financial officer or officers, or persons performing similar functions, certify in each annual or quarterly report filed or submitted under either such section of such Act that—

(1) the signing officer has reviewed the report;

(2) based on the officer's knowledge, the report does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which such statements were made, not misleading;

(3) based on such officer's knowledge, the financial statements, and other financial information included in the report, fairly present in all material respects the financial condition and results of operations of the issuer as of, and for, the periods presented in the report;

(4) the signing officers—

(A) are responsible for establishing and maintaining internal controls;

(B) have designed such internal controls to ensure that material information relating to the issuer and its consolidated subsidiaries is made known to such officers by others within those entities, particularly during the period in which the periodic reports are being prepared;

(C) have evaluated the effectiveness of the issuer's internal controls as of a date within 90 days prior to the report; and

(D) have presented in the report their conclusions about the effectiveness of their internal controls based on their evaluation as of that date;

(5) the signing officers have disclosed to the issuer's auditors and the audit committee of the board of directors (or persons fulfilling the equivalent function)—

(A) all significant deficiencies in the design or operation of internal controls which could adversely affect the issuer's ability to record, process, summarize, and report financial data and have identified for the issuer's auditors any material weaknesses in internal controls; and

(B) any fraud, whether or not material, that involves management or other employees who have a significant role in the issuer's internal controls; and

(6) the signing officers have indicated in the report whether or not there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of their evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

(b) DEADLINE.—The rules required by subsection (a) shall be effective not later than 30 days after the date of enactment of this Act.

SEC. 13. SECURITIES AND EXCHANGE COMMISSION AUTHORITY TO PROVIDE RELIEF.

(a) PROCEEDS OF ENRON AND ANDERSEN ENFORCEMENT ACTIONS.—If in any administrative or judicial proceeding brought by the Securities and Exchange Commission against—

(1) the Enron Corporation, any subsidiary or affiliate of such Corporation, or any officer, director, or principal shareholder of such Corporation, subsidiary, or affiliate for any violation of the securities laws; or

(2) Arthur Andersen L.L.C., any subsidiary or affiliate of Arthur Andersen L.L.C., or any general or limited partner of Arthur Andersen L.L.C., or such subsidiary or affiliate, for any violation of the securities laws with respect to any services performed for or in relation to the Enron Corporation, any subsidiary or affiliate of such Corporation, or any officer, director, or principal shareholder of such Corporation, subsidiary, or affiliate;

the Commission obtains an order providing for an accounting and disgorgement of funds, such disgorgement fund (including any addition to such fund required or permitted under this section) shall be allocated in accordance with the requirements of this section.

(b) PRIORITY FOR FORMER ENRON EMPLOYEES.—The Commission shall, by order, establish an allocation system for the disgorgement fund. Such system shall provide that, in allocating the disgorgement fund amount the victims of the securities laws violations described in subsection (a), the first priority shall be given to individuals who were employed by the Enron Corporation, or a subsidiary or affiliate of such Corporation, and who were participants in an individual account plan established by such Corporation, subsidiary, or affiliate. Such allocations among such individuals shall be in proportion to the extent to which the nonforfeitable accrued benefit of each such individual under the plan was invested in the securities of such Corporation, subsidiary, or affiliate.

(c) ADDITION OF CIVIL PENALTIES.—If, in any proceeding described in subsection (a), the Commission assesses and collects any civil penalty, the Commission shall, notwithstanding section 21(d)(3)(C)(i) or 21A(d)(1) of the Securities Exchange Act of 1934, or any other provision of the securities laws, be payable to the disgorgement fund.

(d) ACCEPTANCE OF ADDITIONAL DONATIONS.—The Commission is authorized to accept, hold, administer, and utilize gifts, bequests and devises of property, both real and personal, to the United States for the disgorgement fund. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the disgorgement fund and shall be available for allocation in accordance with subsection (b).

(e) DEFINITIONS.—As used in this section:

(1) DISGORGEMENT FUND.—The term ''disgorgement fund'' means a disgorgement fund established in any administrative or judicial proceeding described in subsection (a).

(2) SUBSIDIARY OR AFFILIATE.—The term ''subsidiary or affiliate'' when used in relation to a person means any entity that controls, is controlled by, or is under common control with such person.

(3) OFFICER, DIRECTOR, OR PRINCIPAL SHAREHOLDER.—The term ''officer, director, or principal shareholder'' when used in relation to the Enron Corporation, or any subsidiary or affiliate of such Corporation, means any person that is subject to the requirements of section 16 of the Securities Exchange Act of 1934 (15 U.S.C. 78p) in relation to the Enron Corporation, or any subsidiary or affiliate of such Corporation.

(4) NONFORFEITABLE; ACCRUED BENEFIT; INDIVIDUAL ACCOUNT PLAN.—The terms ''nonforfeitable'', ''accrued benefit'', and ''individual account plan'' have the meanings provided such terms, respectively, in paragraphs (19), (23), and (34) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(19), (23), (34)).

SEC. 14. AUTHORIZATION OF APPROPRIATIONS OF THE SECURITIES AND EXCHANGE COMMISSION.

In addition to any other funds authorized to be appropriated to the Securities and Exchange Commission, there are authorized to be appropriated to carry out the functions, powers, and duties of the Commission, $776,000,000 for fiscal year 2003, of which—

(1) not less that $134,000,000 shall be available for the Division of Corporate Finance and for the Office of Chief Accountant;

(2) not less than $326,000,000 shall be available for the Division of Enforcement; and

(3) not less than $76,000,000 shall be available to implement section 8 of the Investor and Capital Markets Fee Relief Act, relating to pay comparability.

SEC. 15. ANALYST CONFLICTS OF INTEREST.

(a) STUDY AND REVIEW REQUIRED.—The Securities and Exchange Commission shall conduct a study and review of any final rules by any self-regulatory organization registered with the Commission pursuant to section 19 of the Securities Exchange Act of 1934 (15 U.S.C. 78s) related to matters involving equity research analysts conflicts of interest. Such study and report shall include a review of the effectiveness of such final rules in addressing matters relating to the objectivity and integrity of equity research analyst reports and recommendations.

(b) REPORT REQUIRED.—The Securities and Exchange Commission shall submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on such study and review no later than 180 days after any such final rules by any self-regulatory organization registered with the Commission pursuant to section 19 of the Securities Exchange Act of 1934 are approved by the Commission. Such report shall include recommendations to the Congress, including any recommendations for additional self-regulatory organization rulemaking regarding matters involving equity research analysts. The Commission shall annually submit an update on such review.

(c) ADDITIONAL RULES REQUIRED.—Unless the final rules reviewed by the Commission under subsections (a) and (b) contain the following provisions, the Commission shall, by rule—

(1) prohibit equity research analysts from—

(A) holding any beneficial interest in any equity security (as such term in defined in section 3(a)(11) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(11)) in any issuer covered by such analyst; and

(B) receiving compensation based on the investment banking revenues of the firm with which the analyst is associated, or on the investment banking revenues of such firm and its affiliates, except that this prohibition shall not prohibit such an analyst from receiving compensation based on the overall revenues of such firm or of such firm and its affiliates;

(2) prohibit the investment banking department of such firm from having any input in the compensation, hiring, firing, or promotion of analysts; and

(3) require such self-regulatory organizations—

(A) to establish criteria for evaluating analyst research quality; and

(B) to require analyst compensation to be based principally on the quality of the equity research analyst's research.

SEC. 16. INDEPENDENT DIRECTORS.

(a) RULEMAKING REQUIRED.—The Commission shall adopt rules, effective no later than 6 months after the date of enactment of this Act, to require that the independent directors on the board of directors of any issuer of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*) be nominated for election by a nominating committee that is composed exclusively of other independent directors of such issuer.

(b) INDEPENDENCE.—The rules required by subsection (a) shall require the same degree of independence for service on the nominating committee of an issuer as is required for purposes of service on the audit committee of an issuer by the listing standards concerning corporate governance of the exchange or association on which the securities of such issuer are listed.

SEC. 17. ENFORCEMENT OF AUDIT COMMITTEE GOVERNANCE PRACTICES.

The Commission shall revise its regulations pertaining to auditor independence to require that an accountant shall not be considered to be independent for purposes of certifying the financial statements or other documents of an issuer required to be filed with the Commission under the securities laws unless—

(1) an issuer's auditor is appointed by and reports directly to the audit committee of the board of directors or, in the absence of an audit committee, the board committee performing equivalent functions or the entire board of directors;

(2) the audit committee meets with the accountants engaged to perform such audit on a regular basis, at least quarterly; and

(3) the audit committee is provided with the opportunity to meet with such accountants without the attendance at such meetings of any officer, director, or other member of the issuer's senior management.

SEC. 18. REVIEW OF CORPORATE GOVERNANCE PRACTICES.

(a) STUDY OF CORPORATE PRACTICES.—The Commission shall conduct a study and review of current corporate governance standards and practices to determine whether

such standards and practices are serving the best interests of shareholders. Such study and review shall include an analysis of—

(1) whether current standards and practices promote full disclosure of relevant information to shareholders;

(2) whether corporate codes of ethics are adequate to protect shareholders, and to what extent deviations from such codes are tolerated;

(3) to what extent conflicts of interests are aggressively reviewed, and whether adequate means for redressing such conflicts exist;

(4) to what extent sufficient legal protections exist or should be adopted to ensure that any manager who attempts to manipulate or unduly influence an audit will be subject to appropriate sanction and liability, including liability to investors or shareholders pursuing a private cause of action for such manipulation or undue influence;

(5) whether rules, standards, and practices relating to determining whether independent directors are in fact independent are adequate;

(6) whether rules, standards, and practices relating to the independence of directors serving on audit committees are uniformly applied and adequate to protect investor interests;

(7) whether the duties and responsibilities of audit committees should be established by the Commission; and

(8) what further or additional practices or standards might best protect investors and promote the interests of shareholders.

(b) PARTICIPATION OF STATE REGULATORS.—In conducting the study required under subsection (a), the Commission shall seek the views of the securities and corporate regulators of the various States.

(c) REPORT REQUIRED.—The Commission shall submit a report on the analysis required under subsection (a) as a part of the Commission's next annual report submitted after the date of enactment of this Act.

SEC. 19. STUDY OF ENFORCEMENT ACTIONS.

(a) STUDY REQUIRED.—The Commission shall review and analyze all enforcement actions by the Commission involving violations of reporting requirements imposed under the securities laws, and restatements of financial statements, over the last five years to identify areas of reporting that are most susceptible to fraud, inappropriate manipulation, or inappropriate earnings management, such as revenue recognition and the accounting treatment of off-balance sheet special purpose entities.

(b) REPORT REQUIRED.—The Commission shall report its findings to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate within 180 days of the date of enactment of this Act and shall use such findings to revise its rules and regulations, as necessary. The report shall include a discussion of regulatory or legislative steps that are recommended or that may be necessary to address concerns identified in the study.

SEC. 20. STUDY OF CREDIT RATING AGENCIES.

(a) STUDY REQUIRED.—The Commission shall conduct a study of the role and function of credit rating agencies in the operation of the securities market. Such study shall examine—

(1) the role of the credit rating agencies in the evaluation of issuers of securities;

(2) the importance of that role to investors and the functioning of the securities markets;

(3) any impediments to the accurate appraisal by credit rating agencies of the financial resources and risks of issuers of securities;

(4) any measures which may be required to improve the dissemination of information concerning such resources and risks when credit rating agencies announce credit ratings;

(5) any barriers to entry into the business of acting as a credit rating agency, and any measures needed to remove such barriers; and

(6) any conflicts of interest in the operation of credit rating agencies and measures to prevent such conflicts or ameliorate the consequences of such conflicts.

(b) REPORT REQUIRED.—The Commission shall submit a report on the analysis required by subsection (a) to the President, the Committee on Financial Services of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate within 180 days after the date of enactment of this Act. The report shall include a discussion of regulatory or legislative steps that are recommended or that may be necessary to address concerns identified in the study.

SEC. 21. STUDY OF INVESTMENT BANKS.

(a) GAO STUDY.—The Comptroller General shall conduct a study on whether investment banks and financial advisors assisted public companies in manipulating their earnings and obfuscating their true financial condition. The study should address the role of the investment banks—

(1) in the collapse of the Enron Corporation, including with respect to the design and implementation of derivatives transactions, transactions involving special purpose vehicles, and other financing arrangements that may have had the effect of altering the company's reported financial statements in ways that obscured the true financial picture of the company;

(2) in the failure of Global Crossing, including with respect to transactions involving swaps of fiber optic cable capacity, in designing transactions that may have had the effect of altering the company's reported financial statements in ways that obscured the true financial picture of the company; and

(3) generally, in creating and marketing transactions which may have been designed solely to enable companies to manipulate revenue streams, obtain loans, or move liabilities off balance sheets without altering the economic and business risks faced by the companies or any other mechanism to obscure a company's financial picture.

(b) REPORT.—The General Accounting Office shall report to the Congress within 180 days after the date of enactment of this Act on the results of the study required by this section. The report shall include a discussion of regulatory or legislative steps that are recommended or that may be necessary to address concerns identified in the study.

SEC. 22. STUDY OF MODEL RULES FOR ATTORNEYS OF ISSUERS.

(a) IN GENERAL.—The Comptroller General shall conduct a study of the Model Rules of Professional Conduct promulgated by the American Bar Association and rules of professional conduct applicable to attorneys established by the Commission to determine—

(1) whether such rules provide sufficient guidance to attorneys representing corporate clients who are issuers required to file periodic disclosures under section 13 or 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o), as to the ethical responsibilities of such attorneys to—

(A) warn clients of possible fraudulent or illegal activities of such clients and possible consequences of such activities;

(B) disclose such fraudulent or illegal activities to appropriate regulatory or law enforcement authorities; and

(C) manage potential conflicts of interests with clients; and

(2) whether such rules provide sufficient protection to corporate shareholders, especially with regards to conflicts of interest between attorneys and their corporate clients.

(b) REPORT REQUIRED.—The Comptroller General shall report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the results of the study required by this section. Such report shall include any recommendations of the General Accounting Office with regards to—

(1) possible changes to the Model Rules and the rules of professional conduct applicable to attorneys established by the Commission to provide increased protection to shareholders;

(2) whether restrictions should be imposed to require that an attorney, having represented a corporation or having been employed by a firm which represented a corporation, may not be employed as general counsel to that corporation until a certain period of time has expired; and

(3) regulatory or legislative steps that are recommended or that may be necessary to address concerns identified in the study.

SEC. 23. ENFORCEMENT AUTHORITY.

For the purposes of enforcing and carrying out this Act, the Commission shall have all of the authorities granted to the Commission under the securities laws. Actions of the Commission under this Act, including actions on rules or regulations, shall be subject to review in the same manner as actions under the securities laws.

SEC. 24. EXCLUSION FOR INVESTMENT COMPANIES.

Sections 4, 6, 9, and 15 of this Act shall not apply to an investment company registered under section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a–8).

SEC. 25. DEFINITIONS.

As used in this Act:

(1) BLACKOUT PERIOD.—The term ''blackout period'' with respect to the equity securities of any issuer—

(A) means any period during which the ability of at least fifty percent of the participants or beneficiaries under all applicable individual account plans maintained by the issuer to purchase (or otherwise acquire) or sell (or otherwise transfer) an interest in any equity of such issuer is suspended by the issuer or a fiduciary of the plan; but

(B) does not include—

(i) a period in which the employees of an issuer may not allocate their interests in the individual account plan due to an express investment restriction—

(I) incorporated into the individual account plan; and

(II) timely disclosed to employees before joining the individual account plan or as a subsequent amendment to the plan; or

(ii) any suspension described in subparagraph (A) that is imposed solely in connection with persons becoming participants or beneficiaries, or ceasing to be participants or beneficiaries, in an applicable individual account plan by reason of a corporate merger, acquisition, divestiture, or similar transaction.

(2) BOARDS OF ACCOUNTANCY OF THE STATES.—The term ''boards of accountancy of the States'' means any organization or association chartered or approved under the law of any State with responsibility for the registration, supervision, or regulation of accountants.

(3) COMMISSION.—The term ''Commission'' means the Securities and Exchange Commission.

(4) INDIVIDUAL ACCOUNT PLAN.—The term ''individual account plan'' has the meaning

provided such term in section 3(34) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(34)).

(5) ISSUER.—The term ''issuer'' shall have the meaning set forth in section 2(a)(4) of the Securities Act of 1933 (15 U.S.C. 77b(a)(4)).

(6) PERSON ASSOCIATED WITH AN ACCOUNTANT.—The term ''person associated with an accountant'' means any partner, officer, director, or manager of such accountant (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or under common control with such accountant, or any employee of such accountant who performs a supervisory role in the auditing process.

(7) PUBLIC REGULATORY ORGANIZATION.—The term ''public regulatory organization'' means the public regulatory organization established by the Commission under subsection (b) of section 2.

(8) SECURITIES LAWS.—The term ''securities laws'' means the Securities Act of 1933 (15 U.S.C. 77a et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), the Trust Indenture Act of 1939 (15 U.S.C. 77aaa et seq.), the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.), the Investment Advisers Act of 1940 (15 U.S.C. 80b et seq.), and the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.), notwithstanding any contrary provision of any such Act.

The CHAIRMAN. Pursuant to House Resolution 395, the gentleman from New York (Mr. LAFALCE) and the gentleman from Ohio (Mr. OXLEY) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. LAFALCE).

Mr. LAFALCE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, Members can vote against the substitute, and they can vote for final passage of the bill if they want. This will enable them to put a press release out to the public telling them that they have done something meaningful about the problem. This will also enable them to go to corporate America, to the accounting profession, to Wall Street and receive at the very least a pat on the back and they will tell them a job well done because they will be very pleased that an opportunity to enact meaningful reform has been passed and eluded and avoided by passage of the Republican bill. I hope we will not let this opportunity pass without meaningful reform.

My substitute is the barest minimum of what is necessary to have meaningful reform. I say the barest minimum, because I wanted to try to attract as many votes as I possibly could. What do we do? First of all, with respect to auditing, we do a number of things. First of all, we say there shall be a PRO, a professional review organization. We do not make it permissive. We do not say it is something the SEC may do, whatever they want to, if they want to. Secondly, we spell out what its powers and responsibilities are. We make it a real organization with powers and responsibilities in the legislation. We do not leave it totally to the discretion of the SEC, which may or may not do something.

And, third, we spell out the nature of the composition of this PRO. We do not want all accountants, and now through an amendment it will not be all accountants, but we do not want the Ken Lays of this world on that review authority, either. And so we spell out that it shall consist of representatives of groups such as pension plans of private employees, pension plans of public employees, et cetera. So what it shall do and who shall be on it are extremely important and there is a fundamental difference between the gentleman from Ohio's approach which the Washington Post this morning says punts on the issue and the approach that we would take.

Secondly, who shall hire and who shall fire the auditors? We think that is an important issue. There has been too close of a relation between the CEOs, the CFOs, and the auditors. It has been an incestuous relationship. We specify what virtually all good corporate governance individuals have been calling for now, a delineation of the rights and responsibilities of the boards of directors and most especially the audit committee. We say that the hiring and the firing of the auditors shall not be by the officers but by the audit committee of the board of directors. That is a very important provision. We also think that there should be a reasonable, but real, distinction between auditing and nonauditing functions.

And so what we have done is taken the Republican version, not the version that I offered in committee that the gentleman from Alabama (Mr. BACHUS) was referring to, and cleaned it up, took out the language that made it meaningless so that with the deletion of about one sentence, it can be meaningful; and that is all we have done on that score. Except, of course, saying that the board of directors, too, is the one that should be hiring and firing the auditors.

President Bush has also called for a certain type of action. The Republican bill does nothing to effectuate what President Bush called for. Our substitute, as President Bush called for, requires CEOs and CFOs to certify the accuracy of their firm's financial statements. The Republican bill says nothing on it and, therefore, leaves it to the voluntary discretion of corporate America. That will not work.

The substitute also requires corporate officers who falsify their financial statements to disgorge their compensation, including stock bonuses and other incentive pay for any period in which they falsified statements. The Republican bill does nothing on that score. It is absolutely outrageous that corporate officers are able to walk away with tens of millions of dollars or more in the past 2- or 3-year period that they have been engaging in fraudulent activity and misleading manipulation of their earnings statement at the expense of investors. The investors should be able to go after that and obtain redress from those officers and directors. The substitute does something about it, as President Bush wants. The main bill, the Republican bill, does nothing.

Our substitute also empowers the SEC in an enforcement proceeding to bar officers and directors from serving as an officer or director of a public company if they are found guilty of wrongdoing and determined to be unfit. This too was proposed by the President. The SEC said that existing case law makes it virtually impossible for them to do this, to bar unfit officers and directors. And what have the Republicans done? They have taken that bad case law and codified it. In that respect the Republican bill is worse than the status quo.

Finally, with respect to securities analysts, the research analysts, most individuals rely most heavily on the recommendations of Wall Street. Yet we regrettably have learned that there has been a terrible relationship between research analysts and the investment banking arms of the securities firms. Research analysts have been compensated in large part by the revenues they have been able to generate for the investment banking arm of the firm because there are no fire walls within those firms between the research analyst and the investment banking.

The Republican bill has no fire walls whatsoever. Our substitute creates fire walls. That is what has been called for by the Attorney General of the State of New York, by the President of the AFL-CIO, et cetera. Our bill says that the research analysts' compensation shall in no way have any bearing to revenues that are generated by the investment banking portion of the securities firm. This is extremely important. What do the Republicans do? The Republicans say, Gee, that's an issue we ought to think about.

If Members want to please corporate America, the officers, if they want to please the accounting firms, if they want to please Wall Street and be able to put out a piece of paper that says they have done something about it, it will be a wrong piece of paper, it will be a misleading piece of paper. They will be able to get a pat on the back from all those special interests, but they will not really be helping investors. Vote for the substitute. If the substitute passes, vote for final passage. If the substitute should go down, oppose this cosmetic approach that is being advanced to the floor today.

Mr. Chairman, I rise to offer a substitute for H.R. 3763. As I described in detail earlier, the bill before us does virtually nothing to correct the systemic flaws in our financial reporting system. The substitute I offer will provide real reform to restore integrity to our financial markets and protect the savings and pensions plans of millions of Americans that remain threatened by future Enrons. My substitute will provide improvement and reform in several major areas.

First, the substitute would create a powerful new regulatory board with the authority and

responsibility to ensure that auditors will be truly independent and objective. My substitute provides for a regulator that: Sets audit and quality standards for auditors of public companies; possesses sweeping investigative and disciplinary powers over audit firms; and is controlled by a board comprised of public members and not the accounting history. This is a decidedly different approach from H.R. 3763, which punts decisions on almost all of the functions and powers of the regulator to the SEC. Only a regulator with explicit powers and duties, and a defined composition, such as the one I propose, will ensure that the abuses we witnessed in the Enron debacle will not be repeated.

Second, while the Republican bill purports to prohibit auditors from providing their audit clients with two nonaudit services—financial reporting systems design and internal auditing—in reality, it prohibits nothing, merely codifying the limited restrictions in existing SEC rules. In contrast, my amendment modifies the definitions of these two services to actually ban these consulting services, which create significant conflicts of interest for auditors.

Third, the substitute includes important corporate governance reforms that will ensure that the audit committees of public companies have the authority they need to better protect shareholder interests. The substitute ensures that audit committees, not management, are responsible for hiring and firing the auditors. It requires that audit committees approve any consulting services that auditors provide to an audit client. These provisions will ensure that auditors give their allegiance to shareholders, not to corporate management.

Fourth, in a bipartisan spirit, we have taken three meritorious elements of President Bush's proposals on corporate responsibility and executive accountability and given them legislative substance and real teeth,unlike the provisions contained in H.R. 3763. Our substitute requires CEOs and CFOs to certify the accuracy of their firms' financial statements. Violation of this provision would carry with it the civil penalties provided for under the securities laws, and potentially criminal penalties for willful violations. The Republican bill contains no similar provision. It is essential that Congress require officers of public companies to stand behind their public disclosures. It is the minimum we should require.

The substitute requires corporate officers who falsify their financial statements to disgorge their compensation, including stock bonuses and other incentive pay, for any period in which they falsified statements. Our amendment would empower the Securities and Exchange Commission, SEC, to seek such a disgorgement in an administrative proceeding, or in court. H.R. 3763 requires only a study of this issue, and limits the scope of any disgorgement actions by the SEC to 6 months prior to a restatement.

The amendment would also empower the SEC in an enforcement proceeding to bar officers and directors from serving as an officer or director of a public company if they found guilty of wrongdoing and determined to be unfit. It would also remove judicial hurdles to seeking such a bar in court. H.R. 3763, however, makes obtaining director and officer bars more difficult, codifying the most restrictive judicial standard, a standard that the head of the SEC's Enforcement Division has stated publicly is almost impossible to meet. We must not codify a standard that makes it harder than ever for the SEC to obtain officer and director bars at a time when accounting fraud and earnings manipulation by corporate executive is at an all time high.

Finally, my substitute seeks to ensure that stock analysts are truly independent and objective. The substitute achieves this by: Barring analysts from holding stock in the companies they cover; prohibiting analysts' pay from being based on their firms' investment banking revenue; and barring their firm's investment banking department from having any input in to analysts' pay or promotion. The revelations brought to light by Eliot Spitzer, the NY State attorney general, in his investigations of major Wall street firms' analysts, confirm the need to address analysts' conflicts of interest. In urging the Financial Services Committee to adopt reforms, Attorney General Spitzer stated, ''[o]nly if the pernicious link between investment banking and research compensation is severed will the public receive the unbiased research it deserves and the public market's integrity be preserved.'' Unfortunately, as with other important topics in this legislation, the Republican bill requires only a study.

The Democratic substitute is a strong reform bill that mandates tough corporate responsibility and strict accounting industry reforms. I urge Members to vote for the real reforms my substitute offers.

Mr. Chairman, I reserve the balance of my time.

Mr. OXLEY. Mr. Chairman, I yield myself 3 minutes. Mr. Chairman, as we have heard throughout this debate, H.R. 3763 is a tough bill which imposes much-needed reforms in the areas of auditor and corporate responsibility and accountability. The legislation ensures that investors in America's capital markets will know that they have access to accurate and understandable information regarding publicly traded companies.

In the committee's hearings and debate on H.R. 3763, we had an opportunity to hear from a broad group of regulators, investors, and corporate employees. We were told by some that our proposal went too far. Others, not far enough. At the end of the day we decided to strike a balance, create a bill that is tough but fair, which punishes those who do wrong, while encouraging the vast number of America's honest and ethical companies to keep up the good work.

During the debate on the bill, the committee had the opportunity to consider a similar substitute amendment to the one Ranking Member LAFALCE is offering today. After a fair debate, the committee rejected the amendment by voice vote. The committee then adopted H.R. 3763 along bipartisan lines with a vote of 49 to 12 with more Members of the minority voting for the bill than against it. We should not overturn the bipartisan consensus reached by our committee. We should not reject the balanced approach taken by the members of the committee, both Republican and Democrat, which will make our markets stronger.

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I commend the ranking member, the gentleman from New York (Mr. LAFALCE) for his efforts throughout this process. In fact, many of his ideas were adopted by the committee. But his substitute amendment represents an honest difference of opinion between us.

I do not believe we should micromanage the tough, new accountant regulatory body that we create. I do not believe we should preempt the laws of the States with regard to how corporations are governed, and I do not believe we should overturn the will of the committee when it adopted this legislation.

The President supports H.R. 3763. This legislation represents the ideas he presented in his 10-point plan on corporate responsibility. Where the President requests legislation, we legislate. Where the plan urges that the regulators be given the freedom to act, we give them that freedom.

Mr. Chairman, I urge my colleagues to support the President's plan. I urge my colleagues to support the bipartisan approach that the committee took in passing CARTA. I ask all of my colleagues to reject the LaFalce amendment and to pass H.R. 3763.

Mr. Chairman, I reserve the balance of my time.

Mr. LAFALCE. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. KANJORSKI), the distinguished ranking member of the Subcommittee on Capital Markets, who has done an outstanding job in this entire area and has shown tremendous leadership.

Mr. KANJORSKI. Mr. Chairman, I thank the gentleman from New York for yielding me this time.

Mr. Chairman, I rise in favor of the substitute amendment. I heard the chairman of the committee say that this is the embodiment of the President's plan. If it is, then it is an example of the President having spoken on one occasion as to what is necessary, and then seeing it reduced to legislation that does not comport with what the President indicated in his public appearances as to what he wanted us to do.

This is opting out. When we have an opportunity to do something well, the underlying bill ignores or virtually sets aside any of the real reform and just plasters over the defects within the system. The substitute bill, although in my own opinion is maybe premature in itself but we are stuck with the rules of having to come here, I support the substitute because it at least puts meat on the bones. It says something to corporate America, that we are going to hold you responsible. We are going to hold corporate executives responsible when they put out statements that are fraudulent or grossly overstated. We are going to tell the accounting industry that they cannot have conflicts of interest and, if they do, there is a penalty to be had, and perhaps a loss of their business. We are going to say to Main Street America

and the investors, that you can understand that corporate America plays by the same rules you do, and that they are fair and they are honest and they are straightforward; that they are not swindlers, that they are not tellers of untruth in order to encourage 50 percent of the American people to make investments in equities in our market today who are getting information that they cannot rely on. Not in all instances, not all corporations by a long shot, but enough that we see a need for remedial legislation.

Instead, the underlying bill is an attempt to cover and do little or nothing. But in the substitute bill, we have substance, we have material that will correct some of the Enron problems, will give some form of integrity back to Wall Street and some sort of support to Main Street investors.

Mr. Chairman, I urge my colleagues to support the substitute amendment and, if that fails, to vote ''no'' on the underlying bill.

Mr. OXLEY. Mr. Chairman, I am pleased to yield 5 minutes to the gentleman from Pennsylvania (Mr. TOOMEY).

Mr. TOOMEY. Mr. Chairman, I thank the gentleman for yielding me this time. I would start by observing that the Enron debacle is obviously devastating in many ways to many people. One of the most devastating ways is the way that collapse has shaken public confidence and really raised the question about financial reporting, even in the accounting profession, and the stability of our financial markets.

This underlying bill is going to have several very significant and very positive effects. It is going to help investors make better informed investment decisions; there is no question about that. It is going to require greater disclosure. It is going to enhance audit quality and the quality of financial reporting. By doing those things, it is going to increase the confidence in our capital markets, our financial reporting system, and those effects can only be beneficial for our financial system and our economy and our economic growth.

I would remind my colleagues that this bill passed our committee by a vote of 49 to 12. It was obviously supported by a bipartisan effort, and it takes some unprecedented measures. We take some very dramatic steps, one of which is the creation of the Public Regulatory Organization. This is going to be an organization that is going to be able, for the first time, to really discipline accountants that violate standards of ethics, competency, or independence, and it includes even disbarment. This is a major step in the regulation of the accounting profession, a dramatic departure from the traditional model in which this profession was entirely self-regulated.

But I think that it is impossible for us to know today, here in this Chamber, all of the answers to all of the questions that that regulatory organization needs to address. That is why instead of specifying in great detail every rule that we want them to promulgate, what we ought to do instead is set the broad parameters, and then give them the authority to carry this out, together with the regulators like the SEC, and that is what the underlying bill does.

My main criticism of the substitute amendment is that it goes too far in trying to micromanage this process in spelling out in great detail rules that ought to be left to the SEC and to others.

Mr Chairman, the ranking member does an outstanding job and does a lot of great work in our committee. Today's substitute differs from the substitute he offered in the committee; it is more similar to ours than the substitute offered in committee. Maybe in another few weeks we would see something quite similar to our bill. In fact, it is not enormously different. I do not think that the differences are that huge, but they are important, and they differ in the sense that I think the ranking member has gone too far in trying to specify details that ought to be left to others.

Several have mentioned the President's principles that have been discussed. Let there be no question about it: The President supports this bill. The administration has issued a statement of their policy, and it clearly supports this bill.

Let me look at a couple of the specifics in which the ranking member gets very specific. Disgorgement is one. But look at what we do with disgorgement. We take a very tough approach. It is unprecedented, the approach we take in this bill. If an officer or director sells stock in a company 6 months prior to a restatement, then the SEC can require the disgorgement of any profits that were earned or avoided losses. That is probably all we need to say about this. Let us let the specifics be developed by the SEC. Instead, in the substitute, basically, the SEC's rule is written for them. I do not think that is a good idea.

With regard to analyst conflicts, again, this bill tries to micromanage how analyst conflicts should be addressed. But we have entities, the NASD, the New York Stock Exchange, they are already in the process of producing rules on how this is going to be governed. I think the ranking member, as well as other members on this committee, have had input on that rulemaking process. It is still under review. It is they who should be doing this job, not us.

I think part of the problem with the substitute is an underlying failure to appreciate the ability of the marketplace to impose some discipline as well. But we have already seen how severely and appropriately investors have responded to companies who have even questionable accounting practices after this Enron debacle. It is not as though the investment community has not noticed and has not taken the precautions to demand certain greater disclosures and more transparency in financial reports and to punish companies that have engaged in perhaps dubious accounting principles, and that same kind of discipline is going to continue; it is going to continue with respect to analysts and other matters between the market's discipline.

In this bill, the underlying bill that the majority is proposing, we take some unprecedented measures. I am very confident we are going to encourage a greater degree of honesty and transparency in financial statements. It is going to be extremely helpful. I would suggest to my colleagues that we reject the substitute, reject the micromanagement of what should be done by regulators who have the expertise in this area, and support the underlying bill.

Mr. LAFALCE. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York City (Mrs. MALONEY), the distinguished ranking minority member of the Subcommittee on Domestic Monetary Policy.

Mrs. MALONEY of New York. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in strong support of the LaFalce substitute.

The implosion of Enron is a scandal on a massive scale that demands a real response. Enron's failure has shaken the accounting industry, once again exposed the conflicts Wall Street analysts face in rating stocks, and ruined the lives of thousands of innocent employees and retirees.

For financial markets to work, investors must be able to trust the information on which they base decisions. Auditors must not be under pressure to cook the books because their firm is chasing a consulting contract, and analysts must not have their compensation tied to investment banking deals.

The LaFalce substitute best addresses each of these areas with concrete, real reforms. The Enron scandal has done serious, lasting damage to the reputation of the accounting industry. The majority of accountants, many of whom live in my district, are honest and hard-working, but this scandal has revealed serious weaknesses in the industry's oversight structure, and only the substitute, the LaFalce substitute, directly spells out standards for a new accounting oversight board.

We need a new accounting oversight board because the current structure has failed dramatically. There are 17,000 public companies in the United States, and we may be down to just 4 major accounting firms to audit financial statements. Therefore, we need stronger regulation.

It is not enough for Congress to delegate regulation of the industry to the SEC. We owe it to the public to do the job ourselves and support the LaFalce substitute.

Long after the con men of Enron fade from memory, the conflicts faced by

accountants and analysts will still be in place unless Congress acts now.

Mr. OXLEY. Mr. Chairman, I am pleased to yield 2 minutes to the gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Mr. Chairman, I rise in opposition to the substitute amendment offered by the gentleman from New York (Mr. LAFALCE).

The substitute makes clear the different philosophical positions from which we seek to address the problems of the accounting industry. While CARTA gives broad authority to the SEC to set up the new public regulatory organization, this substitute stipulates exactly how it is going to be set up, to what extent the powers will be, regardless of what the experts may think, especially the experts at the SEC. Unfortunately, I do not believe that most of these provisions would actually do anything to prevent future Enrons and Global Crossings. So I am thinking about what the American investors do. I think the American investors will only risk their savings based on truth and transparency in the market. No smart investor should be required to buy a ''pig in a poke.''

This bill provides control without choking the free market. The reason the people put their money in the market is to make a good return on their money. Many Americans have saved for their retirement through pension funds and 401(k)s. This money is often invested in the markets, so the markets must function with transparency and truth if we expect our citizens to invest their future in the stock of American corporations and other investment vehicles that are offered in the markets.

The CARTA act will ensure transparency and truth responsibly and appropriately. This substitute was defeated during committee consideration and does not enjoy the broad bipartisan support that the underlying bill enjoys. So I urge my colleagues on both sides of the aisle to join us in opposition to this amendment.

Mr. LAFALCE. Mr. Chairman, I yield myself 10 seconds to advise the gentlewoman that this substitute was never offered in committee, and what was offered was defeated on a voice vote, not a recorded vote.

Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. DINGELL), the distinguished dean of the House of Representatives, and the ranking member of the Committee on Energy and Commerce, who for so many years had jurisdiction over the field of securities.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

□ 1400

Mr. DINGELL. Mr. Chairman, I rise in strong support of the amendment and in opposition to the bill. I say to the sponsors of the legislation, shame. This is a piece of drivel. It is not a piece of legislation, it is a gift to the accounting industry and those who would steal from the American investing public.

Look at the history: Enron, Global Crossing, Baptist Foundation of Arizona, Waste Management, Sunbeam, Xerox, Rite Aid, Microstrategy. Accountants and fat cat officers of corporations stole billions and lied to the American investing public. That is what happened, and that is what needs to be corrected, and that is not what is addressed here.

The watchdogs in those cases and many others were asleep, or benefiting from their wrongdoing, or just plain blind. What is the response of the legislation to this outrage? The bill passes the buck to the SEC on every major issue, and avoids addressing important issues altogether by requiring that the SEC conduct studies.

If Members like studies and they want to waste money, that is a fine way to do it. If they want to hurt the investing public, that is a fine way. Enron would have loved this legislation. Anderson would have found it to be splendid.

I would be embarrassed to put a piece of legislation of this kind on the House floor. The LaFalce substitute ends the farcical self-regulation by the accounting industry which is encouraged and fostered by the committee bill. It creates a strong regulatory board that sets strict standards for auditor independence and auditor quality, and it is a shame if the House does not accomplish this important reform today.

The LaFalce substitute also requires executives to surrender ill-gotten gains made as a result of financial frauds, and empowers the SEC to bar officers guilty of wrongdoing from serving with other companies so that they may steal again. I think that that is necessary. It also imposes strong penalties for lying, including criminal penalties.

The committee bill actually makes it harder for the SEC to bar crooked executives from serving in other companies. On whose side are the authors of this legislation?

Mr. Chairman, our financial markets run on confidence. Those on this side apparently do not know that. If the people have confidence, everybody makes lots of money. They do not run on money, and no confidence will exist, where there is stealing, dishonesty, false accounting, and the kinds of things which we have seen going on in the accounting industry.

I would note that it is time that we deal with these things, and deal vigorously. The American public wants action. They do not trust the accounting, they do not trust the financial markets, and they want to see something in which they can have faith.

Unless and until Members do something about the situation that the American public sees, again with the Enrons and the other corporations where this is going on, and about the Andersens, we are going to see no confidence in the securities markets, and we are going to find that the economy of this country is going to hurt.

I say vote for the LaFalce amendment, vote against the committee bill. The committee bill is a sad, sorry, and repugnant joke. Vote for a piece of legislation that protects the American public. Vote for a piece of legislation that protects the investors of this Nation. Let us give confidence to the markets, instead of passing a sorry, silly charade like this.

Mr. OXLEY. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, at least my friend, the gentleman from Michigan, has been consistent in his strong support for big government and lack of respect and recognition of the free market. So I congratulate him on his consistency, if nothing else.

Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana (Mr. BAKER), the chairman of the Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises.

Mr. BAKER. Mr. Chairman, I thank the gentleman for yielding time to me.

I would join him in recognizing the importance of the preceding speaker's remarks in characterizing the legislation now pending before the House, as in free enterprise, as buyer beware. We should carefully evaluate and analyze any representation made by some salesman as to his product.

I think it is also an advisable warning to those listening to speeches by Members of Congress.

Mr. Chairman, let me turn for a moment to the criticism of the bill with regard to analysts' conduct. Some would have us believe that this Congress has turned its back, protecting the Wall Street interests, walking away from the working families of America, letting the pillaging continue without restraint.

They seem to fail to remember just last year this committee, with bipartisan help, spent hours in evaluating the approach to take in resolving inappropriate conduct by analysts on Wall Street.

Let me explain. When a company wants to raise money on Wall Street, they have to hire a firm to go sell their stock. In order to sell that stock, they need to have a research department that says, is this a good investment or not? And investors rely on that research, understanding that the investment bank is separate from the research.

Well, unfortunately, that has not always been the case. Apparently, in some limited instances, the research was held out by the investment bank sort of as a marketing tool, to say, if you give us a good research product, the investment bank gets the business, and huge profits were made.

Here is the change: Research integrity is restored by having analyst independence from investment bankers. The investment banker cannot talk to the research analyst anymore. They

have to be maintained in separate divisions of the business, and there are consequences if they do collude.

It restricts the ties between analysts' compensation and investment banking transactions. If there is any connection, if there is, it must be stated publicly in a report for all to see, or else there is a violation of the law.

It prohibits promising favorable research for the investment bank to get the work in compensation for the firm. So they cannot go out and use the research department information for the investment bank to go make the deal with the corporation. That is illegal. They cannot do it anymore.

It limits analysts' own purchasing and trading of stocks on which they issue research, and prohibits trading against their recommendations. It would be wrong if I were an analyst to say, go buy, gobble it up, America, this is a great stock, and privately I was in the back room selling my own interest to protect my financial position. This prohibits such conduct, and there are penalties, including up to disbarment from the profession.

We require potential conflicts of interest to be disclosed clearly. If we have missed something, if there is something inappropriate that an investor should know, they have a professional obligation to disclose it, and if they do not, there are penalties for that inappropriate conduct.

We have taken action. We have stood up to Wall Street. We are protecting working families across this country. To vote against this bill would be in their disinterest.

Mr. LAFALCE. Mr. Chairman, I yield 1 minute to the gentleman from Washington (Mr. INSLEE), a member of the Committee.

(Mr. INSLEE asked and was given permission to revise and extend his remarks.)

Mr. INSLEE. Mr. Chairman, I speak in favor of the substitute and against the bill. This Enron collapse really did rock underlying confidence in the American people, and I think all of us know that the American people want and expect a real guard dog around their life's savings, a bulldog, someone with teeth, vigilance.

This bill, charitably, has all the attributes of a Chihuahua. It fails. It fails to do even what the President of the United States has suggested to require CEO accountability.

It fails in dealing with board independence, to make sure that the board answers to stockholders and not management by preventing payments to the directors by management.

It fails to address the separation of accounting services that even accounting companies have adopted on their own initiative.

It fails and it is disappointing. It is going to disappoint the American people, but it will not surprise the American people that the Republican Party, who gave us an energy policy based on Enron, is giving us an accounting policy based on Arthur Andersen.

Mr. LAFALCE. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Texas (Mr. BENTSEN), a member of the Committee.

(Mr. BENTSEN asked and was given permission to revise and extend his remarks.)

Mr. BENTSEN. Mr. Chairman, the underlying bill is not perfect, and I do not think the substitute is necessarily perfect, but there are certain pieces of the substitute that I think would make the underlying bill better.

Number one, the substitute is stronger on the issue of scope of services for auditing firms. Originally, I thought the gentleman from New York (Mr. LAFALCE) went too far in the committee.

The language he has adopted would bolster the language that the gentleman from North Carolina (Mr. WATT) and I put in the bill that was accepted by the chairman, and I think that is very good in ensuring that the SEC is on the job and doing what it is supposed to do.

Second of all, as the gentleman from Michigan (Mr. DINGELL) pointed out, the substitute is much stronger on giving authority to the SEC to remove officers and directors who engage in misconduct in public companies, and I think that needs to be done.

I have some concerns, as the gentleman from Louisiana (Mr. BAKER) pointed out, about the analyst provisions. I think they go too far. But I think what the gentleman from New York (Mr. LAFALCE) has put together in the substitute would add greatly to where we want this bill to go when it finally gets to the President's desk.

For those reasons, I think I will support the substitute.

Mr. LAFALCE. Mr. Chairman, I yield 1 minute and 15 seconds to the distinguished gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Chairman, I rise in support of the LaFalce substitute and in opposition to the underlying bill.

Mr. Chairman, accounting is a boring profession. It is easier to watch grass grow than be an accountant, unless people want to engage in financial fraud. Then it is a fascinating subject, because it affects thousands or millions of people, and that is what happened in this country: Auditors decided they were going to be financiers at the same time. They were going to play both roles.

They cannot do that, and this bill does not correct the fundamental, underlying problem that caused the Enron-Arthur Andersen scandal. It does not go nearly far enough to deal with the causes of the financial chicanery that have turned, overnight, people who thought they had their life's savings protected into those who are wondering about the future.

Specifically, the public regulatory organization created by the bill is a joke. It is set up in such a way that it will be dominated and controlled by the accounting profession. It lacks the investigative and enforcement powers needed to be an effective regulatory agency. The SEC is not given the powers needed to properly oversee its operation.

There is not a proper separation between the auditing and the consulting functions that led to the very core of the problems that were created that have defrauded millions of Americans out of their hard-won savings.

Mr. OXLEY. Mr. Chairman, I yield 1 minute to the gentlewoman from Illinois (Mrs. BIGGERT).

Mrs. BIGGERT. Mr. Chairman, I rise today in opposition to the amendment offered by the gentleman from New York (Mr. LAFALCE), who earlier claimed that the underlying bill would make it harder for the SEC to ban officers and directors from serving on corporate boards.

Quite the contrary. For the first time in history, H.R. 3763 will allow, through the administrative process, the SEC to provide greater oversight of corporate officers. Currently, the SEC must go to court to obtain such a ban. This change makes it easier, not harder, for the SEC to go after malfeasance. H.R. 3763 does not allow such a ban to be imposed without providing at least minimum standards for the SEC to consider.

What we do in this bill is to provide the SEC with the tools it needs to tighten corporate oversight without giving the SEC carte blanche authority. We cannot, as someone suggests, grant the SEC unwarranted powers that would alter its appropriate role in maintaining the integrity of the capital markets, but we should give the SEC the ability to efficiently remove those who have no business serving as corporate officers.

Mr. LAFALCE. Mr. Chairman, I yield 1 minute to the distinguished gentleman from the State of Washington (Mr. BAIRD).

Mr. BAIRD. Mr. Chairman, I thank the ranking member for yielding time to me.

Mr. Chairman, thousands of workers of Portland General Electric lost their entire life's savings when Enron collapsed. I praise the gentleman from New York (Mr. LAFALCE) for introducing legislation that would have prevented that tragedy.

I am particularly concerned about a provision in the Republican majority bill which does not allow State boards of accountancy to know if there have been irregularities and penalties imposed. Let me refer Members to a letter from James Caley, a CPA from Vancouver, Washington, who called for precisely such notification.

Mr. Caley wrote, ''A system which encourages cooperation between State and Federal regulatory agencies increases the overall effectiveness of both entities, ensuring maximum protection to the public.'' State agencies need to know if there have been irregularities recognized by Federal entities. The Republican bill, the majority

bill, does not provide that notification. The substitute of the gentleman from New York (Mr. LAFALCE) does. I commend the gentleman for including that.

□ 1415

Mr. LAFALCE. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I do not want individuals to kid themselves. If Members vote against this substitute or even if Members vote for the substitute, it goes down and then Members vote for final passage of this bill, Members are voting for basically a cover-up because we are not dealing in a fundamental way with the fundamental problems. We are not dealing with the problems of officers who either knowingly or through negligence engage in wrongdoing. We are not dealing with the problems of directors. We are not dealing with the problems of auditors. We are not dealing adequately with the problems of research of the securities firms.

You are relying on two things basically in your bill, the SROs, the Self Regulatory Organizations. So let the officers and directors take care of themselves. Let the securities individuals take care of themselves. Let the accountants take care of themselves. And the magic of the marketplace, you say the marketplace will punish. The marketplace punishes investors. It does not punish the wrongdoers. You have got it wrong.

Mr. OXLEY. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, we have had a good debate here today about competing ideas. We made some decisions about our direction and now it comes time to cast our vote.

Today we are acting for America's employees, retirees and investors. At the same time, we recognize that every company in America is not an Enron, every company is not a Global Crossing. The vast majority of American companies are led and managed by good, hard-working citizens. They want to provide benefits and a good living for their employees and they want their companies to prosper and grow. Similarly, the vast majority of accountants are honest and trustworthy individuals who make an invaluable contribution to our financial systems.

If we have learned anything in recent months, we have learned that we need a strong and vibrant accounting community to give us that objective view of companies' financial conditions.

We understand to overreact would make things worse, not better as Chairman Greenspan and Chairman Pitt both admonished in testimony before our committee. So we are not going to make life even more difficult for every American company that is just trying to come out of a slump. We will ask them to provide more and better information. We will ask them to take on some more corporate responsibility, and we will support the accounting industry with a solid and effective oversight organization, while strengthening the Securities and Exchange Commission.

We will ensure that the new rules for analysts are working as they are intended, to provide higher-quality information for investors. We are going to review corporate governance practices to ensure that they adequately protect shareholders and employees. We will look at the credit reporting agencies to ensure they are free of conflicts of interest and provide accurate reports.

CARTA really gets to the heart of what went wrong. CEOs and other corporate insiders will have to publicly reveal in 2 days when they sell their company stock, as compared with 60 days now. It will be a crime to try to interfere with an audit. And never again will employees be locked into owning company stock while the executives are selling.

Mr. Chairman, today we have the chance to offer more than just talk. Today we have a chance to take a scandal and offer a real solution. Today, Mr. Chairman, we have an opportunity to pass a bipartisan product that came out of the Committee on Financial Services. Oppose the LaFalce substitute and pass CARTA.

Ms. SCHAKOWSKY. Mr. Chairman, I am dismayed that the Republican leadership of this body has not responded to the widespread corruption in our financial markets. The Republican so called ''reforms'' bill will not protect investors and pension holders from conflicts of interest and corporate greed. By failing to enact meaningful reform we are failing the American people.

We all know that if not for Enron's collapse we would not consider these important matters today. I am concerned that some want to characterize the Enron collapse as just a case of one bad actor in the market place. I disagree with that interpretation. Enron's collapse has systemic causes. Corporate board of directors, Wall Street analysts, and the big five accounting firms all have an economic incentive to provide biased analysis of large, profitable companies.

Enron used its political ties to persuade the government to carry out its business plan. Just take a look at California, President Bush, his regulators, and congressional Republicans opposed price caps for consumers while Enron manipulated the market, causing the California energy crisis. Enron had incredible access to the White House. President Bush received over $736,000 throughout his career as an elected official. Vice President CHENEY had at least six meetings with Enron officials while drafting the Administration's energy plan. Enron's economic and political power effectively muted people who were skeptical of the company's economic stability. Enron is not an isolated case and this is not only a business scandal it is also a political scandal.

The fact of the matter is we do not have the laws and procedures in place to protect common investors. I have little doubt that corporate executives' greed and deception will victimize more people. We in Congress cannot simply rely on free market dogma. The American people deserve better than this sham of a reform bill.

I am a member of the Financial Services Committee and I voted against final passage of this cosmetic excuse for a bill. I am dismayed to report that Republicans on the committee refused to even pass an amendment that called for CEO's and CFO's to certify financial statements. I think most Americans would be surprised to learn that this is not a requirement that already exists.

Employees and pension managers must be involved in corporate decision making. Boards that are dominated by corporate executives are inherently flawed, a lesson we learned from Enron's collapse.

Enron's collapse had a major impact on working families—many lost their life savings while Enron's executives gained millions. It is estimated that Illinois' state pension fund lost $25 million. That means that hard working teachers, police officers, and firefighters who worked for the public good may not be able to enjoy their hard-earned retirement. Back home in my home Chicago thousands of Andersen employees have, through no fault of their own, lost their jobs. For this reason, as well as many others, it is important that we do act in order to prevent those kinds of layoffs and to protect investors and pension holders from unfettered corporate greed. I hope that the final bill that is sent to the President's desk will make real reforms that will help prevent this from occurring, again.

A real reform bill will:

Make sure that our auditors are independent.

Create a strong public regulatory body that does not have conflict of interest or financial ties to the industry being regulated.

Ensure that investors have at least the same rights and receive the same treatment as corporate executives.

Ensure those employees, investors and pension holders have access to pertinent information and participate in corporate decision making.

Ensure that Enron executives cannot keep the money they stole from their employees and investors.

Our ranking member, JOHN LAFALCE, has crafted an alternative that will accomplish these goals. Please join me in voting for his substitute.

Mr. OXLEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from New York (Mr. LAFALCE).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. LAFALCE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 202, noes 219, not voting 13, as follows:

[Roll No. 108]

AYES—202

Abercrombie	Bentsen	Brady (PA)
Ackerman	Berkley	Brown (FL)
Allen	Berman	Brown (OH)
Andrews	Berry	Capps
Baca	Bishop	Capuano
Baird	Blumenauer	Cardin
Baldacci	Bonior	Carson (IN)
Baldwin	Borski	Carson (OK)
Barcia	Boswell	Clay
Barrett	Boucher	Clayton
Becerra	Boyd	Clement

Clyburn	Johnson, E. B.	Owens
Condit	Jones (OH)	Pallone
Conyers	Kanjorski	Pascrell
Costello	Kaptur	Pastor
Coyne	Kennedy (RI)	Payne
Cramer	Kildee	Pelosi
Crowley	Kilpatrick	Phelps
Cummings	Kind (WI)	Pomeroy
Davis (CA)	Kleczka	Price (NC)
Davis (FL)	Kucinich	Rahall
Davis (IL)	LaFalce	Rangel
DeFazio	Lampson	Reyes
Delahunt	Langevin	Rivers
DeLauro	Lantos	Ross
Deutsch	Larsen (WA)	Rothman
Dicks	Larson (CT)	Roybal-Allard
Dingell	Lee	Rush
Doggett	Levin	Sabo
Dooley	Lewis (GA)	Sanchez
Doyle	Lipinski	Sanders
Edwards	Lofgren	Sandlin
Engel	Lowey	Sawyer
Eshoo	Luther	Schakowsky
Etheridge	Lynch	Schiff
Evans	Maloney (CT)	Scott
Farr	Maloney (NY)	Serrano
Fattah	Markey	Sherman
Filner	Mascara	Skelton
Ford	Matheson	Slaughter
Frank	Matsui	Snyder
Frost	McCarthy (MO)	Solis
Gephardt	McCarthy (NY)	Spratt
Gonzalez	McCollum	Stenholm
Gordon	McDermott	Strickland
Green (TX)	McGovern	Stupak
Gutierrez	McInnis	Tanner
Hall (OH)	McIntyre	Tauscher
Hall (TX)	McKinney	Taylor (MS)
Harman	McNulty	Thompson (CA)
Hastings (FL)	Meehan	Thompson (MS)
Hill	Meek (FL)	Thurman
Hilliard	Meeks (NY)	Tierney
Hinchey	Menendez	Towns
Hinojosa	Millender-McDonald	Turner
Hoeffel	Miller, George	Udall (CO)
Holden	Mink	Udall (NM)
Holt	Mollohan	Velazquez
Honda	Moore	Visclosky
Hooley	Moran (VA)	Waters
Hoyer	Murtha	Watson (CA)
Inslee	Nadler	Watt (NC)
Israel	Napolitano	Waxman
Jackson (IL)	Neal	Weiner
Jackson-Lee (TX)	Oberstar	Wexler
Jefferson	Olver	Woolsey
John	Ortiz	Wu
		Wynn

NOES—219

Aderholt	Crenshaw	Hansen
Akin	Cubin	Hart
Armey	Culberson	Hastings (WA)
Bachus	Cunningham	Hayes
Baker	Davis, Jo Ann	Hayworth
Ballenger	Deal	Hefley
Barr	DeLay	Herger
Bartlett	DeMint	Hilleary
Barton	Diaz-Balart	Hobson
Bass	Doolittle	Hoekstra
Bereuter	Dreier	Horn
Biggert	Duncan	Hostettler
Bilirakis	Dunn	Hulshof
Blunt	Ehlers	Hunter
Boehlert	Ehrlich	Hyde
Boehner	Emerson	Isakson
Bonilla	English	Issa
Bono	Everett	Istook
Boozman	Flake	Jenkins
Brady (TX)	Fletcher	Johnson (CT)
Brown (SC)	Foley	Johnson (IL)
Bryant	Forbes	Johnson, Sam
Burr	Fossella	Jones (NC)
Burton	Frelinghuysen	Keller
Buyer	Gallegly	Kelly
Callahan	Ganske	Kennedy (MN)
Calvert	Gekas	Kerns
Camp	Gibbons	King (NY)
Cannon	Gillmor	Kingston
Cantor	Gilman	Kirk
Capito	Goode	Knollenberg
Castle	Goodlatte	Kolbe
Chabot	Goss	LaHood
Chambliss	Graham	Latham
Coble	Granger	LaTourette
Collins	Graves	Leach
Combest	Green (WI)	Lewis (CA)
Cooksey	Greenwood	Lewis (KY)
Cox	Grucci	Linder
Crane	Gutknecht	LoBiondo
Lucas (KY)	Putnam	Smith (NJ)
Lucas (OK)	Quinn	Smith (TX)
Manzullo	Radanovich	Souder
McCrery	Ramstad	Stearns
McHugh	Regula	Stump
McKeon	Rehberg	Sullivan
Mica	Reynolds	Sununu
Miller, Dan	Riley	Sweeney
Miller, Gary	Roemer	Tancredo
Miller, Jeff	Rogers (KY)	Tauzin
Moran (KS)	Rogers (MI)	Taylor (NC)
Morella	Rohrabacher	Terry
Myrick	Ros-Lehtinen	Thomas
Nethercutt	Roukema	Thornberry
Ney	Royce	Tiahrt
Northup	Ryan (WI)	Tiberi
Norwood	Ryun (KS)	Toomey
Nussle	Saxton	Upton
Osborne	Schaffer	Vitter
Ose	Schrock	Walden
Otter	Sensenbrenner	Walsh
Oxley	Sessions	Wamp
Paul	Shadegg	Watkins (OK)
Pence	Shaw	Weldon (FL)
Peterson (MN)	Shays	Weldon (PA)
Peterson (PA)	Sherwood	Weller
Petri	Shimkus	Whitfield
Pickering	Shows	Wicker
Pitts	Shuster	Wilson (NM)
Platts	Simmons	Wilson (SC)
Pombo	Simpson	Wolf
Portman	Skeen	Young (AK)
Pryce (OH)	Smith (MI)	Young (FL)

NOT VOTING—13

Blagojevich	Houghton	Thune
Davis, Tom	Obey	Traficant
DeGette	Rodriguez	Watts (OK)
Ferguson	Smith (WA)	
Gilchrest	Stark	

□ 1440

Mr. JOHNSON of Illinois and Mr. YOUNG of Alaska changed their vote from ''aye'' to ''no.''

Messrs. UDALL of Colorado, MCINNIS and BARCIA changed their vote from ''no'' to ''aye.''

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. WATTS of Oklahoma. Mr. Chairman, on rollcall No. 108, I was inadvertently detained. Had I been present, I would have voted ''no.''

Mr. FERGUSON. Mr. Chairman, on rollcall No. 108, I was unavoidably detained. Had I been present, I would have voted ''no.''

The CHAIRMAN. There being no further amendments permitted under the rule, the question is on the committee amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LAHOOD) having assumed the chair, Mr. SWEENEY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3763) to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, and for other purposes, pursuant to House Resolution 395, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. LAFALCE

Mr. LAFALCE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. LAFALCE. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. LAFALCE moves to recommit the bill H.R. 3763 to the Committee on Financial Services with instructions to report the same back to the House forthwith with the following amendment:

AMENDMENT TO H.R. 3763, AS REPORTED OFFERED BY MR. LAFALCE OF NEW YORK

(executive responsibility)

Strike sections 11 and 12 and insert the following (and redesignate the succeeding sections and conform the table of contents accordingly):

SEC. 11. REMOVAL OF UNFIT CORPORATE OFFICERS.

(a) REMOVAL IN JUDICIAL PROCEEDINGS.—

(1) SECURITIES ACT OF 1933.—Section 20(e) of the Securities Act of 1933 (15 U.S.C. 77t(e)) is amended by striking ''substantial unfitness'' and inserting ''unfitness''.

(2) SECURITIES EXCHANGE ACT OF 1934.—Section 21(d)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)(2)) is amended by striking ''substantial unfitness'' and inserting ''unfitness''.

(b) REMOVAL IN ADMINISTRATIVE PROCEEDINGS.—

(1) SECURITIES ACT OF 1933.—Section 8A of the Securities Act of 1933 (15 U.S.C. 77h–1) is amended by adding at the end the following new subsection:

''(f) AUTHORITY TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 17(a)(1) of this title from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of the Securities Exchange Act of 1934 or that is required to file reports pursuant to section 15(d) of that Act if the person's conduct demonstrates unfitness to serve as an officer or director of any such issuer.''.

(2) SECURITIES EXCHANGE ACT OF 1934.—Section 21C of the Securities Exchange Act of 1934 (15 U.S.C. 78u–3) is amended by adding at the end the following new subsection:

''(f) AUTHORITY TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 10(b) of this title or the rules or regulations thereunder from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of this title or that is required to file reports pursuant to section 15(d) of

this title if the person's conduct demonstrates unfitness to serve as an officer or director of any such issuer.''.

SEC. 12. DISGORGEMENT REQUIRED.

(a) ADMINISTRATIVE ACTIONS.—Within 30 days after the date of enactment of this Act, the Securities and Exchange Commission shall prescribe regulations to require disgorgement, in a proceeding pursuant to its authority under section 21A, 21B, or 21C of the Securities Exchange Act of 1934 (15 U.S.C. 78u–1, 78u–2, 78u–3), of salaries, commissions, fees, bonuses, options, profits from securities transactions, and losses avoided through securities transactions obtained by an officer or director of an issuer during or for a fiscal year or other reporting period if such officer or director engaged in misconduct resulting in, or made or caused to be made in, the filing of a financial statement for such fiscal year or reporting period which—

(1) was at the time, and in the light of the circumstances under which it was made, false or misleading with respect to any material fact; or

(2) omitted to state a material fact necessary in order to make the statements made, in the light of the circumstances in which they were made, not misleading.

(b) JUDICIAL PROCEEDINGS.—Section 21(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)) is amended by adding at the end the following new paragraph:

''(5) ADDITIONAL DISGORGEMENT AUTHORITY.—In any action or proceeding brought or instituted by the Commission under the securities laws against any person—

''(A) for engaging in misconduct resulting in, or making or causing to be made in, the filing of a financial statement which—

''(i) was at the time, and in the light of the circumstances under which it was made, false or misleading with respect to any material fact; or

''(ii) omitted to state a material fact necessary in order to make the statements made, in the light of the circumstances in which they were made, not misleading; or

''(B) for engaging in, causing, or aiding and abetting any other violation of the securities laws or the rules and regulations thereunder,

such person, in addition to being subject to any other appropriate order, may be required to disgorge any or all benefits received from any source in connection with the conduct constituting, causing, or aiding and abetting the violation, including (but not limited to) salary, commissions, fees, bonuses, options, profits from securities transactions, and losses avoided through securities transactions.''.

SEC. 13. CEO AND CFO ACCOUNTABILITY FOR DISCLOSURE.

(a) REGULATIONS REQUIRED.—The Securities and Exchange Commission shall by rule require, for each company filing periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o(d)), that the principal executive officer or officers and the principal financial officer or officers, or persons performing similar functions, certify in each annual or quarterly report filed or submitted under either such section of such Act that—

(1) the signing officer has reviewed the report;

(2) based on the officer's knowledge, the report does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which such statements were made, not misleading;

(3) based on such officer's knowledge, the financial statements, and other financial information included in the report, fairly present in all material respects the financial condition and results of operations of the issuer as of, and for, the periods presented in the report;

(4) the signing officers—

(A) are responsible for establishing and maintaining internal controls;

(B) have designed such internal controls to ensure that material information relating to the issuer and its consolidated subsidiaries is made known to such officers by others within those entities, particularly during the period in which the periodic reports are being prepared;

(C) have evaluated the effectiveness of the issuer's internal controls as of a date within 90 days prior to the report; and

(D) have presented in the report their conclusions about the effectiveness of their internal controls based on their evaluation as of that date;

(5) the signing officers have disclosed to the issuer's auditors and the audit committee of the board of directors (or persons fulfilling the equivalent function)—

(A) all significant deficiencies in the design or operation of internal controls which could adversely affect the issuer's ability to record, process, summarize, and report financial data and have identified for the issuer's auditors any material weaknesses in internal controls; and

(B) any fraud, whether or not material, that involves management or other employees who have a significant role in the issuer's internal controls; and

(6) the signing officers have indicated in the report whether or not there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of their evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

(b) DEADLINE.—The rules required by subsection (a) shall be effective not later than 30 days after the date of enactment of this Act.

In section 21, strike ''and 15'' and insert ''and 16''.

Mr. LAFALCE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The gentleman from New York is recognized for 5 minutes on his motion to recommit.

Mr. LAFALCE. Mr. Speaker, I am trying to make the motion to recommit easy to vote for and very difficult to vote against, and how am I doing this?

First of all, I am taking the Republican bill that has been passed in its entirety with three exceptions, and the exceptions were all called for by President George Bush who offered a 10-point plan. Three of those points require, in my judgment, legislation.

The Republican bill does nothing about it. The motion to recommit would report out the bill that the floor has just reported, but with the three separate addition. What are they? First of all, let me read from the President's proposal.

The President in proposal Number 3 says, CEOs should personally vouch for the veracity, timeliness and fairness of their company's public disclosures, including their financial statements. CEOs would personally attest each quarter that the financial statements and company disclosures accurately and fairly disclose the information of which the CEO is aware that a reasonable investor should have to make an informed investment decision. The Republican version leaves it up to corporate America to do this or not do this. The motion to recommit legislatively codifies this Presidential recommendation.

Secondly, the President said, CEOs or other officers should not be allowed to profit from erroneous financial statements. We codify that, too, and they say cannot profit from it and we could obtain their moneys back.

□ 1445

The motion to recommit also deals in a markedly different way from the Republican bill with respect to the surrendering of officer compensation, including stock bonuses and other incentive pay. The motion to recommit empowers the SEC, in either an administrative proceeding or in court, to seek such disgorgement.

The Republican bill says that the SEC shall study the issue and then, if they make a determination that it is warranted, they can go back and seek disgorgement, but only for what took place in the past 6 months; and if something took place 7 months or so ago, they made $10 million, $20 million, and they are home free under the Republican bill. That is an absurdity.

Vote for the motion to recommit.

And then, third, I want to read to my colleagues from a speech given by the head of enforcement of President Bush's SEC just about a month or so ago. He is referring to judicially decreed tests that you have to adhere to before you can declare an officer or director unfit to serve at a future firm. And he says, ''These tests, which require, amongst other things, a showing that the misconduct at issue is likely to recur, has created an unreasonably high standard for obtaining a bar. The result has been, unbelievably, that in some cases courts have refused to impose permanent officer and director bars on individuals who have engaged in egregious, even criminal misconduct.''

What do the Republicans do? They codify that test that the SEC denounces. We give the SEC the authority they have said they need in order to bar such individuals who are unfit from serving as future officers and directors.

The only reason to vote against the motion to recommit is partisanship. We ought to transcend that, because we are taking the Republican bill and President Bush's recommendations which we have codified. Do not go home and say that you have passed something that is meaningful when corporate America and the accounting firms and Wall Street are going to give you a pat on the back for letting them escape once again.

Mr. OXLEY. Mr. Speaker, I rise in strong opposition to the motion to recommit.

Mr. BAKER. Mr. Speaker, will the gentleman yield?

Mr. OXLEY. I yield to the gentleman from Louisiana, the chairman of the Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises.

Mr. BAKER. Mr. Speaker, I thank the gentleman for yielding to me.

It was 1896, and the Dow Jones industrial average was constructed. Today, 106 years later, only one United States corporation remains in existence that was included in that publication of that first Dow Jones average.

Capital markets, free markets, are difficult because of the enormous competition that exists to succeed, but it yields tremendous benefit for us all. Today, we are about a debate in how to best regulate those aberrant actors in the marketplace.

Let it be understood, the vast majority of professionals who conduct their business in all sectors of the marketplace today, are that, professional. We are acting today to identify those few aberrant actors who have brought about great harms to innocent third parties. And act we shall.

It is important to recognize that in constructing this regulatory or legislative oversight that we not go too far. In evidence of the point, this bill came out of our committee by a 16-to-12 vote by Democrat Members. They see it as reasonable. They see it as an appropriate first step.

We have a higher obligation. All those working families today who struggle to make ends meet and invest either in their 401(k) by payroll deduction or by putting that $200 online investment through their computer at home expect fairness. That is what this bill is about: honest, transparent disclosure, so you can make informed decisions for your family to buy that first home, invest for your children's education, or for your own retirement.

Inscribed on this wall behind us is an admonition to Members of the House that I read every day. ''Let us develop the resources of the land, call forth its powers, build up its institutions, promote all its great interests, and see whether we also in this hour, day, and generation may perform something worthy to be remembered.''

Daniel Webster is telling us what our job is. Let us make a difference. Let us stand for the working people of America today. Let us not let the Wall Street interests take away people's future by disclosing inappropriate information. That is what this bill is about. It is about standing in the face of those who have abused their corporate and business opportunities to the disinterest of their employees and their investors.

We can make a difference. Vote down the motion to recommit and pass this bill.

Mr. OXLEY. Mr. Speaker, reclaiming my time, the first provision in the amendment which deals with removal of unfit corporate officers is more appropriately addressed in the underlying bill. CARTA, the bill before us, gives the SEC the authority to administratively bar directors and officers from serving in public companies. Under our legislation, the commission no longer would have to go to Federal Court to do this. The SEC must consider a number of factors, longstanding standards used by the courts, in order to make that determination. Our language is endorsed by the White House.

CARTA also prevents corporate officers from profiting from erroneous financial statements. Our legislation was carefully crafted with the focus on bad actors. This language is also endorsed by the White House.

On the issue of CEO certification, we are sympathetic to this well-intentioned legislative provision, but it is important to note that the President never requested legislation to accomplish this objective. The SEC already has the authority to require certification and is currently considering whether to do so. The SEC is in the best position to decide whether and how such a requirement would operate. It would do more harm than good to legislatively mandate what such a rule would look like, and that is exactly what we were told by Chairman Greenspan and Chairman Pitt.

Proponents say this is the President's plan. The fact is, nothing could be further from the truth. Let us be clear. The President endorses the underlying legislation, the CARTA legislation. If my friends want to advance the President's agenda, they should support the underlying bill and reject the motion.

Oppose the motion to recommit. Pass this CARTA legislation, this historic legislation. It is in the best interest of the investing public and the United States.

The SPEAKER pro tempore (Mr. SWEENEY). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. LAFALCE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—ayes 205, noes 222, not voting 7, as follows:

[Roll No. 109]

AYES—205

Abercrombie	Andrews	Baldacci
Ackerman	Baca	Baldwin
Allen	Baird	Barcia
Barrett	Hilliard	Nadler
Becerra	Hinchey	Napolitano
Bentsen	Hinojosa	Neal
Berkley	Hoeffel	Oberstar
Berman	Holden	Obey
Berry	Holt	Olver
Bishop	Honda	Ortiz
Blumenauer	Hooley	Owens
Bonior	Hoyer	Pallone
Borski	Inslee	Pascrell
Boswell	Israel	Pastor
Boucher	Jackson (IL)	Payne
Boyd	Jackson-Lee (TX)	Pelosi
Brady (PA)	Jefferson	Phelps
Brown (FL)	John	Pomeroy
Brown (OH)	Johnson, E. B.	Price (NC)
Capps	Jones (OH)	Rahall
Capuano	Kanjorski	Rangel
Cardin	Kaptur	Reyes
Carson (IN)	Kennedy (RI)	Rivers
Carson (OK)	Kildee	Roemer
Clay	Kilpatrick	Ross
Clayton	Kind (WI)	Rothman
Clement	Kleczka	Roybal-Allard
Clyburn	Kucinich	Rush
Condit	LaFalce	Sabo
Conyers	Lampson	Sanchez
Costello	Langevin	Sanders
Coyne	Lantos	Sandlin
Cramer	Larsen (WA)	Sawyer
Crowley	Larson (CT)	Schakowsky
Cummings	Lee	Schiff
Davis (CA)	Levin	Scott
Davis (FL)	Lewis (GA)	Serrano
Davis (IL)	Lipinski	Sherman
DeFazio	Lofgren	Skelton
DeGette	Lowey	Slaughter
Delahunt	Luther	Snyder
DeLauro	Lynch	Solis
Deutsch	Maloney (CT)	Spratt
Dicks	Maloney (NY)	Stark
Dingell	Markey	Stenholm
Doggett	Mascara	Strickland
Dooley	Matheson	Stupak
Doyle	Matsui	Tanner
Edwards	McCarthy (MO)	Tauscher
Engel	McCarthy (NY)	Taylor (MS)
Eshoo	McCollum	Thompson (CA)
Etheridge	McDermott	Thompson (MS)
Evans	McGovern	Thurman
Farr	McIntyre	Tierney
Fattah	McKinney	Towns
Filner	McNulty	Turner
Ford	Meehan	Udall (CO)
Frank	Meek (FL)	Udall (NM)
Frost	Meeks (NY)	Velazquez
Gephardt	Menendez	Visclosky
Gonzalez	Millender-McDonald	Waters
Gordon	Miller, George	Watson (CA)
Green (TX)	Mink	Watt (NC)
Gutierrez	Mollohan	Waxman
Hall (OH)	Moore	Weiner
Hall (TX)	Moran (VA)	Wexler
Harman	Murtha	Woolsey
Hastings (FL)		Wu
Hill		Wynn

NOES—222

Aderholt	Castle	Foley
Akin	Chabot	Forbes
Armey	Chambliss	Fossella
Bachus	Coble	Frelinghuysen
Baker	Collins	Gallegly
Ballenger	Combest	Ganske
Barr	Cooksey	Gekas
Bartlett	Cox	Gibbons
Barton	Crane	Gillmor
Bass	Crenshaw	Gilman
Bereuter	Cubin	Goode
Biggert	Culberson	Goodlatte
Bilirakis	Cunningham	Goss
Blunt	Davis, Jo Ann	Graham
Boehlert	Davis, Tom	Granger
Boehner	Deal	Graves
Bonilla	DeLay	Green (WI)
Bono	DeMint	Greenwood
Boozman	Diaz-Balart	Grucci
Brady (TX)	Doolittle	Gutknecht
Brown (SC)	Dreier	Hansen
Bryant	Duncan	Hart
Burr	Dunn	Hastings (WA)
Burton	Ehlers	Hayes
Buyer	Ehrlich	Hayworth
Callahan	Emerson	Hefley
Calvert	English	Herger
Camp	Everett	Hilleary
Cannon	Ferguson	Hobson
Cantor	Flake	Hoekstra
Capito	Fletcher	Horn

Hostettler
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—7

Blagojevich
Gilchrest
Houghton
Rodriguez
Smith (WA)
Thune
Traficant

□ 1513

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. SWEENEY). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. OXLEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 334, noes 90, not voting 10, as follows:

[Roll No. 110]

AYES—334

Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Bentsen
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boswell
Boucher
Boyd
Brady (TX)
Brown (FL)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clement
Coble
Collins
Combest
Condit
Cooksey
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Eshoo
Etheridge
Everett
Farr
Ferguson
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Manzullo
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McHugh
McInnis
McIntyre
McKeon
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, Jeff
Moore
Moran (KS)
Moran (VA)
Morella
Myrick
Napolitano
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Pallone
Pascrell
Pastor
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reyes
Reynolds
Riley
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Royce
Ryan (WI)
Ryun (KS)
Sanchez
Sandlin
Saxton
Schaffer
Schiff
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (NJ)
Smith (TX)
Snyder
Souder
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thurman
Tiahrt
Tiberi
Toomey
Towns
Turner
Udall (CO)
Upton
Velazquez
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watt (NC)
Watts (OK)
Weiner
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NOES—90

Abercrombie
Ackerman
Baldwin
Barrett
Becerra
Berman
Bonior
Borski
Brady (PA)
Brown (OH)
Carson (IN)
Clayton
Clyburn
Conyers
Coyne
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dingell
Doggett
Engel
Evans
Fattah
Filner
Flake
Frank
Gephardt
Hastings (FL)
Hinchey
Honda
Jackson (IL)
Jackson-Lee (TX)
Jones (OH)
Kanjorski
Kaptur
Kildee
Kilpatrick
Kucinich
LaFalce
Larson (CT)
Lee
Levin
Lewis (GA)
Lowey
Lynch
Maloney (NY)
Markey
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Miller, George
Mink
Mollohan
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Owens
Paul
Payne
Pelosi
Rahall
Rangel
Rivers
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schakowsky
Scott
Serrano
Slaughter
Solis
Stark
Tierney
Udall (NM)
Visclosky
Waters
Watson (CA)
Waxman
Wexler
Woolsey

NOT VOTING—10

Blagojevich
Gilchrest
Houghton
Kolbe
Rodriguez
Shows
Smith (MI)
Smith (WA)
Thune
Traficant

□ 1524

Mr. NEAL of Massachusetts and Mr. RUSH changed their vote from ''aye'' to ''no.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. OXLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on H.R. 3763, the bill just passed.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Is there objection to the request of the gentleman from Ohio?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 3763, CORPORATE AND AUDITING ACCOUNTABILITY, RESPONSIBILITY, AND TRANSPARENCY ACT OF 2002

Mr. OXLEY. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 3763, the Clerk be authorized to correct section numbers, punctuation, and cross references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

PERSONAL EXPLANATION

Mr. HASTINGS of Florida. Mr. Speaker, from April 16, 2002, through April 18, 2002, I was absent from the House of Representatives proceedings because I was fulfilling my duties as a

member of the Helsinki Commission and Vice President of the Parliamentary Assembly of the Organization for Security and Cooperation in Europe.

While serving in this capacity, I missed rollcall votes 93, 94, 95, 96, 97, 98, 99, 100, 101, 102 and 103. Had I been present for these votes, I would have voted the following way: On 93, yes; 94, yes; 95, yes; 96, yes; 97, no; 98, no; 99, no; 100, no; 101, no; 102, no; and 103, no.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3113

Ms. RIVERS. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 3113. It was erroneously included.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Michigan?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, this afternoon I would like to address during my 5 minutes the Armenian genocide. Today, of course, is April 24. The Armenian genocide began over 85 years ago, on April 24 in 1915. Why are we here? Why am I? The gentleman from Michigan (Mr. KNOLLENBERG), who is the cochair of the Armenian Caucus, is with me who has been a champion over the years of trying to bring an Armenian genocide recognition resolution to the floor of the House and to the Congress so that we finally would pass it. We are here because we feel very strongly that the Armenian genocide has not been properly recognized in the U.S. House, in this Congress and also by the President.

There is no need, I guess, to go into the reasons. We all know the reasons. And they are that the Turkish Government is very strenuous in its opposition and constantly exerts pressure on the President, on the Congress, on the leadership of the Houses not to bring a resolution up that would recognize the genocide.

I have maintained for years that that is a huge mistake on the part of the Turkish Government to use that kind of leverage against our Government, in part because the fact of the matter is the genocide occurred and it is a huge mistake to try to cover it up. We know that if genocide occurs and it is covered up, it will occur again. History tells us that. But beyond that, it is also a mistake because until the time comes when the Turkish Government is willing to recognize the genocide, there never will be what I call the cleansing effect that Turkey needs to go through with its leaders and with its population to make sure that they recognize this horrible series of events, and they do not have the events reoccur, that they do not continue to persecute minorities, including the Armenian minority that still exists in a very minimum amount in the state of Turkey today.

What we have done this year is the gentleman from Michigan (Mr. KNOLLENBERG) and I within the Armenian Caucus have circulated a letter asking President Bush tomorrow to use the word ''genocide'' and recognize the genocide in his address that he and other Presidents have done now for many years. President Bush to his credit has been a friend of Armenia and a friend of U.S.-Armenia relations and the two countries growing closer together. During his campaign, he repeatedly made statements about the Armenian genocide and used the term ''genocide.'' Unfortunately, like his predecessors, both Democrat and Republican, once they took office we do not see the word ''genocide'' used.

□ 1530

We do ask the President, we do call upon him tomorrow when he commemorates and when he issues a statement about the Armenian genocide, to use the term ''genocide'' because, in fact, it was a purposeful, intentional State act that occurred in 1915. It was not a coincidence. It was not a mishap. It was not a civil war. It was an intentional act on the part of the then Turkish Government to perpetrate a genocide against the Armenian people.

We have, I believe, 163 cosponsors of that letter to the President. We have another 5 or 10 Members on a bipartisan basis who sent similar letters on their own, individually, to the President asking that he do so, and I hope sincerely that he does tomorrow.

Let me say this, though. The issue of the genocide is important not only because of the past and because we do not want to repeat the mistakes of the past, but also because the actions of the Turkish Government today continue to perpetrate the genocide. As I mentioned, there are not that many Armenians who are now living in Turkey, but there are a few thousand, and those people that live there today continue to be discriminated against. The Turkish Government makes it very difficult for them to practice their Christian Armenian orthodox religion. There are limitations on their ability to open Armenian schools and teach the Armenian language and Armenian culture. They still face problems in terms of owning property, and their inability to own property or to buy and sell property.

One of the most egregious examples of this took place just in the last few months when two Armenian Americans, American citizens, were encouraged by the Turkish Government to purchase a hotel for tourism purposes in Van, which is the area where many Armenians historically lived. This couple, after they had opened the hotel and purchased the hotel, were basically told to get out. They were told that they would not be reimbursed for this hotel and for their property. They have not been able to operate the hotel. They have not been able to essentially do anything with their business. They have lost their business, they have lost their investment, because the Turkish Government found out that they were of Armenian dissent. Myself and others within our Caucus have sent a letter to the U.S. Ambassador objecting to this.

I want to conclude now, Mr. Speaker, but I just want to say that the genocide continues and the perpetrators of the genocide continue to make it difficult, even for Armenians who live in Turkey, to continue to operate as legitimate citizens.

COMMEMORATION OF ARMENIAN GENOCIDE

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Under a previous order of the House, the gentleman from Michigan (Mr. KNOLLENBERG) is recognized for 5 minutes.

GENERAL LEAVE

Mr. KNOLLENBERG. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on subject of my Special Order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. KNOLLENBERG. Mr. Speaker, as a Republican cochair of the Congressional Caucus on Armenian Issues, I come to the floor on this very special and important day to join my colleagues and individuals around the world in commemorating the 87th anniversary of the Armenian genocide. We must never forget the tragedy of the Armenian genocide, and this commemoration makes an important contribution to making sure that we never do.

I would like to commend my colleague and fellow cochair of the Congressional Caucus on Armenian Issues, the gentleman from New Jersey (Mr. PALLONE), for working with me to help arrange this commemoration, and I appreciate his remarks.

Our Caucus is now up to 114 Members, which I believe shows the incredible support Armenia has in the U.S. House of Representatives. We also, of course, wrote a letter, and the gentleman from New Jersey (Mr. PALLONE) referenced the letter with over 160 signatures that went to the President.

When most people hear the word ''genocide,'' they immediately think of Hitler and his persecution of the Jews during World War II. Many individuals are unaware that the first genocide of

the 20th century occurred during World War I and was perpetrated by the Ottoman Empire against the Armenian people. Concerned that the Armenian people would move to establish their own government, the Ottoman Empire embarked on a reign of terror that resulted in the massacre of over 1.5 million Armenians. This atrocious crime began on April 15, 1915, when the Ottoman Empire arrested, exiled, and eventually killed hundreds of Armenian religious, political, and intellectual leaders.

Once they had eliminated the Armenian people's leadership, they turned their attention to the Armenians serving in the Armenian Army. These soldiers were disarmed and placed in labor camps where either they were starved or they were executed. The Armenian people, lacking political leadership and deprived of young, able-bodied men who could fight against the Ottoman onslaught, were then deported from every region of Turkish Armenia. The images of human suffering from the Armenian genocide are graphic and as haunting as the pictures of the Holocaust.

Why then, it must be asked, are so many people unaware of the Armenian genocide? I believe the answer is found in the international community's response to this disturbing event. At the end of World War I, those responsible for ordering and implementing the Armenian genocide were never brought to justice, and the world casually forgot about the pain and suffering of the Armenian people. That proved to be a grave mistake. In a speech made at the beginning of World War II, Adolf Hitler justified his brutal tactics with the infamous statement, ''Who today remembers the Armenians?''

Tragically, 6 years later, the Nazis had exterminated 6 million Jews. Never has the phrase, ''Those who forget the past will be destined to repeat it'' been more applicable. If the international community had spoken out against this merciless slaughtering of the Armenian people instead of ignoring it, the horrors of the Holocaust might never have taken place.

As we commemorate the 87th anniversary of the Armenian genocide, I believe it is time to give this event its rightful place in history. This afternoon and this evening, let us pay homage to those who fell victim to the Ottoman oppressors and tell the story of the forgotten genocide. For the sake of the Armenian heritage, it is a story that must be heard.

COMMEMORATING THE 87TH ANNIVERSARY OF THE ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. LANGEVIN) is recognized for 5 minutes.

Mr. LANGEVIN. Mr. Speaker, I rise today to commemorate the 87th anniversary of the Armenian genocide and to commend my colleagues, the gentleman from New Jersey (Mr. PALLONE) and the gentleman from Michigan (Mr. KNOLLENBERG), for organizing this Special Order and to remember this solemn occasion.

Over an 8-year period, beginning in 1915, the Ottoman Turkish Empire systematically tortured and murdered 1.5 million Armenians and exiled another half million more. In the years since, Armenian descendents have thrived in the United States and in many other countries, bringing extraordinary vitality and achievement to communities across this Nation and throughout the world.

Tragically, the Turkish Government has refused to acknowledge the Armenian genocide and has made repeated attempts to exonerate itself of any wrongdoing through a shameful propaganda campaign. The victims of the genocide deserve our remembrance and their rightful place in history. It is in the best interests of our Nation and the entire global community to remember the past and learn from these unfortunate events to ensure that they are never repeated.

Earlier this year, the European Union adopted a resolution affirming the Armenian genocide, making it one of the many official bodies, including the Governments of Canada, Argentina, France, Italy, Sweden and Belgium, to do so. Now more than ever, the genocide underscores our responsibility to help convey our cherished tradition of respect for fundamental human rights and opposition to such heinous atrocities. Only through such recognition can the Armenian people hope to feel some measure of compensation for the ultimate injustice perpetrated against their Nation.

As a proud member of the Congressional Caucus on Armenian Issues and an ardent supporter of Rhode Island's Armenian American community, I will continue to encourage my colleagues to hold the Turkish Government accountable for its actions and to honor the memory of those Armenians who suffered and perished nearly a century ago.

COMMEMORATION OF THE ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. HOYER) is recognized for 5 minutes.

Mr. HOYER. Mr. Speaker, I rise to join my colleagues in speaking about the genocide, a genocide, unfortunately, that has not been acknowledged by some and, unfortunately, heightens the risk of its repetition. The massacre of Armenians in Turkey during and after World War I is recorded as the first State-ordered genocide against a minority group in the 20th century. Tragically, Mr. Speaker, it was not, as we all know, the last.

In the 87 years since this unspeakable tragedy, the world has witnessed decades of genocide and ethnic cleansing and wholesale persecution of people simply because of who they are: European Jews, Bosnian Muslims, the Tutsis of Rwanda, Kosovar Albanians, and others.

Mr. Speaker, we undertake this year's commemoration of the Armenian genocide in a world that is forever changed as we reflect on the terrible events of September 11. We understand that confronting irrational hatred and the evil which kindles it remains a constant challenge for us all.

Mr. Speaker, there are those who deny that there was an Armenian genocide, yet there is, of course, no lack of documentation of what occurred during that terrible time. In her powerful new book, A Problem From Hell: America and the Age of Genocide, author Samantha Powers points out that The New York Times gave the Turkish horrors steady coverage, publishing 145 stories in 1915 alone. According to Powers, beginning in March 1915, the paper spoke of Turkish ''massacres,'' ''slaughter,'' and ''atrocities'' against the Armenians, relaying accounts by missionaries, Red Cross officials, local religious authorities, and survivors of mass executions.

The U.S. Ambassador to Turkey at that time, Henry Morgenthau, Sr., cabled Washington on July 10, 1950 stating, ''Persecution of Armenians assuming unprecedented proportions. Reports from widely scattered districts indicate systematic attempt to uproot peaceful Armenian populations and through arbitrary arrests, terrible tortures, wholesale expulsions, and deportations from one end of the empire to the other, accompanied by frequent instances of rape, pillage, and murder, turning into massacre, to bring destruction and destitution on them.'' The tragedy, Mr. Speaker, is that similar language could have been applied during the 1990s in Bosnia-Herzegovina.

Mr. Speaker, those reports came to us, and the West did little. The West did little until the middle of the 1990s and, when we acted, the killing and carnage stopped. Sadly, Mr. Speaker, at that time in 1915, no action, no action was taken to try to save the Armenians because their plight was deemed to be an ''internal affair'' of their government.

Mr. Speaker, I have the privilege of having chaired for 10 years the Commission on Security and Cooperation in Europe, otherwise known as the Helsinki Commission. It oversees the implementation of the Helsinki Final Act, signed August 1, 1975 in Helsinki, Finland. That act, post-genocide of the 1930s and 1940s, adopted the premise that a nation's mistreatment of its own citizens would never be again an internal affair. To that extent, Mr. Speaker, the international community has, in fact, adopted the premise that we are our brothers' and our sisters' keepers.

Decades later, 6 million Jews would perish in the Holocaust before the community of nations would adopt the universal declaration of human rights. Then, as I have said, the Helsinki Final Act, some years later.

The declaration on human rights captured the world's revulsion of that traditional view of international relations and made clear a new norm: how a State treats its own people is of direct and legitimate concern to all States and is not simply an internal affair of the State concerned.

□ 1545

Mr. Speaker, I trust that all of us will urge our Turkish friends who were not involved in this genocide, but who now head their governments, to acknowledge and express their own horror at those acts taken in 1915.

ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. SWEENEY) is recognized for 5 minutes.

Mr. SWEENEY. Mr. Speaker, I, too, join my colleagues and commend my colleagues this evening for working towards educating the world about the Armenian genocide. I am a proud member of the Armenian Caucus, and, Mr. Speaker, I come with some qualifications in that I am one of two Members of Congress from Armenian ancestry.

We continue to take important steps every day, like the planned establishment of an Armenian Genocide Museum and Memorial here in Washington, D.C., but more needs to be done to further educate our citizens about these atrocities.

As we are all well aware, since the latter part of the 21st century, our Nation has been focused on a hotbed of activity in the Middle East. During the past 7 months, we have seen the level of commitment the Nation has dedicated toward the war on terror, but it is vital that the United States recognize, in particular, the 20th century's first instance of genocidal terror, the Armenian genocide.

Mr. Speaker, our country appreciates the importance of a strong partnership with Armenia in these trying times. Armenia continues to move forward alongside our country by pledging assistance as we progress on the war on terror. Now we must move forward with Armenia hand-in-hand by recognizing the past atrocities for what they truly are: a genocide.

I cannot stress enough, Mr. Speaker, that the historical record is clear. From at least 1915 to 1923, the Ottoman Empire succeeded in systematically eliminating the Armenians from the historical homeland where they lived for more than 2000 years.

I would take this moment to point out that this is a particularly personal message from my family to the rest of the world. My grandfather, Oscar Chaderjian, emigrated from Armenia at the beginning of the 21st century, but only after he had been witness to and forced to be involved in the execution of one of his own uncles, a schoolteacher. He was forced to hold one arm with his cousin, whose dad was attached to the other arm, while the Ottoman Turks executed him in front of a classroom full of Armenian children.

Recognizing the severity of the Ottoman Empire's actions, England, France, and Russia jointly issued a statement on May 24, 1950, explicitly charging a government for the first time with a crime against humanity. The Armenian genocide has been acknowledged by not only these nations but also Argentina, Belgium, Canada, Cyprus, Greece, Lebanon, and Uruguay, as well as by international organizations such as the United Nations, the Council of Europe, and the European Parliament.

Furthermore, the U.S. National Archives and Records Administration has broad and thorough documentation of the Armenian genocide; in particular, Record Group 59 of the United States Department of State, files 867.00 and 867.40.

America must take another step and acknowledge the Armenian genocide in history so that we may begin to educate the world as to its effect, and therefore avoid, and serve as a means of avoiding, similar kinds of atrocities in the future.

We must bring awareness of the atrocities that have plagued history in areas such as Armenia, Europe, Cambodia, Rwanda, Bosnia, Kosovo, and Sierra Leone. Acknowledging these events of the past will provide us with the proper tools to ensure peace and stability in the future. Peace and stability must always be a goal of a civilized world.

As always, I am proud to stand with Armenians, and even prouder to be one of them. Mr. Speaker, we call on our friends, the Turks, to recognize that recognizing the actions of the past by other people not of this generation of Turks, not of this Turkish government, is not to condemn the current, but to recognize the past so that we may never repeat it.

RECOGNITION OF THE 1915 ARMENIAN GENOCIDE

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Under a previous order of the House, the gentleman from Illinois (Mr. KIRK) is recognized for 5 minutes.

Mr. KIRK. Mr. Speaker, I rise today to recognize April 24th, 1915 as one of the darkest days of the 20th century. On this day 300 Armenian leaders, writers, religious figures and professionals in Constantinople were gathered together, deported, and brutally murdered. Thousands of Armenian citizens were dragged out of their homes and murdered in the streets. What few citizens remained were taken from their communities and marched off to concentration camps in the desert, where most died of starvation and thirst. The Ottoman Empire systematically deprived Armenians of their homes, property, freedom, and ultimately, their lives. By 1923, 1.5 million Armenian citizens had been murdered, while half a million had been deported.

Today, we must overcome the obstacle of denial. The Armenian Genocide is a historical fact. The United States and the international community must overcome this denial and recognize the horror that took place between 1915 and 1923.

The Armenian people have spent the last ten years courageously establishing an Independent Republic of Armenia. These efforts are a testament to the strength and character of the Armenian people. I strongly support the United States' continued efforts with Armenia to ensure a safe and stabile environment in the Caucasus region.

Today, I join my colleagues in recognizing the Armenian genocide of 1915, and while this is indeed a day of mourning, we must also take this opportunity to celebrate Armenia's commitment towards democracy in the face of adversity.

ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. MALONEY) is recognized for 5 minutes.

Mrs. MALONEY of New York. Mr. Speaker, as a proud member of the Congressional Caucus on Armenian Issues, and the representative of a large and vibrant community of Armenian-Americans, I rise today to join my colleagues in the sad commemoration of the Armenian Genocide.

Today, we continue the crusade to ensure that this tragedy is never forgotten. This 87th anniversary of the Armenian Genocide is an emotional time. The loss of life experienced by so many families is devastating. But, in the face of the systematic slaughter of 1.5 million people, the Armenian community has persevered with a vision of life and of freedom.

Armenian Americans are representative of the resolve, bravery, and strength of spirit that is so characteristic of Armenians around the world. That strength carried them through humanity's worst: Upheaval from a homeland of 3,000 years, massacre of kin, and deportation to foreign lands. That same strength gathers Armenians around the world to make certain that this tragedy is never forgotten.

Without recognition and remembrance, this atrocity remains a threat to nations around the world. I've often quoted philosopher George Santayana who said: ''Those who do not remember the past are condemned to repeat it.'' And to remember, we must first acknowledge what it is—Genocide.

As another scholar stated: ''Denial of genocide is the final stage of genocide; it is what Elie Wiesel has called ''double killing.'' Denial murders the dignity of the survivors and seeks to destroy the remembrance of the crime.''

Tragically, more than 1.5 million Armenians were systematically murdered at the hands of the Young Turks. More than 500,000 were deported. It was brutal. It was deliberate. It was an organized campaign and it lasted more than 8 years. We must make certain that we remember.

Now, we must assure that the world recognizes that Armenian people have remembered, and they have survived and thrived.

Out of the crumbling Soviet Union, the Republic of Armenia was born, and independence was gained. But, independence has not ended the struggle.

To this day, the Turkish government denies that genocide of the Armenian people occurred and denies its own responsibility for the deaths of 1.5 million people.

In response to this revisionist history, the Republic of France passed legislation that set the moral standard for the international community. The French National Assembly unanimously passed a bill that officially recognizes the massacre of 1.5 million Armenians in Turkey during and after WWI as genocide.

Several nations have since joined in the belief that history should be set straight.

Canada, Argentina, Belgium, Lebanon, The Vatican, Uruguay, the European parliament, Russia, Greece, Sweden and France, have authored declarations or decisions confirming that the genocide occurred. As a country, we must join these nations in recognition of this atrocity.

Two years ago I joined numerous Members in support of the International Relations Committee's Armenian Genocide Resolution. As may of you remember, the resolution passed and was sent to the full House for a vote. Though the resolution was withdrawn, the Congress had taken its stand. We must demand that the United States officially acknowledge the forced exile and annihilation of 1.5 million people as genocide.

Denying the horrors of those years merely condones the behavior in other places as was evidenced in Rwanda, Indonesia, Burundi, Sri Lanka, Nigeria, Pakistan, Ethiopia, Sudan, and Iraq. Silence may have been the signal to perpetrators of these atrocities that they could commit genocide, deny it, and get away with it.

As Americans, the reminder of targeted violence and mass slaughter is still raw. We lost nearly 3,000 people on September 11th. I cannot imagine the world trying to say that this did not occur. The loss of 1.5 million people is a global tragedy.

A peaceful and stable South Caucasus region is clearly in the U.S. national interest. Recognizing the genocide must be a strategy for this goal in an increasingly uncertain region. One of the most important ways in which we an honor the memory of the Armenian victims of the past is to help modern Armenia build a secure and prosperous future.

The United States has a unique history of aid to Armenia, being among the first to recognize that need, and the first to help. I am pleased with the U.S. involvement in the emphasis of private sector development, regionally focused programs, people-to-people linkages and the development of a civil society.

Other reform has included the 1998 five part Comprehensive Market Reform Program, tax and fiscal reform, modernization of tax offices, land registration, capital markets development, and democratic and legal reforms.

Armenia has made impressive progress in rebuilding a society and a nation in the face of dramatic obstacles.

I will continue to take a strong stand in support of Armenia's commitment to democracy, the rule of law, and a market economy—I am proud to stand with Armenia in doing so. But there is more to be done. Conflict persists in the Nagorno-Karabaugh region.

Congress has provided funding for confidence building in that region, and I will continue in my support of that funding and the move towards a brighter future for Armenia. But in building our future, we must not forget our past. That is why I strongly support the efforts of the Armenian community in the construction of the Armenian Genocide Memorial and Museum. Because so many Armenians have spoken of the destruction they have made certain that we remember.

Last Sunday, I met with Vickie Smith Foston, the author of Victoria's Secret: A Conspiracy of Silence. Through this story, we learn about the historical journey of a lifetime that preceded her grandmother's leap to her death on March 9, 1950 and the danger of silence.though her family tried desperately to hide and conceal their identity, Vickie discovers a past that was to be buried with Victoria—her family's Armenian heritage and the horrors of the Armenian Genocide.

This book forces the reader to remember. Now we must make certain that the world remembers.

87TH ANNIVERSARY OF THE ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WEINER) is recognized for 5 minutes.

Mr. WEINER. Mr. Speaker, I rise today to commemorate the 87th anniversary of the Armenian Genocide.

On April 24, 1915, the government of the Ottoman-Turkish Empire rounded up approximately 600 leaders and intellectuals of the Armenian community and executed them. This was the beginning of the first genocide of the 20th Century.

Shortly after that, the Ottoman-Turkish government disarmed all of the Armenian soldiers in the Turkish army, separated them from their units and executed them, too.

From 1915 to 1923 the Ottoman-Turkish government, on a systematic campaign to wipe out the Armenians, killed more than 1.5 million men, women, and children.

Despite the eyewitness accounts from then U.S. Ambassador to the Ottoman Empire, Henry Morgenthau, detailing the events in 1915, the U.S. government did nothing. And if that isn't bad enough, since 1915 the U.S. has refused to recognize that the Armenian Genocide even occurred.

Elie Wiesel has called the denial of the genocide a ''double killing'': ''denial of genocide,'' he wrote, ''seeks to reshape history in order to demonize the victims and rehabilitate the perpetrators and is, in effect, the final stage of genocide.''

And Elie Wiesel was right. But what is most horrific, is that today, 87 years after the Armenian Genocide began, the United States still has yet to officially recognize this tragedy.

We came close in the 106th Congress when a vote was scheduled on House Resolution 398. This resolution would have acknowledged the Armenian Genocide and provided training for our Foreign Service officers so they would be able to recognize and react to ethnic cleansing and genocide. But a vote never occurred. We chose not to act.

Last year, in April 2001, the President called the events of 1915 a ''forced exile and annihilation'' but he would not call this a genocide.

Some listening to this debate may wonder why it is so important that we bring this message to the House floor year, after year, after year. Simple. It is important for two reasons. The first is that we must honor those who lost their lives during the fall of the Ottoman Empire. The second reason is that while the Armenian Genocide was the first Genocide of the 20th Century, it was not the last. In Germany in the 1930s, Cambodia in the 1970's, Yugoslavia in the 1990s, and Rwanda in 1994 we saw history repeat itself again, and again and again and again.

Until the United States is willing to acknowledge the Armenian Genocide and take concrete steps to acknowledge this tragedy, we cannot say that we are any closer to preventing this from happening again.

I thank the gentleman from New Jersey and the gentleman from Michigan for arranging this very important special order today and yield back the balance of my time.

REMEMBERING THE 87TH ANNIVERSARY OF THE ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. BILIRAKIS) is recognized for 5 minutes.

Mr. BILIRAKIS. Mr. Speaker, I rise today to join my colleagues in commemorating one of the most appalling violations of human rights in all of modern history—the eighty-seventh anniversary of the Armenian genocide. I want to commend my colleagues Representatives JOE KNOLLENBERG and FRANK PALLONE, the co-chairs of the Congressional Caucus on Armenian Issues, for once again sponsoring this special order.

Each year, we join the world in the commemoration of the Armenian genocide because the tragedy of lost lives through ethnic cleansing must not be forgotten. By remembering the bloodshed and atrocities committed against the Armenian people, we hope to prevent similar tragedies from occurring in the future.

On April 24, 1915, 200 Armenian leaders, scholars, and professionals were gathered, deported, and killed in Constantinople. Later that day, 5,000 more Armenians were butchered in their homes and on the streets of the city. By 1923, two million men, women, and children had been murdered and another 500,000 Armenian survivors were homeless and exiled. The Armenian genocide was the first of the twentieth century, but unfortunately as we all know, it was not the last.

Talat Pasha, one of the Ottoman rulers, stated that the regime's goal was to ''thoroughly liquidate its internal foes, the indigenous Christian.'' The regime called the mass murder a mass relocation, masking its horrendous acts from the rest of the world. The Ottoman Empire was fully aware that the possibility of foreign intervention was minimal considering the world was preoccupied with World War I at the time.

However, the massacre was immediately denounced by representatives from Britain, France, Russia, and the United States. Even Germany and Austria, allies of the Ottoman Empire in the First World War, condemned the Empire's heinous acts.

Henry Morgenthau, U.S. Ambassador to Constantinople at the time, vividly documented the massacre of 1.5 million Armenians with the statement, ''I am confident that the whole

history of the human race contains no such horrible episode as this. The great massacres and persecutions of the past seem almost insignificant when compared to the sufferings of the Armenian race in 1915.''

Winston Churchill used the word ''holocaust'' to describe the Armenian massacres when he said that, ''in 1915 the Turkish government began and ruthlessly carried out the infamous general massacre and deportation of Armenians in Asia Minor . . . [the Turks were] massacring uncounted thousands of helpless Armenians—men, women, and children together; whole districts blotted out in one administrative holocaust—these were beyond human redress.''

We must recognize the enormity of this act as one of the darkest chapters in world history. Only at that point can we truly take account of the severity of loss and honor the memory of the two million Armenians and others that were murdered during the genocide.

The orchestrated extermination of people is contrary to the values the United States espouses. We are a nation which strictly adheres to the affirmation of human rights everywhere. No one can erase a horrendous historical fact by ignoring what so many witnessed and survived.

Recognition and acceptance of misdeeds are necessary steps toward its extinction. Without acceptance, there is no remorse, and without remorse, there is no catharsis and pardon. We all want to forget these horrific tragedies in our history and bury them in the past. However, it is only through the painful process of acknowledging and remembering that we can prevent similar iniquity in the future.

As recently as the year 2000, the United States, together with many European nations, took an active part in halting the genocidal events occurring in Kosovo. We cannot turn our heads from similar events that happened to the Armenian people. By remaining silent, we set a dangerous precedent, and in essence, we condone the horrific act.

The survivors of the Armenian genocide and their descendants have made great contributions to every country in which they have settled, including the United States where they have made their mark in business, the professions and our cultural life.

In closing, I would like to ask that we all take a moment to reflect upon the hardships endured by the Armenians, and acknowledge that in the face of adversity, the Armenian people have persevered. Today, we commemorate the memories of those who lost their lives in the genocide, as well as the resilience of those who survived.

Mr. CROWLEY. Mr. Speaker, this April marks the 87th anniversary of the Armenian Genocide, when the Ottoman Empire killed 1.5 million Armenians and exiled over 500,000 more during an eight-year-long reign of terror. By recognizing these events, we can hopefully prevent similar horrors from occurring again. To recognize the Armenian Genocide, however, the United States must affirm that a genocide indeed occurred. To date, President Bush has refused to acknowledge that the events of 1915 to 1923 comprised acts of genocide.

I have joined 101 other members of Congress in signing a letter to President Bush urging him to recognize the Armenian Genocide. Doing so will place the United States in the company of the European Union, Canada, Russia, and other members of the international community.

History has a way of rewarding those who have suffered. Today, after centuries of Turkish domination and eighty years of Soviet domination, an independent Republic of Armenia is an upstanding, sovereign member of the family of nations. The United States must continue to help the government in Yerevan guarantee its security, develop its economy, and institutionalize its democracy.

As a member of International Relations Committee and Congressional Caucus on Armenia, I will continue to argue strongly for policies benefiting Armenia. My district includes many Armenians, especially in Woodside, and I have listened to the concerns of the Armenian-American Community there many times. I have worked tirelessly to promote the interests of Armenia and the Armenian-American community, including:

Augmenting the Administration's 2003 budget request for Armenia. The Bush Administration's 2003 budget requests only $70 million in bilateral assistance funds for Armenia, $20 million less than Congress appropriated in 2002. Similarly, The Administration requested only $3 million, a $1 million decrease from the 2002 appropriation, in Foreign Military Financing (FMF) to help the Armenian armed forces guarantee the security of the nation. The higher figures must be restored.

Insisting that any regional oil pipeline pass through Armenia.

Maintaing Section 907 in the 2002 Freedom Support Act, which prohibits certain types of direct U.S. assistance to Azerbaijan until it has ended its aggression and lifted its blockades against Armenia and Nagorno-Karabagh.

Supporting legislation to require the State Department to train all Foreign Service Officers dealing with human rights in the U.S. record on the Armenian genocide.

Hosting a town hall meeting with the State Department negotiator for Nagorno-Karabakh to ensure the Armenian-American community is fully informed about the Administration's policies.

As we commemorate the horrific events experienced by the Armenian people in the past, let us also celebrate the extraordinary accomplishments of the Armenian community in the United States and work to enhance the tremendous future potential of the sovereign Armenian nation.

Mr. HINCHEY. Mr. Speaker, I rise in remembrance to mark one of the most horrific tragedies of the 20th century, the Armenian Genocide. On this date in 1915, leaders of the Ottoman Empire began murdering thousands of Armenian people. By 1923, the number of Armenians murdered was over 1.5 million. In spite of irrefutable evidence, the United States of America and the Republic of Turkey have consistently refused to officially acknowledge that the Armenians were victims of genocide.

The Armenian Genocide is a historical event that cannot be denied or forgotten. It is vital for Turkey to accept recognition of this tragedy taking place on its soil. Turkey must follow the example of Germany in its swift commendation and acknowledgement of the Holocaust.

In 2000 the European Parliament officially recognized the Armenian Genocide. The following year the French Parliament recognized it as well. Many attempts have also been made by the U.S. Congress to officially recognize the Armenian Genocide. These attempts, however, have been scuttled by successive administrations for fear of disrupting our strategic relationship with Turkey. While I certainly value Turkey's friendship, as a world leader, the U.S. must officially acknowledge the Armenian Genocide. Not doing so sets an extremely poor example for the rest of the world and denies the victims of this horrific tragedy the proper reverence they deserve.

Armenia was quick to respond to the terrorist attacks on the World Trade Centers and the Pentagon and to offer their condolences and support. With Armenia offering its support and sharing in our grievances, it is unimaginable that we would deny them the same sympathies. The Armenian people deserve official recognition by the United States for the tragic genocide that was inflicted on their people during Ottoman rule, as well as, U.S. efforts to encourage Turkey to also officially recognize the Armenian Genocide.

Mr. ROTHMAN. Mr. Speaker, I am proud to join my colleagues today in commemorating the 87th anniversary of the Armenian Genocide. By rising together to remember the atrocities that occurred in Armenia from 1915–1923, we force people to acknowledge that what occurred was genocide and should be called genocide.

Today, as we reflect on the events of the early 20th Century, we honor the 1.5 million people that lost their lives defending themselves against the Ottoman Empire. We also honor the survivors of the Armenian Genocide for their bravery and courage in the face of evil. The survivors provide an example of courage and determination to future generations of Armenians and non-Armenians alike, and on this anniversary, we recognize them as heroes.

This anniversary of the Armenian Genocide also provides us with an opportunity to reflect on and examine what occurred in 1915 to ensure that such slaughter never occurs again. The events of the 20th Century, from the Holocaust to ethnic cleansing in Kosovo and Rwanda, demonstrate the clear need for retrospection on the causes of these past systematic and deliberate attempts at elimination of specific racial or cultural groups. And, just as importantly, we must continue to fight to ensure that these crimes against humanity are recognized as genocides.

As a Jewish-American who is ever mindful of the Holocaust, I stand with you in recognizing the Armenian Genocide so that the world will never forget the first crime against humanity in the 20th Century.

Mr. SHAW. Mr. Speaker, today marks the eighty-seventh anniversary of an event none of us would wish we have to remember—the genocide of the Armenian people. On April 24, 1915, hundreds of Armenian political, religious and intellectual leaders were forcibly rounded up, exiled and eventually murdered. Over the course of the next eight years, over a million Armenian men, women, and children lost their lives. Untold numbers of Armenian villages were destroyed.

Peace-loving people the world over pause today to reflect on these most tragic events. I urge my fellow Members of Congress and Americans throughout the country to join me in commemorating the Armenian people and to honor the memory of so many who fell to the horrible injustices inflicted upon them.

The plight of the Armenian people can be overshadowed by more recent and more visible acts of genocide, such as that suffered by

Jews in World War II. But all acts of inhumanity can have no place in civilized societies. We must not forget the death of even a single child, whether in Auschwitz or Anatolia.

I hope that remembering the events of April 24, 1915 is more than mere ceremony. These memories are a signpost pointing the way to a future where no people should have to live in fear of their lives, especially because of racial or ethnic circumstances none of us can control. All of us must redouble efforts to ensure that the anniversaries celebrated by future generations will be joyous occasions to celebrate the freedom and prosperity of Armenians everywhere.

Mr. OLVER. Mr. Speaker, each year, on April 24th, we solemnly observe the Armenian Genocide in order to recognize its occurrence, honor the memory of those who perished, and educate the public. We remember so that those who still choose to deny the genocide will one day begin the atonement process.

More than one million Armenians were systematically abused, deported and killed from 1915 to 1923, between the fall of the Ottoman Empire and the establishment of modern Turkey.

April 24, 1915 marked the rise of the atrocities. On this night, the Turkish government arrested over 200 Armenian community leaders in Constantinople. Hundreds of similar arrests followed. These leaders were all imprisoned and summarily executed. Thousands of Armenian soldiers in the Ottoman army were disarmed and eventually murdered. After Armenian intellectuals and soldiers were killed, the terror visited every city, town and village in Asia Minor and Turkish Armenia. By 1923, 1,500,000 Armenians were killed and 500,000 were exiled from the Ottoman Empire. There is no doubt that the government was intent upon the destruction of the Armenian people.

Despite long-standing international recognition and condemnation, the present-day Republic of Turkey denies the genocide. As the first genocidal event of the 20th century, the Armenian Genocide was a precursor to the Nazi Holocaust and the more recent eruptions of ''ethnic cleansing'' in the Balkans.

Raphael Lemkin, the Polish-Jewish lawyer once said: ''The practices of genocide anywhere affect the vital interests of all civilized people.'' As citizens in a democracy, it is incumbent upon all Americans to remember the Armenian Genocide. It is my hope that today we reflect upon the moral and ethical questions that this genocide invokes and respond with this refrain: Never again.

Mr. SCHIFF. Mr. Speaker, on April 24, 2002, the City of Glendale will sponsor an Armenian Genocide Commemoration ceremony and will honor the remarkable achievements in filmmaking and teaching of Dr. J. Michael Hagopian, who has dedicated his life's work to documenting the Armenian Genocide of 1915–1922. I rise today to join in recognizing the work, commitment and dedication of Dr. Hagopian, who has sought to shine the light of truth on the first genocide of the 20th century and honor the memory of the 1.5 million men, women and children who perished in it.

Dr. Hagopian, the founder and chairman of the Armenian Film Foundation and president of Atlantis Productions, has a doctorate in International Relations from Harvard University. He graduated from the University of California at Berkeley, and has completed graduate work in cinema at the University of Southern California. He has taught political science and economics at the University of California at Los Angeles, American University of Beirut, Lebanon, Benares Hindu University, India, and Oregon State University, Corvallis.

Since 1954, Dr. Hagopian has been engaged in making educational and documentary films for the classroom and on television. He has written, directed and produced more than 70 films that have won more than 150 national and international awards. His film, ''The Forgotten Genocide,'' was nominated for two Emmys in production and writing. Several of these films were produced under grants from the U.S. Office of Education and Ethnic Heritage Program, California Endowment for the Humanities, and California State Department of Education. In 1979, Dr. Hagopian established the Armenian Film Foundation, which has produced 13 videos and films, and gathered a film archive of more than 350 survivors of the 1915 Armenian Genocide.

Most recently, he has produced ''Voices from the Lake—the Secret Genocide,'' a tragic tale told by the eyewitness survivors of Kharpert-Mezreh, one among 4,000 towns and villages of the former Ottoman Empire to have been decimated under the genocide. I was proud when serving in the California State Senate to have secured state funding for the production of this film, and, after being elected to Congress, to have arranged a screening of this remarkable documentary at the Library of Congress.

''Voices from the Lake'' is the first film in ''The Witnesses'' project of the Armenian Film Foundation. The second film in the series will examine the impact of the Great Powers on the Armenian Genocide and the third film will depict the deportation of the Armenians from their ancestral homes to the Great Syrian desert and the killing fields along the legendary Euphrates and the wilderness of Der Zor.

Mr. Speaker, acknowledging and honoring the memory of those who lost their lives in the Armenian Genocide is a moral obligation fro all humankind. I ask all Members of Congress to join me in recognizing the remarkable work of one man, Dr. J. Michael Hagopian, who has dedicated his life to ensuring that we do not forget the victims of this genocide so that the world may never again tolerate such crimes against humanity.

Mr. GEKAS. Mr. Speaker, April 14th is the day on which we remember the victims of the gruesome events of the Armenian Genocide. From 1915 to 1923 during the times of the Ottoman Empire, the Turkish government implemented a ruthless extermination of innocent Armenians through which an astonishing and sickening 1.5 million Armenians were killed and over 500,000 additional individuals were exiled from the lands in which they had lived for hundreds and of years.

It is imperative that we properly recognize this massacre as a genocide—a concerted effort to annihilate a people. We must show respect and remembrance to the victims of this terrible period in history. By doing so, we are honoring those victims and condemning the government-sanctioned crime of mass murder and doing our part to prevent similarly horrific events from occurring again. The archives of history must be honest and accurate and tell the real story of the Armenian Genocide.

On a personal level, I have joined the Armenian congressional caucus to assist in the effort to promote international awareness of Armenia's history. With my caucus colleagues, I have encouraged successive Presidents to publicly decry the Ottoman policy of Armenian genocide. In my judgment, the Armenian Genocide is a fact of history and should be recognized as a fact of history. The Armenian Caucus seeks to educate policymakers and the public on the facts of history so that none will ever forget or repeat these atrocities.

Mr. Speaker, just as I rise today in commemoration of the Armenian Genocide and in support of the Republic of Armenia and the Armenian-American community, so should we all stand to show our support and solidarity with these courageous and proud people. They have faced a truly cruel and evil event in history and, through perseverance and hope, have survived with dignity and strength.

Mr. LYNCH. Mr. Speaker, I rise today to join with Armenians throughout the United States, Armenia, and the world in commemorating the 87th anniversary of the Armenian genocide, one of the darkest episodes in Europe's recent past. This week, members and friends of the Armenian community gather to remember April 24, 1915, when the arrest and murder of 200 Armenian politicians, academics, and community leaders in Constantinople marked the beginning of an eight-year campaign of extermination against the Armenian people by the Ottoman Empire.

Between 1915 and 1923, approximately 1.5 million Armenians were killed and more than 500,000 were exiled to the desert to die of thirst or starvation. The Armenian genocide was the first mass murder of the 20th century, a century that was sadly to be marked by many similar attempts at racial or ethnic extermination, from the Holocaust to the Rwandan genocide to the recent ethnic cleansing in Yugoslavia.

In the 87 years since the beginning of this genocide, we have learned the importance of commemorating these tragic events. In 1939, after invading Poland and relocating most Jews to labor or death camps, Hitler cynically defended his own actions by asking, ''Who remembers the Armenians?'' Just a few years later, six million Jews were dead. Now is the time when we must answer Hitler's question with a clear voice: We remember the Armenians, and we stand resolved that genocide is a crime against all humanity. We must remember the legacy of the Armenian genocide and we must speak out against such tragedies to ensure that no similar evil occurs again.

While today is the day in which we solemnly remember the victims of the Armenian genocide, I believe it is also a day in which we can celebrate the extraordinary vitality and strength of the Armenian people, who have fought successfully to preserve their culture and identity for over a thousand years. The Armenian people withstood the horrors of genocide, two world wars, and several decades of Soviet dominance in order to establish modern Armenia. Armenia has defiantly rebuilt itself as a nation and a society—a triumph of human spirit in the face of overwhelming adversity.

It is my firm belief that it is only by learning from and commemorating the past can we work toward a future free from racial, ethnic, and religious hate. By acknowledging the Armenian genocide and speaking out against the principles by which it was conducted, we can send a clear message: never again.

Mr. DOOLEY of California. Mr. Speaker, I rise today to join my colleagues in remembrance of the Armenian Genocide.

This terrible human tragedy must not be forgotten. Like the Holocaust, the Armenian Genocide stands as a tragic example of the human suffering that results from hatred and intolerance.

The Ottoman Turkish Empire between 1915 and 1923 massacred one and a half million Armenian people. More than 500,000 Armenians were exiled from a homeland that their ancestors had occupied for more than 3,000 years. A race of people was nearly eliminated.

It would be an even greater tragedy to forget that the Armenian Genocide ever happened. To not recognize the horror of such events almost assures their repetition in the future. Adolf Hitler, in preparing his genocide plans for the Jews, predicted that no one would remember the atrocities he was about to unleash. After all, he asked, 'Who remembers the Armenians?'

Our statement today are intended to preserve the memory of the Armenian loss, and to remind the world that the Turkish government—to this day—refuses to acknowledge the Armenian Genocide. The truth of this tragedy can never and should never be denied.

And we must also be mindful of the current suffering of the Armenian, where the Armenian people are still immersed in tragedy and violence. The unrest between Armenia and Azerbaijan continues in Nagorno-Karabakh. Thousands of innocent people have already perished in this dispute, and many more have been displaced and are homeless.

In the face of this difficult situation we have an opportunity for reconciliation. Now is the time for Armenia and its neighbors to come together and work toward building relationships that will assure lasting peace.

Meanwhile, in America, the Armenian-American community continues to thrive and to provide assistance and solidarity to its countrymen and women abroad. The Armenian-American community is bound together by strong generational and family ties, an enduring work ethic and a proud sense of ethnic heritage. Today we recall the tragedy of their past, not to replace blame, but to answer a fundamental question, 'Who remembers the Armenians?'

Our commemoration of the Armenian Genocide speaks directly to that, and I answer, we do.

Mr. COSTELLO. Mr. Speaker, I rise today to pay tribute to the victims of one of history's most terrible tragedies, the Armenian Genocide.

April 24, 1915 is remembered and earnestly commemorated each year by the Armenian community as the day in which 300 Armenian leaders, intellectuals, and professionals were rounded up in Constantinople, deported, and killed. From 1915 through 1923, Armenians that lived under Ottoman rule were systematically deprived of their property, freedom, and dignity. In addition, one and a half million Armenians had been massacred and 500,000 more had been deported. The Armenian community saw its culture devastated and its people dispersed.

In my district, there is a significant population of Armenian survivors and their families that showed heroic courage and will to survive in the face of horrendous obstacles and adversities. These survivors are an important window into the past and an invaluable part of our society. It is through their unforgettable tragedy that we are able to share in their history and strong heritage.

Mr. Speaker, it is difficult to fathom a greater evil than the massacre and willful destruction of a people. Denying the genocide that took place when there are recorded accounts of barbarity and ethnic violence is an injustice. This was a tragic event in human history, but by paying tribute to the Armenian community we ensure the lessons of the Armenian genocide are properly understood and acknowledged. I am pleased my colleagues and I have this opportunity in order to ensure this legacy is remembered.

Mr. MCNULTY. Mr. Speaker, I join today with many of my colleagues in remembering the victims of the Armenian Genocide on this, its 87th anniversary.

From 1915 to 1923, the world witnessed the first genocide of the 20th Century. This was clearly one of the world's greatest tragedies—the deliberate and systematic Ottoman annihilation of 1.5 million Armenian men, women, and children.

Furthermore, another 500,000 refugees fled and escaped to various points around the world—effectively eliminating the Armenian population of the Ottoman Empire.

From these ashes arose hope and promise in 1991—and I was blessed to see it. I was one of the four international observers from the United States Congress to monitor Armenia's independence referendum. I went to the communities in the northern part of Armenia, and I watched in awe as 95 percent of the people over the age of 18 went out and voted.

The Armenian people had been denied freedom for so many years and, clearly, they were very excited about this new opportunity. Almost no one stayed home. They were all out in the streets going to the polling places. I watched in amazement as people stood in line for hours to get into these small polling places and vote.

Then, after they voted, the other interesting thing was that they did not go home. They had brought covered dishes with them, and all of these polling places had little banquets afterward to celebrate what had just happened.

What a great thrill it was to join them the next day in the streets of Yerevan when they were celebrating their great victory. Ninety-eight percent of the people cast their ballots in favor of independence. It was a wonderful experience to be there with them when they danced and sang and shouted, 'Ketse azat ankakh Hayastan'—long live free and independent Armenia! That should be the cry of freedom-loving people everywhere.

Mr. THOMAS. Mr. Speaker, I rise to recognize the fact that today is the 87th anniversary of the beginning of the Armenian genocide that began under the direction of the Ottoman Empire. From 1915 until 1923, 1.5 million Armenians were murdered and another 500,000 were forced into exile in Russia, ending a period of 2,500 years of an Armenian presence in their historic homeland. In addition, Armenian religious, political, and intellectual leaders from Istanbul were arrested and exiled—silencing the leading representatives of the Armenian community in the Ottoman Empire.

Today, we pause to remember and honor the victims of this terrible period in human history. Like the Jewish and Cambodian holocausts, and more recently, the Serbian ethnic cleansing in Kosovo, the Armenian genocide was terrible and morally reprehensible. Thus, today I honor those Armenians who were killed, arrested, exiled, and otherwise mistreated, and I remind my colleagues and the world that we must never forget what happened during that terrible period in history. Furthermore, we must reaffirm our resolve to ensure that no people will ever again be the victims of such a mass genocide.

Mr. LEVIN. Mr. Speaker, I am proud to join my colleagues in Congress to commemorate the 87th anniversary of the Armenian Genocide.

Between 1915 and 1923, approximately two million Armenians were massacred, persecuted, and exiled by the Young Turk government of the Ottoman Empire. This campaign of murder and oppression was an attempt to systematically wipe out the Armenian population of Anatolia.

Even though there were numerous witnesses to the atrocities committed, including U.S. Ambassador Henry Morgenthau, Sr., and even though the Turk government itself held war crime trials and condemned to death the chief perpetrators of this heinous crime against humanity, the Turk government continues to deny the Armenian Genocide ever took place.

This denial cannot be allowed to stand. The failure of the Turkish government to acknowledge the sinful acts of its predecessors sent the wrong message to the leaders of Germany, Rwanda, and Bosnia. As Nobel Peace Prize winner Archbishop Desmond Tutu wrote:

''It is sadly true what a cynic has said, that we learn from the history that we do not learn from history. And yet it is possible that if the world had been conscious of the genocide that was committed by the Ottoman Turks against the Armenians, the first genocide of the twentieth century, then perhaps humanity might have been more alert to the warning signs that were being given before Hitler's madness was unleashed on an unbelieving world.''

It is imperative that each of us works to ensure that our generation and future generations never again witness such inhuman behavior and suffering. Only through remembrance and recognition can we stop such acts of senseless cruelty and violence against humankind from happening again.

Ms. SOLIS. Mr. Speaker, I rise today as a Member of the Congressional Caucus on Armenian Issues to recognize the horrific Armenian Genocide.

Today we mark the 87th anniversary of the Armenian Genocide, where, in 1915, 1.5 million men, women and children died at the hands of the Ottoman Empire.

Another 500,000 Armenians were forcibly deported, deprived of their homes, their possessions and their homeland.

Many of these refugees made their way to the United States, and it is with pride that we recognize today the more than 1 million people of Armenian descent who live in our great nation.

However, it is with regret that we admit today that our nation, which has seen firsthand the effects of that brutal genocide, still refuses to acknowledge this crime against humanity.

This injustice must be corrected.

Today our children learn about other plights in our world's history, such as slavery and the Holocaust.

But our voices remain mute when it comes to the genocide of innocent Armenian men, women and children.

But our children need to learn that on April 24, 1915, hundreds of Armenian leaders were murdered in Istanbul after being summoned and gathered.

Soon, the rampage spread to the Armenian people who were led to slaughter across the Ottoman Empire.

It is imperative that these events be recognized as a genocide, and this recognition can only be realized if our government has the courage to stand up and proclaim the truth.

Unless this crime against humanity is acknowledged and compensated for, we run the risk of somehow repeating it.

I urge my colleagues and President Bush to do the right thing and join me this evening in affirming the existence of the Armenian Genocide.

Mr. TIERNEY. Mr. Speaker, I rise today to speak of one of the great horrors of our century: the Armenian genocide. As a member of the Congressional Caucus on Armenian Issues, I once again join my colleagues in recognizing the great tragedy of the Armenian people.

As we all know, the genocide of the Armenian people occurred in 1915, when the Ottoman Empire began to force Armenians from their homeland, and lasted until 1923. These eight years saw the deaths of 1.5 million innocent victims and 500,000 exiled survivors. Despite the tremendous magnitude of the genocide, the world stood by as families were torn asunder and millions of lives were taken.

There is no doubt that calling the events by their rightful name—genocide—is an important element of this recognition of responsibility, and I was pleased to sign a letter to the President urging him to do exactly that next week when we commemorate this tragic event. I would hope that all leaders would join me in denouncing this act of genocide.

Today, as I once again honor the victims of the Armenian genocide on behalf of the 6th district of Massachusetts, I also honor the commitment and perseverance of the Armenian-Americans who have tirelessly struggled to ensure that the great sorrow of their people becomes known to all people. It is the very least that this Congress can do to stand up and commemorate the Armenian Genocide, and I am pleased to join my colleagues in doing so.

Mr. RADANOVICH. Mr. Speaker, as I have every year since I was elected to this institution, I come before this chamber to honor my Armenian friends on the eve of the 87th anniversary of the Armenian Genocide.

As we all know, the 20th century was one of historic progress and horrible brutality. Unfortunately, as we enter into the 21st Century we have seen this brutality continue. America is often the first nation to combat brutality around the world. Our reaction was no different when we responded to the extermination of 1.5 million Armenians by the Ottoman Empire between 1015–1923. This horrific event that took place during those years has become to be known as the Armenian Genocide.

As members of this body, and as Americans, we have an obligation to educate and familiarize the world on the Armenian Genocide. In fact, we must ensure that the legacy of the Genocide is remembered, so that this human tragedy will not be repeated. As we have seen in recent years, genocide and ethnic cleansing continue to plague nations around the world—and as a great nation—we must always be firm in standing against such atrocities. Part of standing against such brutal repression is making sure it is never forgotten or repeated. Therefore, it is critical that we educate people about the systematic and deliberate annihilation of 1.5 million Armenians.

As such, we make it clear that Americans do not and will not accept such atrocities or their denial. Silences, either out of indifference or as the result of political pressure, only serves to encourage others who would again use ethnic cleansing as a tool of government. By recognizing and learning from the past, we work toward a future free of genocide.

When I began the process of seeking affirmation of the voluminous record on the Armenian Genocide years ago, I did not on behalf of a united Armenian-American community who appropriately sought from this body recognition and affirmation of the truth regarding a horrible catastrophe that is so often forgotten. Having paid close attention to the views of those opposed to my efforts, I am now more committed to this effort—not for Armenian-Americans, but for all Americans.

If we are serious about learning the lessons from history—as painful as they sometimes are—then we must be willing to speak openly and honestly about this more serious violation of human rights. To shy away from recognizing genocide, or, even worse, to be complicit in any way in its denial would represent a retreat from our nation's historic commitment to human rights.

I say that we must affirm history—not bury it. We must learn from history—not reshape it according to the geo-strategic needs of the moment. And we must refuse to be intimidated. Otherwise, nations with troubled pasts will ask that the American record on their dark chapters be expunged.

During President Bush's campaign he pledged to properly commemorate the Armenian Genocide. Today, I have every reason to believe that he will honor that pledge and do what is right for both the Armenian people and for historical record. While President Bush used the textbook definition of genocide in his annual statement last year, I encourage him to take the final step and use the ''G'' word this year—''Genocide.''

Mr. VISCLOSKY. Mr. Speaker, I rise today in solemn memorial to the estimated 1.5 million men, women, and children who lost their lives during the Armenian Genocide. As in the past, I am pleased to join so many distinguished House colleagues on both sides of the aisle in ensuring that the horrors wrought upon the Armenian people are never repeated.

On April 24, 1915, over 200 religious, political, and intellectual leaders of the Armenian community were brutally executed by the Turkish government in Istanbul. Over the course of the next 8 years, this war of ethnic genocide against the Armenian community in the Ottoman Empire took the lives of over half the world's Armenian population.

Sadly, there are some people who still deny the very existence of this period which saw the institutionalized slaughter of the Armenian people and dismantling of Armenian culture. To those who would question these events, I point to the numerous reports contained in the U.S. National Archives detailing the process that systematically decimated the Armenian population of the Ottoman Empire. However, old records are too easily forgotten—and dismissed. That is why we come together every year at this time: to remember in words what some may wish to file away in archives. This genocide did take place, and these lives were taken. That memory must keep us forever vigilant in our efforts to prevent these atrocities from ever happening again.

I am proud to note that Armenian immigrants found, in the United States, a country where their culture could take root and thrive. Most Armenians in America are children or grandchildren of the survivors, although there are still survivors amongst us. In my district in Northwest Indiana, a vibrant Armenian-American community has developed and strong ties to Armenia continue to flourish. My predecessor in the House, the late Adam Benjamin, was of Armenian heritage, and his distinguished service in the House serves as an example to the entire Northwest Indian community. Over the years, members of the Armenian-American community throughout the United States have contributed millions of dollars and countless hours of their time to various Armenian causes. Of particular note are Mrs. Vicki Hovanessian and her husband, Dr. Raffy Hovanessian, residents of Indiana's First Congressional District, who have continually worked to improve the quality of life in Armenia, as well as in Northwest Indiana. Three other Armenian-American families in my congressional district, Dr. Aram and Seta Semerdjian, Heratch and Sonya Doumanian, and Ara and Rosy Yeretsian, have also contributed greatly toward charitable works in the United States and Armenian. Their efforts, together with hundreds of other members of the Armenian-American community, have helped to finance several important projects in Armenia, including the construction of new schools, a mammography clinic, and a crucial roadway connecting Armenia to Nagorno Karabagh.

In the House, I have tried to assist the efforts of my Armenian-American constituency by continually supporting foreign aid to Armenia. This past year, with my support, Armenia received $94.3 million in U.S. aid to assist economic and military development. In addition, on April 12, 2002, I joined several of my colleagues in signing the letter to President Bush urging him to honor his pledge to recognize the Armenian Genocide.

The Armenian people have a long and proud history. In the fourth century, they became the first nation to embrace Christianity. During World War I, the Ottoman Empire was ruled by an organization known as the Young Turk Committee, which allied with Germany. Amid fighting in the Ottoman Empire's eastern Anatolian provinces, the historic heartland of the Christian Armenians, Ottoman authorities ordered the deportation and execution of all Armenians in the region. By the end of 1923, virtually the entire Armenian population of Anatolia and western Armenian had either been killed or deported.

While it is important to keep the lessons of history in mind, we must also remain committed to protecting Armenia from new and more hostile aggressors. In the last decade, thousands of lives have been lost and more than a million people displaced in the struggle between Armenia and Azerbaijan over Nagorno-Karabagh. Even now, as we rise to commemorate the accomplishments of the Armenian people and mourn the tragedies they have suffered, Azerbaijan, Turkey, and other

countries continue to engage in a debilitating blockade of this free nation.

Consistently, I have testified before Foreign Operations Appropriations Subcommittee on the important issue of bringing peace to a troubled area of the world. I continued my support for maintaining of level funding for the Southern Caucasus region of the Independent States (IS), and of Armenia in particular. I also stressed the critical importance of revisiting Section 907 of the Freedom Support Act that restricts U.S. aid for Azerbaijan as a result of their blockade. However, I commend my colleagues on the Foreign Operations Appropriations Subcommittee for striking the appropriate balance last year regarding Section 907 of the Freedom Support Act, which will now allow Azerbaijan to do their part in the war against international terrorism. Unfortunately, Armenia is now entering its thirteenth year of a blockade and I must request that the Congress review the waiver to Section 907 on a yearly basis. The flow of food, fuel, and medicine continues to be hindered by the blockade, creating a humanitarian crisis in Armenia.

Mr. Speaker, I would like to thank my colleagues, Representatives JOE KNOLLENBERG and FRANK PALLONE, for organizing this special order to commemorate the 87th Anniversary of the Armenian Genocide. Their efforts will not only help bring needed attention to this tragic period in world history, but also serve to remind us of our duty to protect basic human rights and freedoms around the world.

Mr. KENNEDY of Rhode Island. Mr. Speaker, we recognize today, one of the most tragic atrocities that the twenty-first century has witnessed, occurring eighty-seven years ago. The Armenian Genocide, which began on April 24th, 1915 began with the systematic killings of 200 intellectual and spiritual Armenian leaders, and ended with a count of over 1.5 million dead and another half million deported. It was an attempt on ethnic cleansing that has marred the pasts of native Armenians, now living in their native country or residing in America.

As members of the international community, it is important for our nation to acknowledge this terrible act on the Armenian people. We must make sure that the voices of the Armenian people do not go unheard. Although the Republic of Turkey has continued to deny that the Genocide took place on its soil, those of us here today are aware of the truth.

We cannot allow the truth of the Armenian Genocide to linger in the shadows of this world's history. With information and education our world will be better equipped to tackle equally disturbing human rights atrocities that occur around the globe. Through education, commemoration and remembrance, we send a signal out that the United States does not condone human rights atrocities and we will not forget those that have occurred in the past. We must continue to recognize that the events of 1915–1923 in Armenia were indeed a genocide and in this recognition process, we may prevent incidents like this from occurring ever again. The special orders today on the House floor are testaments to that message and I hope that this annual effort will continue.

Mr. CAPUANO. Mr. Speaker, I rise today, for the fourth consecutive year, to commemorate a people who despite murder, hardship, and betrayal have persevered. April 24, 2002, marks the 8th anniversary of the Armenian Genocide; unbelievably, an event that many still fail to recognize.

Throughout three decades in the late nineteenth and early twentieth centuries, millions of Armenians were systematically uprooted from their homeland of three thousands years and deported or massacred. From 1894 through 1896, three hundred thousand Armenians were ruthlessly murdered. Again in 1909, thirty thousand Armenians were massacred in Cilicia, and their villages were destroyed.

On April 24, 1915, two hundred Armenian religious, political, and intellectual leaders were arbitrarily arrested, taken to Turkey and murdered. This incident marks a dark and solemn period in the history of the Armenian people. From 1915 to 1923, the Ottoman Empire launched a systematic campaign to exterminate Armenians. In eight short years, more than 1.5 million Armenians suffered through atrocities such as deportation, forced slavery and torture. Most were ultimately murdered.

I have had the privilege of joining my colleagues in a letter to the President asking that he acknowledge the Genocide in his April 24th commemoration statement. It is my hope that the President will stand by this pledge he made in 2000. It is my hope that this will be one more step toward official recognition of the Armenian Genocide by the United States.

Many of our companions in the international community have already taken this final step. The European Parliament and the United Nations have recognized and reaffirmed the Armenian Genocide as historical fact, as have the Russian and Greek parliaments, the Canadian House of Commons, the Lebanese Chamber of Deputies and the French National Assembly. It is time for America to join the chorus and acknowledge the Armenians who suffered at the hands of the Ottoman Empire. And let me stress that I am not speaking of the government of modern day Turkey, but rather its predecessor, overthrown and repudiated by the modern Turkish Republic.

As I have in the past, as a member of the Congressional Armenian Caucus, I will continue to work with my colleagues and with the Armenian-Americans in my district to promote investment and prosperity in Armenia. And, I sincerely hope that this year the U.S. will have the opportunity and courage to speak in support of the millions of Armenians who suffered because of their heritage.

Mr. FELINGHUYSEN. Mr. Speaker, I am pleased to participate once again in the annual remembrance of the Armenian genocide today, eighty seven years after this terrible tragedy which claimed the lives of over 1.5 million Armenians between 1915 and 1923.

The Armenian Genocide began in 1915 with the rounding up and killing of Armenian soldiers by the Turkish government. After that, the government turned its attention to slaughtering Armenian intellectuals. They were killed because of their ethnicity, the first group in the 20th Century killed not for their actions, but for who they were.

By the time the bloodshed of the genocide ended, the victims included the aged, women and children who had been forced from their homes and marched to relocation camps, beaten and brutalized along the way. In addition to the 1.5 million dead, over 500,000 Armenians were driven from their homeland.

It is important that we make the time, every year, to remember the victims of the Armenian genocide. We hope that, by remembering the bloodshed and atrocities committed against the Armenians, we can prevent this kind of tragedy from repeating itself. Unfortunately, history continues to prove us wrong. That is why we must be so vigilant in remembering the past.

It is important to continue to talk about the Armenian genocide. We must keep alive the memory of those who lost their lives during the eight years of bloodshed in Armenia. We must educate other nations who have not recognized that the Armenian genocide occurred. And we must call this tragedy what it is: a genocide. That is why I joined my colleagues in sending a letter to President Bush earlier this year asking him to recognize the Armenians Genocide as that—genocide—-in his annual statement.

Mr. Speaker, I commend Armenian-Americans—the survivors and their descendants—who continue to educate the world about the tragedy of the Armenian Genocide and make valuable contributions to our shared American culture. because of their efforts, the world will not be allowed to forget the memory of the victims of the first 20th Century holocaust.

Mr. FERGUSON. Mr. Speaker, I am proud to stand with my colleagues today to remember a terrible chapter in human history, the Armenian genocide. April 24 holds as a reminder of the Armenian intellectuals and professionals in Constantinople who were first rounded up and deported or killed so many years ago. This action was a precursor to the attempted genocide of an entire people.

From 1915 to 1923, a million and a half Armenians were killed and countless others suffered as a result of the system and deliberate campaign of genocide by the rules of the Ottoman Empire.

Half a million Armenians who escaped death were deported to the Middle East. Some were fortunate enough to escape to the United States.

Mr. Speaker, I am thankful that more than a million Armenians managed to escape the genocide and establish a new life here in the United States. In the Seventh District of New Jersey, I am proud to represent a number of Armenian-Americans. They make incredible contributions to the area and enrich every aspect of New Jersey life, from science to commerce to the arts.

Our statements today are intended to preserve the memory of the Armenian loss and to honor those descendants who have overcome the atrocities that took their grandparents, their parents, their children, and their friends. We mark this anniversary each year to remind our Nation and to teach future generations about the horrors of genocide and oppression endured by the Armenian people.

Let us stand today, united in our remembrance of those who died and committed to ensuring that future horror as, like those faced by the Armenian people, never happen in our world again.

Mrs. LOWEY. Mr. Speaker, I rise today in commemoration of the Armenian Genocide, one of the ugliest periods in world history, which took the lives of 1.5 million Armenians and exiled the Armenian nation from its homeland.

My colleagues and I join with the Armenian-American community, and with Armenians throughout the world, in remembering one of humanity's darkest times, when senseless hatred and prejudice attempted to erase an historic people from the face of our earth.

We cannot turn our backs on history. We cannot ignore the atrocities perpetrated in the past, lest we repeat them. Now, more than ever, we must remain vigilant and steadfast in our defense of right and good. We have seen great horror in just the last year, and we know from history—from the Armenian Genocide and from other massacres—that letting fundamentalist aggression go unchecked and forgotten will come back to haunt us all.

We know this because the world has experienced it. The lessons of what results when hatred is left unchecked have been too slowly learned. Adolf Hitler looked to the Armenian Genocide before perpetrating the Holocaust, calculating that his plans to annihilate the Jewish people would encounter little opposition, just as the Armenian Genocide spurred no global outcry. In a year in which the seemingly unthinkable has happened time and again, we acknowledge that good people will be forever engaged in a battle against the evil in our world. In memory of those who perished in the Armenian Genocide, and in similar acts around the world and throughout the ages, we will never give up this fight.

As we remember the past, we must also pledge our support for ensuring the future of the Armenian nation. Our country must be vigilant in bringing about an end to the blockade of Armenia, helping the people of that nation to live secure and prosperous lives. Our yearly package of assistance to Armenia—economic and now military as well—is a signal of the United States' commitment to this goal. It must be maintained.

Mr. Speaker, the Armenian people have shown true resilience in confronting the obstacles they have faced in the last century. From the ashes of the Genocide, the Armenian nation has become strong, making invaluable contributions to our country, to Armenia, and to the world. I join my colleagues in remembering the atrocities of the past, but also in celebrating the hope of a better future.

Mr. MEEHAN. Mr. Speaker, I rise to commemorate the 87th anniversary of the Armenian Genocide and pay my solemn respects to those who lost their lives because of their ethnicity. The Armenian Genocide was a terrible tragedy that must never be forgotten.

On April 24, 1915, hundreds of Armenian leaders were murdered in Istanbul by order of the Young Turk regime of the Ottoman empire. The Young Turks were a dictatorial regime that orchestrated the systematic destruction of the Armenian people in the Ottoman empire. This genocide occurred through forced labor, concentration camps and death marches. By 1923, the Ottoman empire had killed 1.5 million Armenians and deported 500,000.

However, the present day Turkish government has not yet admitted its involvement in the Armenian Genocide. This denial disrespects the memories of the victims of the Armenian Genocide and compels its survivors and all of us to remind the world of this terrible tragedy every April 24th. Only by raising our voices together will these crimes be known, condemned forever, and—hopefully—never repeated.

Today, I beseech the Turkish government to finally acknowledge its role in the Armenian Genocide. In attempting the systematic annihilation of the Jews of Europe half a century ago, Adolph Hitler asked ''Who today remembers the annihilation of the Armenians?'' We answer: we remember. And it is long past time for the Turkish government to join us in remembering.

I proudly represent a large and active Armenian community in my Congressional District in Massachusetts. Every year, survivors and their descendants make public and vivid the hidden details of the Armenian Genocide as they participate in commemoration ceremonies in Boston, Lowell, and other parts of Massachusetts's Merrimack Valley. The commemoration offers participants an opportunity to remind the world of the tragedy that befell Armenians of the Ottoman empire.

To conclude, I am honored to add my voice to those of my colleagues today in commemorating the Armenian Genocide. We will never forget the truth.

Mr. BERMAN. Mr. Speaker, today marks the 87th anniversary of the beginning of the Armenian Genocide. I rise today to commemorate this terrible chapter in human history, and to help ensure that it will never be forgotten.

On April 24, 1915, the Turkish government began to arrest Armenian community and political leaders. Many were executed without ever being charged with crimes. Then the government deported most Armenians from Turkish Armenia, ordering that they resettle in what is now Syria. Many deportees never reached that destination.

From 1915 to 1918, more than a million Armenians died of starvation or disease on long marches, or were massacred outright by Turkish forces. From 1918 to 1923, Armenians continued to suffer at the hands of the Turkish military, which eventually removed all remaining Armenians from Turkey.

We mark this anniversary of the start of the Armenian Genocide because this tragedy for the Armenian people was a tragedy for all humanity. It is our duty to remember, to speak out and to teach future generations about the horrors of genocide and the oppression and terrible suffering endured by the Armenian people.

We hope the day will soon come when it is not just the survivors who honor the dead but also when those whose ancestors perpetrated the horrors acknowledge their terrible responsibility and commemorate as well the memory of genocide's victims.

Sadly, we cannot say humanity has progressed to the point where genocide has become unthinkable. We have only to recall the ''killing fields'' of Cambodia, mass ethnic killings in Bosnia and Rwanda, and ''ethnic cleansing'' in Kosovo to see that the threat of genocide persists. We must renew our commitment never to remain indifferent in the face of such assaults on innocent human beings.

We also remember this day because it is a time for us to celebrate the contribution of the Armenian community in America—including hundreds of thousands in California—to the richness of our character and culture. The strength they have displayed in overcoming tragedy to flourish in this country is an example for all of us. Their success is moving testimony to the truth that tyranny and evil cannot extinguish the vitality of the human spirit.

The United States has an ongoing opportunity to contribute to a true memorial to the past by strengthening Armenia's emerging democracy. We must do all we can through aid and trade to support Armenia's efforts to construct an open political and economic system. I am very pleased that this year's foreign aid bill earmarks $94.3 million in aid for Armenia, including, for the first time, $4.3 million in military assistance. This signifies a new stage in the U.S.-Armenia relationship.

Adolf Hitler, the architect of the Nazi Holocaust, once remarked ''Who remembers the Armenians?'' The answer is, we do. And we will continue to remember the victims of the 1915–23 genocide because, in the words of the philosopher George Santayana, ''Those who cannot remember the past are condemned to repeat it.''

Ms. ESHOO. Mr. Speaker, I rise today, as I have every year at this time, in a proud but solemn tradition to remember and pay tribute to the victims of one of history's worst crimes against humanity, the Armenian genocide of 1915 to 1923.

In 1915, 1.5 million women, children, and men were killed, and 500,000 Armenians were forcibly deported by the Ottoman Empire during an eight year reign of brutal repression. Armenians were deprived of their homes, their dignity, and ultimately their lives.

Yet, America, the greatest democracy in the world, has not made an official statement regarding the Armenian genocide and it is my hope that the Congress will have the courage to finally recognize the genocide.

It's fundamental that we learn from our past and never let this kind of tragedy happen again.

Opponents have argued that recognizing the genocide would severely jeopardize U.S.-Turkey relations.

Recognizing the genocide is not an indictment of the current Turkish government nor is it a condemnation of any former leader of Turkey.

The U.S. and Turkey can and will be able to continue its partnership should the Congress recognize the genocide.

Mr. Speaker, as one of two Members of Congress of Armenian descent, I'm very proud of my heritage.

Like many Armenians, I learned from my grandparents of the hardship and suffering endured by so many at the hands of the Ottoman Empire.

That is how I cam to this understanding and this knowledge and why I bring this story to the House of Representatives.

I am very proud of the contributions which the Armenian people have made to our great nation.

They've distinguished themselves in the arts, in law, in academics, in every walk of life and they continue today to make significant contributions in communities across our country today.

It's essential to not only publicly acknowledge what happened, but also understand that we are teaching present and future generations about the Armenian Genocide.

We need to recognize the genocide to enlighten our young people and to remind ourselves that wherever anything like this occurs around the globe that we, as Members of the United States Congress, and as citizens of this great Nation, raise our voices.

Mr. DINGELL. Mr. Speaker, I rise today to recognize and remember the 1.5 million victims of the Armenian Genocide, who were systematically slaughtered solely because of their race. While there is never a justification for genocide, in this case there also regrettably has never been an apology, and the criminals were never brought to justice. Such

an unconscionable act, however, can never be forgotten.

Accordingly, it is our duty as elected officials to state in no uncertain terms that the Armenian Genocide is clearly and unambiguously defined as genocide. Repeatedly, many leaders, including the President, have called the Armenian Genocide everything but a genocide. Only when this term is understood will the tragic events that began on April 24, 1915, be placed in the correct historical context. The Armenian Genocide cannot be denied.

Mr. Speaker, I also rise in tribute to the Armenian people who have fully recovered from this atrocity by maintaining their proud traditions and culture, becoming an integral part of America, and nine years ago, forming the Republic of Armenia.

The Ottoman Empire's last, desperate act was one of profound cruelty, tragic and gruesome beyond description. During World War I—a tumultuous, revolutionary time of great societal transformations and uncertain futures on the battlefields and at home—desperate Ottoman leaders fell back on the one weapon that could offer hope of personal survival. It is a weapon that is still used today, fed by fear, desperation, and hatred. It transforms the average citizen into a zealot, no longer willing to listen to reason. This weapon is, of course, nationalism. Wrongly directed, nationalism can easily result in ethnic strife and senseless genocide, committed in the name of false beliefs preached by immoral, irresponsible, tyrannical leaders.

Today I rise not to speak of the present, but in memory of the victims of the past, who suffered needlessly in the flames of vicious, destructive nationalism. Exactly 87 years ago today, the leaders of the Ottoman government tragically chose to systematically exterminate an entire race of people. In this case, as in the case of Nazi Germany, nationalism became a weapon of cruelty and evil. Let us never forget the 1.5 million Armenians who died at the whim of wicked men and their misguided followers.

The story of the Armenian Genocide is in itself appalling. It is against everything our government—and indeed all governments who strive for justice—stands for; it represents the most wicked side of humanity. What makes the Armenian story even more unfortunate is history has repeated itself in all corners of the world, and lessons that should have been learned long ago have been ignored. We must not forget the Armenian Genocide, the Holocaust, Cambodia, Rwanda, or Bosnia. It is our duty that by remembering the millions who have been victims of genocide, we pledge ourselves to preventing such acts from repeating themselves.

It is an honor and privilege to represent a large and active Armenian population, many who have family members who were persecuted by their Ottoman Turkish rulers. Michigan's Armenian-American community has done much to further our state's commercial, political, and intellectual growth, just has it as done in communities across the country. And so I also rise today to honor to the triumph of the Armenian people, who have endured adversity and bettered our country.

The Armenian people have faced great trials and tests throughout their history. They have proved their resilience in the face of tragedy before, and I have no doubt that they will endure today's tragic occurrence, recognize that a madman's bullet can never put an end to a people's dreams, and keep moving forward on the path of peace and freedom.

Mr. Speaker, let no one, friend or foe, ever deny that the Armenian Genocide occurred. Let us not forget the heinous nature of the crimes committed against the Armenian people. Let us promise to the world as American citizens and citizens of the world, that we will never again allow such a crime to be perpetrated, and will not tolerate the forces of misguided nationalism and hate.

Ms. WOOLSEY. Mr. Speaker, I rise today to honor those who died in the Armenian Genocide.

In the first part of the 20th century, a tremendous evil was done to the Armenian people. April 24, 1915 is a day that will forever live in infamy. A Turkish campaign to eliminate Armenians from the face of the earth began that day. In the end, that campaign killed 1.5 million people.

More than 200 religious, political and intellectual leaders were assassinated. 500,000 people were exiled from their homes. As a result of this violence, one of earth's oldest civilizations virtually ceased to exist.

Unfortunately this terrible chapter of history is not well known. Many Americans don't know much about the Armenian genocide, but it should stand as a constant reminder to all of us that we must be vigilant and stand firm against bigotry and hatred at every turn.

We must take the horrors of the past and transform them into compassion and hope. We must learn from the Armenian genocide—learn about perseverance and hope. We can't change the past, but we can prepare for the future.

While we remember with sorrow, we must also be heartened that eighty-five years later, Armenians remain a proud, dignified people. Their spirit lives in the independent republic of Armenia and in many communities around the United States, particularly in my home state of California.

Every one of these people is the product of generations of courage, perseverance and hope. Understanding what it is to struggle as a people motivates many Armenians to educate others about the atrocities committed in the past.

The bonds between Armenia and the United States are growing stronger all the time. Economic cooperation is growing. Democracy is blossoming. These are testaments of strength to the Armenian people.

While we did not do enough for the victims eighty-five years ago, we can honor their memory now, and ensure that nothing so horrendous happens again.

Mr. WAXMAN. Mr. Speaker, today we solemnly commemorate the 87th anniversary of the Armenian Genocide, when the Ottoman Government unleashed a campaign of devastation and destruction against its Armenian population.

Over the course of eight years, beginning in 1915, Armenian communities were systematically destroyed. One and a half million men, women, and children were murdered and nearly one million others were deported. From the ashes of destruction, the survivors rebuilt their lives and many established vibrant Armenian communities here in the United States, but the scars of the massacres are deeply embedded in their history and our conscience.

The world was silent during the bloodshed of Armenians. It was tragically just a short number of years before this inaction degenerated into paralysis against Hitler's attempt to annihilate the Jews.

At a time when the flames of anti-Semitism are reigniting across Europe, we have a responsibility to redouble our efforts against the bigotry and intolerance that sparked the Armenian Genocide and later the Holocaust. At a time when there are still attempts to refute the Armenian Genocide and Holocaust denial is spreading rampantly through the Arab world, we have an obligation to resolve ourselves against the dangers of historical revisionism.

Today we mourn the victims, pay tribute to the survivors, and stand together with all who are committed to promoting awareness about this dark chapter of history. Today we remember to never forget.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

(Ms. NORTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland (Mrs. MORELLA) is recognized for 5 minutes.

(Mrs. MORELLA addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. LIPINSKI) is recognized for 5 minutes.

(Mr. LIPINSKI addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

PREDICTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. PAUL) is recognized for 5 minutes.

Mr. PAUL. Mr. Speaker, our government intervention in the economy and in the private affairs of citizens and the internal affairs of foreign countries leads to uncertainty and many unintended consequences. Here are some of the consequences about which we should be concerned.

I predict U.S. taxpayers will pay to rebuild Palestine, both the West Bank and the Gaza, as well as Afghanistan. U.S. taxpayers paid to bomb these areas, so we will be expected to rebuild them.

Peace, of sorts, will come to the Middle East, but will be short-lived. There will be big promises of more U.S. money and weapons flowing to Israel and to Arab countries allied with the United States.

U.S. troops and others will be used to monitor the ''peace.''

In time, an oil boycott will be imposed, with oil prices soaring to historic highs.

Current Israeli-United States policies will solidify Arab Muslim nations in

their efforts to avenge the humiliation of the Palestinians. That will include those Muslim nations that in the past have fought against each other.

Some of our moderate Arab allies will be overthrown by Islamic fundamentalists.

The U.N. will continue to condemn, through resolutions, Israeli-U.S. policies in the Middle East, and they will be ignored.

Some European countries will clandestinely support the Muslim countries and their anti-Israel pursuits.

China, ironically assisted by American aid, much more openly will sell to militant Muslims the weapons they want, and will align herself with the Arab nations.

The United States, with Tony Blair as head cheerleader, will attack Iraq without proper authority, and a major war, the largest since World War II, will result.

Major moves will be made by China, India, Russia, and Pakistan in Central Asia to take advantage of the chaos for the purpose of grabbing land, resources, and strategic advantages sought after for years.

The Karzai government will fail, and U.S. military presence will end in Afghanistan.

An international dollar crisis will dramatically boost interest rates in the United States.

Price inflation, with a major economic downturn, will decimate U.S. Federal Government finances, with exploding deficits and uncontrolled spending.

Federal Reserve policy will continue at an expanding rate, with massive credit expansion, which will make the dollar crisis worse. Gold will be seen as an alternative to paper money as it returns to its historic role as money.

Erosion of civil liberties here at home will continue as our government responds to political fear in dealing with the terrorist threat by making generous use of the powers obtained with the Patriot Act.

The draft will be reinstated, causing domestic turmoil and resentment.

Many American military personnel and civilians will be killed in the coming conflict.

The leaders of whichever side loses the war will be hauled into and tried before the International Criminal Court for war crimes. The United States will not officially lose the war, but neither will we win. Our military and political leaders will not be tried by the International Criminal Court.

The Congress and the President will shift radically toward expanding the size and scope of the Federal Government. This will satisfy both the liberals and the conservatives.

Military and police powers will grow, satisfying the conservatives. The welfare state, both domestic and international, will expand, satisfying the liberals. Both sides will endorse military adventurism overseas.

This is the most important of my predictions: Policy changes could prevent all of the previous predictions from occurring. Unfortunately, that will not occur. In due course, the Constitution will continue to be steadily undermined and the American Republic further weakened.

During the next decade, the American people will become poorer and less free, while they become more dependent on the government for economic security.

The war will prove to be divisive, with emotions and hatred growing between the various factions and special interests that drive our policies in the Middle East.

Agitation from more class warfare will succeed in dividing us domestically, and believe it or not, I expect lobbyists will thrive more than ever during the dangerous period of chaos.

I have no timetable for these predictions, but just in case, keep them around and look at them in 5 to 10 years. Let us hope and pray that I am wrong on all accounts. If so, I will be very pleased.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

(Ms. KAPTUR addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

LYNN LAUFENBERGER'S KIDNEY TRANSPLANT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized for 5 minutes.

Mr. GUTKNECHT. Mr. Speaker, today I rise to share a story of faith, hope, love, and incredible generosity. Lynn Laufenberger works in our district office back in Minnesota. She is a young woman full of courage and hope.

In 1995, Lynn's kidneys began to slow down. They no longer functioned well enough, and Lynn was placed on dialysis. For 6½ years she received dialysis every day, usually in her own home.

Earlier this year, Lynn's kidney disease became worse. She felt an increased sense of urgency to obtain a kidney transplant. Lynn spoke publicly of this need at her church, Elim Baptist, in Rochester, Minnesota. A friend, Heidi Stensland, approached her after she spoke and told her that she had already been praying about giving one of her kidneys to Lynn. Heidi had only known Lynn for a couple of months.

Heidi submitted herself for tests to determine if her kidney was healthy and a match for Lynn. The results showed that her kidney was indeed a match. This was no small feat, since Lynn's blood type is rare. Lynn had been on the active transplant waiting list for about 1 year.

The transplant surgery was performed February 21 at Rochester Methodist Hospital. Heidi, a home day care provider, took her yearly vacation time to donate her kidney. She even postponed her own wedding to deliver this amazing gift of life to Lynn.

The surgery was immediately successful. The transplanted kidney began to work in Lynn's body right in the operating room. Lynn's parents from Wisconsin were able to come to Minnesota for her surgery, and they stayed afterward to provide much needed support. Her only sister was also able to be there.

The faith community of Elim Baptist Church was very supportive of both Lynn and Heidi. Church members provided transportation for their follow-up appointments. The church also brought much appreciated meals and assisted with some of the extra expenses.

When Heidi resumed providing day care in her home, church members were there to help her until she was able to handle it by herself. Heidi continues to provide day care in her home. Lynn has returned to her staff assistant's job in my office.

This is a beautiful story. I want to express my thanks and appreciation to Heidi Stensland for her generosity and her faith. I thank the members of the Elim Baptist Church for their prayers and support for Lynn and Heidi. And to Lynn, I want to wish all of the best for a very bright future, now full of hope. I commend her for her faith that God would provide an answer to her prayers.

To all those involved in this great story, I say, God bless.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. ESHOO) is recognized for 5 minutes.

(Ms. ESHOO addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. SOUDER) is recognized for 5 minutes.

(Mr. SOUDER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. SCHIFF) is recognized for 5 minutes.

Mr. SCHIFF. Mr. Speaker, Hagop Bekerjian, Hranoush Boghosian, Gohar Madoyan, the Partamian brothers from Adana, Knarik Davoudian, Mari Filian, Hripsime Stambolian, Asadour Stambolian, Haroutiun Stambolian, Grigor Stambolian.

These are a few, a precious few, of the 1.5 million men, women, and children that lost their lives at the hands of the Ottoman Empire between 1915 and 1923. Eighty-seven years ago, Armenian teachers, clergy, businessmen, writers, and doctors were rounded up and killed. The events of April 24, 1915,

set the stage for the first genocide of the 20th century.

Nikoghos Achabahian, Boghos Katchadourian, Mariam Katchadourian, Takouhi Katchadourian, Hovsep Katchadourian, Manoug Baronian, Peprouhi Baronian, Antaram Antaramian, Yeghsapert Vartabedian, Haroutune Antaramian, Ashod Antaramian, Naomi Antaramian, Anagule Antaramian.

They were fathers and sons, mothers and daughters, aunts, uncles, and grandparents. They were whole families. They were a people, and they were nearly wiped out.

Garabed Hovagimian, Mariam Hovagimian, Garabed Hovagimian, Jr., Siranoush Hovagimian, Boghos Hovagimian, Zarouhi Chavooshian Norsigian, Dickran Chavooshian, Arshalous Norsigian, Zabelle Norsigian, Zabelle Norsigian, Solomon Norsigian, Hatoon Chavooshian, Ardash Chavooshian.

□ 1600

You might imagine that after the passage of so much time and with the presence of so many Americans of Armenian origin, U.S. recognition of the events of April 24 and the genocide that followed would be routine and noncontroversial. Instead, debate over the Armenian genocide has been an annual and bitter conflict.

Mac Norsigian, Nazely Norsigian Sarkisian, Serpouhi Norsigian Kloian, Poompul Norsigian Bazoian, Souren Sarkisian, Makrouhi Kapoian Norsigian, Nareg Norsigian Sarkisian, Nevart Arslanian Vartanian, Sarkis Vartanian.

Even though modern-day Turkey was established in 1923 out of the ashes of the Ottoman Empire and was not the actual perpetrator of the genocide, it spends millions of dollars each year on the best lobbyists, engages sympathetic allies on its behalf, and routinely threatens to sever diplomatic, military, and economic ties with the United States anytime the Armenian genocide is brought up.

Haig Kurkjian, Armen Kurkjian, Sultan Kurkjian, Savgul Kurkjian Bugdoian, Boghos Mergeanian, Garabed Savulian, Zakar Savulian, Hagop Saroian, Sooren Saroian, Aslik Saroian, Goharik Saroian.

Despite this concerted effort, there is no serious academic dispute about the Armenian genocide. Some of the most notable Holocaust and genocide scholars, including Israel Charny, Deborah Lipstadt, and Robert J. Lifton, among many others, join in the call for recognition. International law scholar Raphael Lemkin, who coined the word genocide in 1943, cited the Armenian case as an example.

And all those people.

Toros Chaglassian, Haroutiun Keusseyan, Zabel Keusseyan, Loussin Keusseyan, Hovannes Keusseyan, Garabed Keusseyan, Boghos Sarkissian, Dickranouhi Sarkissian, Carmen Sarkissian.

They are not simply names. They were not simply part of the 1.5 million number. They are people. They are children. They are mothers and fathers.

Our own National Archives housed diplomatic dispatches from U.S. Ambassador Henry Morgenthau and Consul Leslie Davis to the State Department, vividly describing the systematic destruction of an entire people. News accounts in the American press, most notably the New York Times, provide another trove of primary source evidence.

Who are they? They are:

Kasbar Jeboghlian, Toukhman Jeboghlian, Kevork Jeboghlian, Mariam Jeboghlian, Barkev Jeboghlian, Yeranig Deukmedjian, Haiganoush Deukmedjian, Rosa Deukmedjian, Hovhannes Deukmedjian, Arshalouys Deukmedjian, Kevork Deukmedjian, Mariam Jeboghlian.

Because of Turkey's important strategic role in NATO, America has been reluctant to speak out. But U.S.-Turkish relations are strong and can survive our recognition of the Armenian genocide.

Hagop Momjian, Nevart Sarkissian, Bedross Shemessian, Hovhannes Shemessian, Boghos Shemessian, Ester Shemessian, Lucia Shemessian, Takouhi Tejirian, Makrouhi Tejirian, Ashod Tejirian, Sahag Shamassian.

Euphemisms, vague terminology, or calls for discussions to get at the truth have been used to avoid discomfort with Turkey's Ottoman past. Let me just conclude by saying the United States is fighting an unconventional enemy in the war on terrorism. Winning that war requires a level of more clarity that can provide a vision for struggling people in nations everywhere. So let us call genocide genocide. Let us not minimize the deliberate murder of 1.5 million people. Let us have a moral victory that can shine as a light to all nations.

Hagop Berkerjian, Hranoush Boghosian, Gohar Madoyan, the Partamian Brothers from Adana, Knarik Davoudian, Mari Filian, Hripsime Stambolian, Asadour Stambolian, Haroutiun Stambolian, Grigor Stambolian. These are a few, a precious few, of the 1.5 million men, women, and children who lost their lives at the hands of the Ottoman Empire between 1915–1923.

Eighty-seven years ago today, Armenian teachers, clergy, businessmen, writers, and doctors were rounded up and killed. The events of April 24, 1915 set the stage for the first genocide of the 20th Century.

Nikoghos Achabahian, Boghos Khatchadourian, Mariam Khatchadourian, Takouhi Khatchadourian, Hovsep Khatchadourian, Manoug Baronian, Peprouhi Baronian, Antaram Antaramian, Yeghsapert Vartabedian, Haroutune Antaramian, Ashod Antaramian, Naomi Antaramian, Anagule Antaramian. They were fathers and sons, mothers and daughters, aunts, uncles, and grandparents. They were whole families. They were a people and nearly wiped out.

Garabed Hovagimian, Mariam Hovagimian, Garabed Hovagimian, Jr., Siranoush Hovagimian, Boghos Hovagimian, Zarouhi Chavooshian Norsigian, Dickran Chavooshian, Arshalous Norsigian, Zabelle Norsigian, Solomon Norsigian, Hatoon Chavooshian, Ardash Chavooshian.

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Haig Kurkjian, Armen Kurkjian, Sultan Kurkjian, Savgul Kurkjian Bugdoian, Boghos Mergeanian, Garabed Savulian, Zakar Savulian, Hagop Saroian, Sooren Saroian, Aslik Saroian, Goharik Saroian.

Despite this concerted effort, there is no serious academic dispute about the Armenian Genocide. Some of the most notable Holocaust and Genocide scholars, including Israel Charny, Deborah Lipstadt, and Robert Jay Lifton, among many others join the call for recognition. International law scholar Raphael Lemkin, who coined the word genocide in 1943, cited the Armenian case as an example.

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Because of Turkey's important strategic role in NATO, America has been reluctant to speak out. But U.S.-Turkish relations are strong and can survive our recognition of the Armenian Genocide.

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Some argue that recognition of the genocide has become even more problematic now, when the world is at war with terrorism and the United States cannot afford to offend the sensibility of our Turkish ally. In fact, the converse is true: At a time when the United States has been called on for a level of moral

leadership, vision and inspiration not seen since World War II, we cannot afford to dissemble about crimes against humanity.

Khatoun Jilizian, Lucia Jilizian, Alice Jilizian, Minas Serop Jilizian, Kevork Serop Jilizian, Haroutioun Aydabirian, Hagop Donabedian, Hripsimeh Bedoyan, Margaret Bedoyan.

Euphemisms, vague terminology or calls for discussions to get at the truth are just some of the dodges used to avoid Turkish discomfort with its Ottoman past. What is there to discuss about the Armenian Genocide? What facts are there left to discover? What is to be gained by referring to the systematic slaughter of an entire people without using the word most appropriate for those grotesque circumstances?

The short answer is that there is nothing to discuss, nothing to discover, nothing to be gained by denial—and much to be lost. The United States is fighting an unconventional enemy in the war on terrorism, and one against whom our overwhelming military might provides only one necessary weapon. Winning the war on terrorism will also require a level of moral clarity that can provide a vision for struggling people and nations everywhere. Only military force accompanied by an equally strong moral force will provide the essential combination to route out terrorism and prevent its reemergence.

So let us call genocide, genocide. Let us not minimize the deliberate murder of 1.5 million people. Let us have a moral victory that can shine as a light to all nations. These people lived. They dreamed of their futures, as we dream about ours. They loved their family and life. Their voices were silenced in the desert, but we can respect their memory. And we must.

Sarkis Dadaian, Varouhi Minassian, Miriam Derderian, Yeghsa Derderian.

COMMEMORATING THE ARMENIAN GENOCIDE

The SPEAKER pro tempore (Mr. FORBES). Under a previous order of the House, the gentleman from Michigan (Mr. BONIOR) is recognized for 5 minutes.

Mr. BONIOR. Mr. Speaker, I want to follow on the remarks of my distinguished colleague from California.

The Armenian genocide has been called the most ''colossal crime of all ages.'' It has been called a ''campaign of race extermination,'' similar to the Holocaust.

Every year on the 24th of April, the citizens of Armenia gather, as they did just this past day in Yerevon on top of a hill, to remember all of the people that perished, the 1.5 million. And although we are halfway around the world away, we remember with them today. Today we pause and we say, ''never again.'' We do so in order to prevent history from repeating itself as it has often done in our lifetime.

It happened in Armenia between 1915 and 1923. Ambassador Morgenthau told our government what was happening, and not a very good response was received. It happened during the Holocaust, and not a very good response in reaction to what was happening was received. It happened in Bosnia and Rwanda and Cambodia. The world did not learn the harsh lessons of the past.

Today we stand up and we speak because silence betrays our principle as a freedom-loving people. One and a half million Armenian men, women, and children were victims of a brutal genocide at the hands of the Turkish Ottoman Empire from 1915 to 1923. The intent of the genocide was to destroy all traces of a thriving and cultured civilization over 3,000 years old.

On the 24th of April 1915, 300 Armenian leaders and intellectuals and professionals were rounded up, deported, and killed. Also on that day 5,000 of the poorest Armenians were slaughtered in the street. And the names that were read by my colleague, the gentleman from California (Mr. SCHIFF), they were real people with families. We must never forget.

Some think of the genocide in abstract terms, but it is not. We are here today speaking out on the House floor, Democrats and Republicans, because we know that 1.5 million men, women, and children killed in the genocide were husbands and wives and mothers and fathers and sons and daughters and friends. Those who survive them know this: They were innocent individuals. They were robbed of their dignity, of their humanity, and ultimately their lives.

A professor once observed that the denial of genocide strives to reshape history in order to demonize the victims and rehabilitate the perpetrators. Because of the work of historians, advocates, the Armenian American community, lawmakers and other people of conscience, this is not possible in the case of the Armenian genocide. It will never be possible because we will always be here, every April 24 and the week preceding it, speaking to the country, speaking to the world community about what happened. And make no mistake about it, those who are responsible, those who fight against recognizing this for what it was, a genocide, hear our voices.

While the attempts of denial continue to strengthen our resolve to remember and speak out, we recognize the anniversary of this massacre and condemn these crimes against an entire people in order to ensure that similar atrocities are not committed against any people or any civilization again. We must never forget. We recognize the anniversary in order to show our support for all Armenian Americans and the horrific suffering they or their families endured.

We recognize the anniversary in order to stand up for freedom and condemn injustice across the world. I have recently joined with 161 of my colleagues in asking President Bush to recognize the Armenian genocide for what it is: a genocide. And we will continue our collective efforts to achieve proper commemoration of the Armenian genocide because we must never forget.

ARMENIANS STILL SEEK JUSTICE FOR 1915 GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. MCGOVERN) is recognized for 5 minutes.

Mr. MCGOVERN. Mr. Speaker, today Members of this House have come to the floor to remember and commemorate the 87th anniversary of the Armenian genocide.

On April 24, 1915, hundreds of Armenian religious, political, and intellectual leaders were rounded up, exiled, and eventually murdered by Turkish order in remote areas of Anatolia. Over the next 8 years, hundreds of thousands of Armenian men, women, and children perished at the hands of the Ottomans.

By recognizing and commemorating the Armenian genocide each year, this House helps ensure that the lessons of this terrible crime against humanity are not forgotten, cannot be denied and hopefully might help prevent future genocides of other peoples.

The single greatest obstacle to the official recognition of the Armenian genocide is the Republic of Turkey. In spite of overwhelming evidence documenting the genocide, most of it housed at the United States Archives, modern-day Turkey continues to pursue a campaign to deny and to ultimately erase from world history the 1.5 million victims of Ottoman Turkey's deliberate massacres and deportations of the Armenian people between 1915 and 1923.

Successive Turkish governments have also deliberately destroyed the immense cultural heritage of Armenians in Turkey, carrying out a systematic campaign to erase evidence of the historic Armenian presence in Eastern Anatolia.

Since 1982, successive U.S. administrations, reluctant to offend Turkey, have in effect supported the Turkish Government's revisionist campaign and opposed passage of the Congressional Armenian Genocide Resolution. These administrations have objected to the use of the word ''genocide'' to describe the systematic destruction of the Armenian people.

Rather than supporting Turkey's denials, Mr. Speaker, I hope that President Bush will officially recognize the Armenian genocide and encourage Turkey to come to terms with its past.

Rather than creating tension in the region, I believe such actions would decrease the tension and suspicions that have long inhibited cooperation in that region.

Thirty-one of our States, including my own State of Massachusetts, have recognized the Armenian genocide. And I want to thank the cochairs of the Congressional Caucus on Armenian Issues, the gentleman from Michigan (Mr. KNOLLENBERG) and the gentleman from New Jersey (Mr. PALLONE) for their outstanding work to ensure that we never forget those who perished and those who survived the Armenian genocide. In their names and in their memory, we must demand recognition.

Mr. Speaker, I enter into the RECORD an article by Jason Sohigian that appeared in my hometown newspaper, The Worcester Telegram and Gazette, describing why Armenians still seek justice for the 1915 genocide by the Ottomans.

Mr. Speaker, it is past time for the United States to recognize officially the Armenian genocide. There can be no justice without the truth. In the name of all humanity, let it happen now.

The article previously referred to is as follows:

[From the Worcester Telegram and Gazette, Apr. 23, 2002]

ARMENIANS STILL SEEK JUSTICE FOR 1915 GENOCIDE BY OTTOMANS

(By Jason Sohigian)

The Armenian genocide is still subject to a massive campaign of denial by modern Turkey and distortion by some of its allies, including Israel—much to the embarrassment of Jewish historians. While the rest of the world recognizes the systematic, premeditated nature of the Armenian genocide, Turkey continues to devote massive amounts of resources toward its policy of denial.

Often people wonder why the genocide, which happened so long ago, is still important to so many people so far away from the scene of the crime.

Why? Because Ottoman Turkey succeeded in annihilating more than half of the Armenian population of historic Armenian. Entire villages, towns and cities were wiped out. Families were killed and their property illegally confiscated. A 3,000-year-old indigenous culture was utterly disrupted and uprooted.

Not one Armenian family in the world remains untouched by this catastrophic event. Nearly every Armenian community leader, intellectual, and priest in the Ottoman Turkish capital, Istanbul, was rounded up on April 24, 1915, and massacred. That initiated the campaign of terror, and from that day forward nearly every Armenian family suffered losses throughout Ottoman Turkey.

My own grandfather witnesses the death of family members and lived as an orphan for many years until finally being reunited with the remnants of her family in the United States. My mother attempted to reconstruct my grandmother's story for the historical record while my grandmother was still able to remember what happened during those years.

Knowing that these few orphans managed to survive and regenerate into the Armenian community of today is truly an inspiration. I could not help but feel, both as an Armenian and as an heir to the tragedy, the tremendous sense of obligation to achieve justice for the Armenian people.

That is the meaning behind the efforts to achieve recognition for the Armenian genocide, 87 years after the fact. Armenians living in the diaspora ask their governments to recognize this event, and urge Turkey to do the same. Recognition of the genocide is a pan-Armenian concern, and following the independence of Armenian after the fall of the Soviet Union in 1991, even the Armenian government of today has made recognition a major part of its foreign policy agenda.

The issue of recognition has several aspects, among them a moral obligation, a political dimension and a legal component.

Because so much effort has been expended combating denial over the years, many related issues still have not been explored. Armenians worldwide are now raising the issue of reparations for land and other stolen Armenian property. Just recently, class-action lawsuits were initiated against the New York Life and French Axa insurance companies, which sold policies in Ottoman Turkey to families and failed to pay the benefits to the heirs of those who were later massacred in the Armenian genocide.

Modern Turkey is the beneficiary of its Ottoman past, and it vigorously celebrates this fact—except when it comes to the Armenian genocide. Many of the Ottoman leaders who participated in the Armenian genocide went on to become officials of the modern Turkish state, and Turkey continues to profit from the confiscated land and property of the Armenian people.

Armenians will never forget. Nor will they forgive—until justice is served.

But governments and leaders, too, must speak out. Individuals, too, must raise their voices. Conscience must prevail.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

(Ms. WOOLSEY addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

REMEMBERING THE ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. SHERMAN) is recognized for 5 minutes.

Mr. SHERMAN. Mr. Speaker, I join with my colleagues from the Armenia Issues Caucus to recognize the obvious and uncontestable fact that during World War I and its aftermath, as many as 1.5 million Armenians died in the first genocide of the 20th century.

The question is not whether we should recognize this genocide, but why we have not done so already. The evidence is overwhelming. It has been set forth today by the previous speakers, as it has been set forth every April 24th, year after year, on the floor of this House.

Why do we not recognize that which is uncontestable? We are told that there are geopolitical reasons why the truth must be shrouded. Well, Turkey would be a much better ally of America if Turkey recognized the truth. What kind of ally would Germany be if it had a government that denied the Holocaust? What kind of ally would America be if we denied that slavery occurred or claimed that we had not created great injustices to the Native American population, including, frankly, the genocide of certain Native American Tribes?

Turkey is an ally of America, but America has no greater ally than the truth. Nothing is more important than that America be recognized as being guided by the truth, and eternal truth, and not the geopolitics of the hour.

□ 1615

History will record that there are very few occasions in which the world consents or even a region of the world consents to the existence of a single superpower, and the world will not consent to our leadership unless that leadership is guided by principle. We must put the truth first.

What if, for example, a new regime should arise in Germany and disclaim the Holocaust and demand that we here in Washington marched down to the Holocaust Museum and rip it apart brick by brick? The response should not be, oh, Germany, is an important and powerful country. The response should be that there is nothing more important to America than the truth. We must recognize the genocide, and we must recognize the needs of those who survived the genocide.

Last year when the President asked us for $70 million in aid to Armenia, this Congress responded with $90 million of aid, additional aid to help meet Armenia's security needs. Since its independence, this Congress has provided $1.3 billion of aid to that new democracy, and this year again we must respond by providing the aid that Armenia needs, more than the President provides in his budget. We must make sure that we do not aid Azerbaijan as long as that country continues to blockade Armenia.

Finally, with regard to the proposed pipeline, the Baku-Ceyhan pipeline, we must make sure that is a pipeline of peace that unites Azerbaijan and Armenia as it flows through both of those countries into the Mediterranean Sea; and we must make sure that the Export-Import Bank does not risk our capital in creating a pipeline of war, a pipeline that deliberately circumvents Armenia and tries to create a new geopolitical situation in the Caucasus. We must recognize the truth. We must build toward peace, prosperity, and progress for Armenia and for the entire Caucasus region.

REMEMBERING THE VICTIMS OF THE ARMENIAN GENOCIDE

The SPEAKER pro tempore (Mr. FORBES). Under a previous order of the House, the gentleman from California (Mr. HORN) is recognized for 5 minutes.

Mr. HORN. Mr. Speaker, once again, I join my colleagues and the world in remembering those who suffered the horrifying events of the Armenian genocide. The tragedy of lost lives through ethnic cleansing must never be forgotten.

The Armenian genocide marked the beginning of a barbaric practice beginning in the 20th century. More than a million and a half Armenians were killed and forcibly departed. The Ottoman Turks brutally uprooted and systematically eliminated Armenians from their homeland. To this day, the Turkish Government continues to deny that millions of Armenians were killed simply because they were Armenian.

As an educator, I believe we must emphasize the role of education throughout the world. We must continue to forbid actions of racial intolerance and religious persecution which have led to so many cases of ethnic cleansing. The tragedies of the past 2

decades, including those in Cambodia, Rwanda, Kosovo, attest to this fact. We must continue teaching our children tolerance so the next generation is armed with the knowledge and the power to defeat racial and religious persecution wherever it arises.

We refuse to acknowledge and understand racial and religious intolerance. We are doomed to repeat the same tragedies again and again if we do not constantly use our voices and our prayers for a much better situation in the 21st century of this country.

Mr. Speaker, I thank the Chair for this opportunity to commemorate the Armenian genocide. I also want to thank the many Armenian American organizations throughout the Nation that make celebration of terror and hopeful that it is never done again, not only for Armenians, but for every group of people, particularly those in California for their tremendous work on behalf of the Armenian Army community which is an absolutely wonderful group of people throughout the State.

I must say to the Turkish Government, you were not there when this was done, why cannot you say it was wrong, we did the wrong thing of our ancestors and get it on the book and get up to bat, just to use a baseball analogy? It just makes us sick when the people do not go back in history and say that should not have been done and it will not be done again.

REMEMBERING THE VICTIMS OF SEPTEMBER 11, 2001

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentlewoman from Virginia (Mrs. JO ANN DAVIS) is recognized for 60 minutes as the designee of the majority leader.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, we recently observed the 7th-month anniversary of the terrorist attacks that devastated our Nation on September 11, 2001. Today, I would like to continue to remember, recognize and honor our fellow citizens who lost their lives as a result of the terrorist attacks on our Nation.

This list of over 3,000 names is comprised of many of the victims of the horrific attacks, including the firefighters and policemen who willingly gave their lives in an attempt to rescue others. This effort will continue until each name on this list has been read on the House floor and entered into the CONGRESSIONAL RECORD.

I urge my colleagues to join me in this important undertaking to show that this House and our Nation honors our fallen brothers and sisters.

Lars P. Qualben; Lincoln Quappe; Patrick J. Quigley, IV; Beth Ann Quigley; Michael Quilty; Ricardo Quinn; James Quinn; Carol Rabalais; Christopher Peter A. Racaniello; Leonard Ragaglia; Eugene J. Raggio; Michael Ragusa; Peter F. Raimondi; Lisa J. Raines; Harry Raines; Ehtesham U. Raja; Valsa Raju; Edward Rall; Luke Rambousek; Maria Isabel Ramirez; Harry Ramos; Deborah Ramsaur; Lorenzo Ramzey; Alfred Todd Rancke; Adam David Rand; Jonathan C. Randall; Shreyas Ranganath; Faina Rapoport; Rhonda Rasmussen; Robert Arthur Rasmussen; Ameenia Rasool; Roger Mark Rasweiler; Marsha Dianah Ratchford; David Alan James Rathkey; William R. Raub; Gerard Rauzi; Alexey Razuvaev; Gregory Reda; Sarah Redheffer; Michele Marie Reed; Judith A. Reese; Donald J. Regan; Robert Regan; Thomas M. Regan; Christian Regenhard; Howard Reich; Gregory Reidy; James B. Reilly; Kevin Reilly; Timothy E. Reilly; Joseph Reina; Thomas Barnes Reinig; Frank B. Reisman; Joshua Scott Reiss; Karen C. Renda; John Armand Reo; Richard C. Rescorla; John Resta; Sylvia San Pio Resta; Martha Reszke; David Retik; Todd Reuben; Eduvigis ''Eddie'' Reyes; Bruce Reynolds; John Frederick Rhodes, Jr.; Francis S. Riccardelli; Rudolph N. Riccio; David Rice; Kenneth F. Rice, III; Eileen M. Rice; Vernon Richard; Cecelia E. Richard; Michael Richards; Claude ''Dan'' Richards; Venesha O. Richards; Gregory Richards; James Riches; Alan Jay Richman; John M. Rigo; James Riley; Frederick Rimmele; Theresa ''Ginger'' Risco; Rose Mary Riso; Moises N. Rivas; Joseph Rivelli, Jr.; Isaias Rivera; Linda I. Rivera; Carmen A. Rivera; Juan Rivera; David Rivers; Joseph R. Riverso; Paul Rizza; Stephen Louis Roach; Joseph Roberto; Michael Roberts; Michael Edward Roberts; Leo Roberts; Donald W. Robertson, Jr.; Catherina Robinson; Jeffrey Robinson; Michell Robotham; Donald Arthur Robson; Antonio Augusto Tome Rocha; Raymond J. Rocha; Laura Rockefeller; John M. Rodak; Roseann Rodgers-Lang; Antonio Jose Carrusca Rodrigues; Anthony Rodriguez; Richard Rodriguez; Carmen Rodriguez; Carlos Cortez Rodriguez; Gregory Rodriguez; Marsha A. Rodriguez; David B. Rodriguez-Vargas; Jose Rodriquez; Matthew Rogan; Jean Roger; Karlie Rogers; Scott Rohner; Keith Roma; Joseph M. Romagnolo; Elvin Santiago Romero; Efrain Franco Romero, Sr.; James A. Romito; Sean Rooney; Eric Thomas Ropiteau; Angela Rosario; Aida Rosario; Mark Harlan Rosen; Sheryl Lynn Rosenbaum; Brooke David Rosenbaum; Linda Rosenbaum; Lloyd D. Rosenberg; Mark Louis Rosenberg; Joshua Rosenblum; Andrew I. Rosenblum; Joshua Rosenthal; Richard David Rosenthal; Philip Rosenzweig; Richard Barry Ross; Daniel Rossetti; Norman Rossinow; Nicholas Rossomando; Michael Craig Rothberg; Mark Rothenberg; Donna Marie Rothenberg; James M. Roux; Nicholas Rowe; Edward Rowenhorst; Judy Rowlett; Timothy Roy; Behzad Roya; Paul Ruback; Ronald J. Ruben; Joanne Rubino; David M. Ruddle; James Ruffin; Bart J. Ruggiere; Susan Ann Ruggiero; Adam K. Ruhalter; Gilbert Ruiz; Obdulio Ruiz-Diaz; Stephen P. Russell; Robert E. Russell; Steven Harris Russin; Michael Thomas Russo, Sr.; Wayne Alan Russo; William R. Ruth; John Joseph Ryan; Matthew L. Ryan; Edward Ryan; Jonathan Stephan Ryan; Tatiana Ryjova; Christina Sunga Ryook; Jason E. Sabbag; Thomas E. Sabella; Scott Saber; Charles E. Sabin; Joseph F. Sacerdote; Jessica Sachs; Francis John Sadocha; Joud Elie Safi; Brock Safronoff; Art Saiya; Edward Saiya; Kalyan K. Sakar; Marjorie C. Salamone; John Patrick Salamone; Juan Salas; Hernando R. Salas; Esmerlin Salcedo; John Salvatore Salerno; Rahma Salie; Richard L. Salinardi; Anne Marie Ferreira Sallerin; Wayne Saloman; Nolbert Salomon; Catherin Salter; Frank G. Salvaterra; Paul Salvio; Samuel R. Salvo; Rena Sam-Dinnoo; Carlos Samaniego; John Sammartino; Maryann Samone; James Kenneth Samuel, Jr.; Rena San Dinoo; Michael San Phillip; Hugo Sanay-Perafiel; Jesus Sanchez; Alva Jeffries Sanchez; Jacquelyn Sanchez; Eric Sand; Stacey Sanders; Herman S. Sandler; James Sands, Jr.; Angela M. Santana; Ayleen J. Santiago; Kirsten Santiago; Maria Theresa Santillan; Susan G. Santo; Christopher Santora; John Santore; Mario Santoro; Rafael Humberto Santos; Rufino Condrado F. Santos; Dominick Santos; Victor J. Saracini; Kalyan K. Sarkar; Chapelle Sarker; Paul F. Sarle; Deepika K. Sattaluri.

□ 1630

Gregory Saucedo; Susan Sauer; Anthony Savas; Vladimir Savinkin; Jackie Sayegh; John Sbarbaro; Dawn Elizabeth Scala; David M. Scales; Robert Louis ''Rob'' Scandole; Thomas Scaracio; Michelle Scarpitta; Dennis Scauso; John Schardt; John Scharf; Fred Claude Scheffold, Jr.; Angela Scheinberg; Scott M. Schertzer, Sean Schielke, Steven Francis Schlag; Robert Allan Schlegel, Jon S. Schlissel; Ian Schneider; Thomas Schoales; Frank G. Schott; Gerard P. Schrang; Jeffrey Schreier; John T. Schroeder; Susan Kennedy Schuler; Edward W. Schunk; Mark Schurmeier; Mark Schwartz; Clarin Schwartz; John Burkhart Schwartz; Adrianne Scibetta; Raphel Scorca; Janice Scott; Randolph Scott; Christopher Scudder; Arthur Warren Scullin; Michael H. Seaman; Margaret Seeliger; Carlos Segarra; Jason Sekzer; Mary Grace Selco; Matthew Carmen Sellitto; Michael L. Selves; Howard Selwyn; Larry J. Senko; Marc Seplin; Arturo Sereno; Frank Serrano; Marian Serva; Alena Sesinova; Adele Sessa; Situ Sewnarine; Karen Lynn Seymour-Dietrich; Davis G. ''Deeg'' Sezna, Jr.; Thomas J. Sgroi; Jayesh Shah; Khalid Mohammad Shahid; Mohammed Shajahan; Gary Shamay; Earl Richard Shanahan; Shiv Shankar; Dan Frederic Shanower; Huang Shaoxiang; Liang Shaozhen; Wang Shaozshang; L. Kadaba Shashikiran; Neil Shastri; Kathryn Anne Shatzoff; Barbara A. Shaw; Jeffery J. Shaw; Robert John Shay, Jr.; Daniel James Shea; Joseph Patrick

Shea; Kathleen Shearer; Michael Shearer; Linda Sheehan; Hagay Shefi; Terrance H. Shefield; Antoinette ''Toni'' Sherman; John A. Sherry; Sean Shielke; Atsushi Shiratoro; Thomas Joseph Shubert; Mark Shulman; See-Wong Shum; Allan Shwartzstein; Carmen Sierra; Johanna Sigmund; Dianne T. Signer; Gregory Sikorsky; Stephen Siller; David Silver; Craig Silverstein; Nasima Simjee; Diane M. Simmons; George Simmons; Don Simmons; Bruce Edward Simmons; Michael John Simon; Weiser Simon; Kenneth Alan Simon; Arthur Simon; Paul Joseph Simon; Ken Simon; Marianne Simone; Barry Simonwitz; Jane Simpkin; Jeff Simpson; George Sims; Cherlye D. Sincock; Khamladai K. ''Khami'' Singh; Roshan R. ''Sean'' Singh; Thomas Edison Sinton, III; Mike Sinzi; Peter A. Siracuse; Muriel F. Siskopoulos; Joseph M. Sisolak; John P. Skala; Francis J. Skidmore, Jr.; Toyena C. Skinner; Paul Skrzypek; Christopher Paul Slattery; Vincent R. Slavin; Robert Sliwak; Paul K. Sloan; Stanley S. Smagala, Jr.; Wendy L. Small; Gregg Harold Smallwood; Kevin Smith; Leon Smith, Jr.; Moria Smith; Heather Lee Smith; Sandra Fajardo Smith; Gary F. Smith; Daniel Laurence Smith; James G. Smith; Jeffrey Randall Smith; Karl Trumbull Smith; Catherine T. Smith; Rosemary Smith; Joyce Smith; George Eric Smith; Bonnie Smithwick; Rochelle M. Snell; Laura Marie Snik; Christine Snyder; Dianne Snyder; Leonard J. Snyder; Astrid Elizabeth Sohan; Sushil Solanki; Ruben Solares; Naomi Solomon; Daniel W. Song; Mari-Rae Sopper; Michael C. Sorresse; Fabian Soto; Timothy Patrick Soulas; Gregory T. Spagnoletti; Donald Spampinato; Thomas Sparacio; Georgia Sparks; John Anthony Spataro; Robert W. Spear, Jr.; Robert Speisman; Maynard S. Spence; George E. Spencer, III; Robert Andrew Spencer; Mary Rubina Sperando; Frank J. Spinelli; William E. Spitz; Joseph P. Spor; Klaus Sprockamp; Saranya Srinuan; Fitzroy St. Rose; Michael F. Stabile; Lawrence T. Stack; Timothy Stackpole; Richard James Stadelberger; Eric A. Stahlman; Matthew Stairs, Jr.; Gregory Stajk; Corina Stan; Mary D. Stanley; Joyce Stanton; Patricia Stanton; Anthony M. Starita; Jeffrey Stark; Derek James Statkevicus; Patricia J. Statz; Craig William Staub; William Steckman; Eric Thomas Steen; William R. Steiner; Alexander Robbins Steinman; Edna L. Stephens; Andrew Stergiopoulos; Andrew Stern; Norma Lang Steuerle; Malsin Steven; Martha Stevens; Richard H. Stewart, Jr.; Michael J. Stewart; Sanford ''Sandy'' M. Stoller; Douglas Stone; Lonny J. Stone; Jimmy Nevill Storey; Timothy C. Stout; Thomas S. Strada; James J. Straine, Jr.; Edward W. Straub; George J. Strauch, Jr.; Steven R. Strauss; Edward T. Strauss; Larry Strickland; Steven Strobert; Walwyn W. Stuart; Benjamin Suarez; Ramon Suarez; Xavier Suarez; David Scott Suarez; Yoichi Sugiyama; William C. Sugra; Daniel Suhr; David Marc Sullins; Christopher P. Sullivan; Patrick Sullivan; Thomas Sullivan; Patty Sulva; Larry Sumaya; Yoichi Sumiyama; James Joseph Suozzo; Colleen Supinski; Robert Sutcliff, Jr.; Selina Sutter; Claudia Suzette Sutton; John F. Swaine; Valerie Swanson; Kristine Swearson; Brian Edward Sweeney; Brian D. Sweeney; Madeline Sweeney; Kenneth J. Swensen; Thomas F. Swift; Derek O. Sword; Kevin T. Szocik; Gina Sztejnberg; Harry Taback; Joann Tabeek; Norma C. Taddei; Michael Taddonio; Keiichiro Takahashi; Keiji Takahashi; Phyllis Talbot; Robert R. Talhami; John Talignani; Sean Patrick Tallon; Paul Talty; Maurita Tam; Rachel Tamares; Hector Tamayo; Michael Andrew Tamuccio; Kenichiro Tanaka; Rhondelle Cherie Tankard; Michael Anthony Tanner; Dennis Taormina; Kenneth Joseph Tarantino; Allan Tarasiewicz; Michael C. Tarrou; Ronald Tartaro; Leonard Taylor; Kip P. Taylor; Sandra C. Taylor; Hilda E. Taylor; Lorisa Ceylon Taylor; Donnie Brooks Taylor; Darryl A. Taylor; Michael M. Taylor; Sandra Teague; Karl W. Teepe; Paul Tegtmeier; Yesh Tembe; Anthony Tempesta; Dorothy Temple; Peter Tengelin; David Tengelin; Jody Tepedino Nichilo; Brian J. Terrenzi; Lisa Marie Terry; Goumatie Thackurdeen; Harshad Thatte; Michael Theodoridis; Thomas F. Theurkauf, Jr.; Saada Thierry; Rod Thomas; Lesley Thomas; Lesley Thomas-O'Keefe; Willilam Harry Thompson; Glenn Thompson; Clive Thompson; Brian Thompson; Nigel Bruce Thompson; Vanavah Thompson; Perry Anthony Thompson; Eric R. Thorpe; Nichola A. Thorpe; Tamara C. Thurman; Sal E. Tieri, Jr.; John Patrick Tierney; William Randolph Tieste; Kenneth F. Tietjen; Stephen Edward Tighe; Scott C. Timmes; Michael Tinley; Jennifer Marie Tino; Robert Frank Tipaldi; John J. Tipping, II; Hector Tirado, Jr.; David Lawrence Tirado; Michelle Titolo; Alicia N. Titus; John J. Tobin; Richard J. Todisco; Otis Vincent Tolbert; Vladimir Tomasevic; Stevphen K. Tompsett; Thomas Tong; Doris Torres; Luis Eduardo Torres; Amy E. Toyen; Esidro Tranfuro; Daniel Patrick Trant; Abdoul Karim Traore; Wallter ''Wally'' P. Travers; Glenn J. Travers; Felicia Traylor-Bass; Dorothy P. Tremble; Mary Trentini; James Trentini; Lisa L. Trerotola; Karamo Trerra; Michael Trinidad; Francis Joseph Trombino; Gregory J. Trost; Willie Q. Troy; William Tselepis; Zhanetta Tsoy; Michael Patrick Tucker; Pauline Tull-Francis; Lance Richard Tumulty; Ching Ping Tung; Simon Turner; Donald Joseph Tuzio; Robert T. Twomey; Jennifer Tzemis; John G. Ueltzhoeffer; Tyler Ugolyn; Michael A. Uliano; Jonathan J. Uman; Anil S. Umarkar; Allen Upton; Diane Maria Urban; John Damien Vaccacio; Bradley H. Vadas; William Valcarcel; Mayra Valdes-Rodriguez; Felix Antonio Vale; Ivan Vale; Benito Valentin; Santos Vanentin, Jr.; Carlton F. Valvo; Pendyala Vamsikrishna; Erica Van Acker; Kenneth W. Van Auken; Daniel M. Van Laere; Edward Raymond Vanacore; Jon C. Vandevander; Richard Vanhine; Frederick T. Varacchi; Gopalakrishnan Varadhan; David Vargas; Scott C. Vasel; Santos Vasquez; Azael Vasquez; Ronald James Vauk; Arcangel Vazquez; Peter Vega; Sankara Velamuri; Jorge Velazquez; Lawrence Veling; Anthony M. Ventura; David Vera; Loretta A. Vero; Christopher Vialonga; Matthew Gilbert Vianna; Robert Vicario; Celeste Torres Victoria; Joanna Vidal; Joseph Vigiano; John T. Vigiano, II; Frank J. Vignola, Jr.; Joseph B. Vilardo; Sergio Villanueva; Chantal Vincelli; Melissa Renee Vincent; Lawrence Virgilio; Francine Virgilio; Joseph G. Visciano; Ramsaroop Vishnu; Joshua Vitale; Goro Vosgarinon; Lynette Vosges; Garo H. Voskerijian; Alfred Vukuosa; Gregory Kamal Bruno Wachtler; Karen Wagner; Mary Wahlstrom; Honor Elizabeth Wainio; Courtney Wainsworth Walcott; Gabriela Waisman; Wendy Wakeford; Kenneth Waldie; Benjamin Walker; Glen James Wall; Robert F. Wallace; Mitchel Scott Wallace; Roy M. Wallace; Peter Guyder Wallace; Jean Marie Wallendorf; Matthew Blake Wallens; Meta Waller; John Wallice, Jr.; Barbara Walsh; James Walsh; Jeffrey Patrick Walz; Weibin Wang; Ching-Huei Wang; Michael Warchola; Stephen G. Ward; Timothy Ward; James A. Waring; Brian Gerald Warner; Derrick Christopher Washington; James T. Waters, Jr.

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Charles Waters; Kenneth Thomas Watson; Sandy J. Waugh; Michael H. Wayne; Walter E. Weaver; Todd C. Weaver; Nathaniel Webb; Glenn Webber; Dinah Webster; William Weems; Joanne Flora Weil; Michael T. Weinberg; Steven Jay Weinberg; Scott Jeffrey Weingard; Steven Weinstein; David Martin Weiss; David Thomas Weiss; Vincent Wells; Deborah A. Welsh; Timothy Welty; Chris Wemmers; Ssu-Hui ''Vanessa'' Wen; John Wenckus; Oleh D. Wengerchuk; Peter Matthew West;

Whitfield West; Meredith Whalen; Eugene Whelan; Edward White; Maudlyn A. White; Sandra L. White; James Patrick White; Kenneth White; Adam White; Malissa White; Wayne White; Leonard Anthony White; John White; Leanne Marie Whiteside; Mark Whitford; Leslie A. Whittington; Michael T. Wholey; Mary Lenz Wieman; Jeffrey David Wiener; William Joseph Wik; Allison Marie Wildman; Glenn E. Wilkinson; Ernest M. Willcher; John Willett; Candace Lee Williams; Kevin Michael Williams; Dwayne Williams; David Lucian Williams; Crossley Williams, Jr.; Louie Anthony Williams; Louis Williams; Brian Patrick Williams; David Williams; Deborah Lynn Williams; John P. Williamson; William Eben Wilson; Donna Wilson; David H. Winton; Glenn J. Winuk; Thomas Francis Wise; Alan L. Wisniewski; Frank Thomas Wisniewski; David

Wiswall; Sigrid Charlotte Wiswe; Michael Robert Wittenstein; Christopher W. Wodenshek; Martin P. Wohlforth; Katherine S. Wolf; Yin Ping ''Steven'' Wong, Jennifer Y. Wong; Winnie Yuk Ping Wong; Siu Cheung Wong; Jenny Seu Kueng Low Wong; Brent J. Woodall; Marvin Woods; Patrick Woods; James J. Woods; Richard H. Woodwell; David Wooley; John B. Works; Martin M. Wortley; Rodney J. Wotton; William Wren; John Wright;

Neil Robbin Wright; Sandra Wright; Naomi Yajima; Jupiter Yambem; John Yamnicky; Suresh Yanamadala; Vicki C. Yancey; Shuyin Yang; Matthew D. Yarnell; Myrna Yaskulka; Shakila Yasmin; Olabisi Layeni Yee; Keven Wayne Yokum; Paul Yoon; Raymond R. York; Kevin Patrick York; Edward Phillip York; Suzanne Youmans; Edmond Young; Lisa Young; Donald McArthur Young; Barrington L. Young; Jacqueline Young; Elkin Yuen; Sheng Yuguang; Joseph Zaccoli; Adel A. Zakhary; Arkady Zaltsman; Robert Alan ''Robbie'' Zampieri; Mark Zangrilli; Christopher Rudoph Zarba; Ira Zaslow; Aurelio Zedillo; Kenneth Zelman; Abraham J. Zelmanowitz; Zhe ''Zach'' Zeng; March Scott Zeplin; Yuguang Zheng; Ivelin Ziminski; Michael Joseph Zinzi; Charles A. Zion; Julie Lynne Zipper; Salvatore J. Zisa; Prokopios ''Paul'' Zois; Joseph J. Zuccala; Andrew Steven Zucker.

Mr. Speaker, this completes the list of more than 3,000 names that have been read since September 11 on the House floor and entered into the CONGRESSIONAL RECORD. Again, I ask the families of those that are deceased to excuse me for any mispronunciations of their names.

Americans will forever remember September 11, 2001. It was the day that our parents, our children, our friends, and our neighbors were taken from us. It was the day that our heroes died.

I thank my colleagues who joined me in this important effort for the last 7 months, and I thank the families and friends of those who perished for their courage.

Mr. Speaker, our thoughts will forever be with the families and the loved ones that we lost.

HONORING HOLLAND CHRISTIAN SCHOOLS AND SAMUEL ADAMS

The SPEAKER pro tempore (Mr. FORBES). Under a previous order of the House, the gentleman from Michigan (Mr. HOEKSTRA) is recognized for 5 minutes.

Mr. HOEKSTRA. Mr. Speaker, this evening I rise to pay special tribute to a very special school, Holland Christian Schools, as they prepare to recognize and celebrate their centennial.

For a century, Holland Christian Schools, located in Holland, Michigan, has provided a quality, Christ-centered education for students from preschool to grade 12.

More than 11,000 students have graduated since its founding, and with a current enrollment of approximately 2,400 students in grades K–12 representing more than 110 different churches, including more than 20 different church denominations, Holland Christian Schools is one of the largest, parent-governed Christian schools in our country.

Holland Christian Schools has a wonderful history of accomplishment and teaching. Holland Christian Schools' educational philosophy finds its basis in the words of Deuteronomy 6:6,7: ''And these words which I command you this day shall be upon your heart and you shall teach them diligently to your children, and shall talk of them when you sit in your house, when you walk by the way, and when you lie down, and when you rise.''

Mr. Speaker, I am a proud graduate of Holland Christian High School, as is my wife, Diane, and my daughter, Erin. My other two children, Allison and Bryan, are students there currently.

On the special occasion of their 100th-year anniversary, I am pleased to stand and recognize Holland Christian Schools and their fine tradition of academic excellence and commitment to Christian values.

Mr. Speaker, I would also like to address another topic this evening. This is taken from ''Samuel Adams: The Character of Conviction.''

Mr. Speaker, it was said by the American preacher, Dwight Moody, ''If I take care of my character, my reputation will take care of itself.''

America's founders were men and women who cared not so much for their reputations as they did for their character and the character of the Nation. Such was the case for an American who came to be known as the Father of the American Revolution, Samuel Adams of Boston.

He was respected because of his great character and strong Christian faith. Samuel Adams' passion and presence commanded not only the respect of his fellow citizens, but of the British authorities as well. It was his Christian faith that was the foundation of his character; and this character was the foundation of a reputation that enabled Samuel Adams to stand firm in the face of British opposition, as well as prepare a young Nation to secure the blessings of liberty. His quest began some 6 years before the Declaration of Independence when the seeds of revolution were being planted across the colonies.

Adams was the clerk of the Massachusetts court, but that did not stop him from leading an uprising against the Governor of Massachusetts, demanding the removal of British troops of Boston. The showdown left five colonists dead and quickly earned recognition as the Boston Massacre.

The other patriots had died for freedom, but the Boston Massacre became a rallying cry echoing through city streets and rural farms.

The citizens of Boston were enraged by the massacre and the stationing of troops within the city limits. The morning after the massacre, the citizens of Boston met and appointed a committee, which included Samuel Adams. Their charge was clear: present to the acting Governor of Massachusetts their demand that the troops be removed from the city.

Governor Hutchinson equivocated, telling Samuel Adams that the troops were not subject to his command. Samuel Adams replied that unless the troops were removed from Boston, the blood of revolution would be on the Governor's hands.

The following morning preparations began for the troops' removal.

What led the Governor to bow to the demands of Samuel Adams and the citizens of Boston? Governor Hutchinson was in a difficult position: either face the angry mob outside of his gates or the angry British authorities across the sea.

But more than mobs and massacres, the Governor was influenced by the words and reputation of Samuel Adams. He was well aware of Adams' character and his wisdom as a loyal and upstanding citizen.

Years earlier, the British authorities had attempted to bribe a poor Adams with political power and wealth, if only he would join their cause. Governor Hutchinson had said of Adams, ''Such is the obstinacy and inflexible disposition of the man that he can never be conciliated by any office or gift whatever.''

Governor Hutchinson was wisely unwilling to test Adams in his demand for the removal of troops. This small, but important victory, inspired the colonists and began the erosion of British domination in the New World.

EDUCATION TAX CREDITS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from Colorado (Mr. SCHAFFER) is recognized for 60 minutes.

Mr. SCHAFFER. Mr. Speaker, I yield to the gentleman from Michigan (Mr. HOEKSTRA) to complete his statement.

SAMUEL ADAMS: THE CHARACTER OF CONVICTION

Mr. HOEKSTRA. Mr. Speaker, the story of Samuel Adams begs the question: Where did Adams find the strength of his character and the source of his conviction? Adams gave the answer a few years later when Hutchinson's successor, Governor Thomas Gage, not having learned from previous attempts, offered Adams anything that he desired so long as he ended his opposition to the British Crown.

Samuel Adams responded: ''Go tell Governor Gage that my peace has long since been made with the King of kings, and that it is the advice of Samuel Adams to him, no longer to insult the feelings of an already exasperated people.''

Adams' vigilance for the cause of freedom and his fellow Americans rested firmly on the peace he found not

within himself or any person, or even within the cause of freedom itself. Rather, it came in character firmly grounded in an eternal security found in knowing the King of kings, the God of ages.

It was his faith that served as his source of strength to stand for his cause, even when tempted with trappings of power and wealth.

Where do we find our peace? Where do we find our comfort? In the past few months, we have been reminded that the blessings of wealth and power cannot alone provide enduring peace, or lasting comfort. These come from a deeper, more permanent source. I believe, like Samuel Adams, that it comes from a Nation of good citizens, who embrace virtue and exercise their convictions, no matter what the cost.

Samuel Adams could have sold his character for peace and prosperity, but he did not. Adams knew that his reputation was more costly than gold, more influential than political position. And in his poverty of possessions, not spirit, he left us the richest of American legacies, a vigilance for freedom, a reputation of character, and a foundation of faith.

Mr. Speaker, I thank the gentleman from Colorado (Mr. SCHAFFER) for yielding, and look forward to spending the next hour talking about a very important subject, the topic of education.

Mr. SCHAFFER. Mr. Speaker, I would like to discuss a topic that is first and foremost on the minds of Americans when asked about their concerns for the country and their political objectives for the Nation, and certainly their expectations with respect to the actions of this Congress. That is perfectly understandable and explainable, particularly when we consider that most families in America regard as their most treasured possessions and objects of responsibility raising their children. And even those who are not engaged in that directly certainly are indirectly, and view that as one of the most propound legacies for our country.

□ 1700

Before we really get started in the discussion, I would like to invite any of our colleagues who may be monitoring today's proceedings here on the floor in this Special Order if they would like to participate in a discussion on school choice as it relates to education tax credits, I would like to extend that invitation. I appreciate the gentleman from Michigan being here as well.

The exciting proposal that has come out of the White House most recently with respect to education involves really trying to help create more of a market approach to American schooling than we have known on a national basis for quite some time. That announcement from our President in support of an educational tax credit is really one that is consistent with various States. As we look around the country in the State legislatures and observe some of the activity that is taking place in State houses today, we see that the proposals around and about education tax credits are appearing quite frequently.

Here is how a tax credit works essentially and how it helps education and why the President has given his commitment to an education tax credit and why it is becoming a high priority here in this House. An education tax credit is a way to allow American individuals to invest their own money, private money, into the business of American education and promoting it. In fact, through a tax credit, effectively reducing the tax burden on the American people by encouraging an equivalent contribution to a school or an education pursuit, what we can achieve nationwide is a massive cash infusion into the American education system, an infusion that is not discriminatory, an infusion of cash that does not favor one kind of institution over another institution, does not pit school building against school building or administrator against administrator or principal against principal, but does what, frankly, we should be doing all along with respect to education and, that is, focusing on the fairness in the relationship between children, so that all children, regardless of the academic setting that they find themselves in, are the beneficiaries of a massive cash infusion in American education. That is what this proposal is really all about.

And so while we have legislation that is still in the works, still on the drafting table, it is important enough to begin talking now about the concept of education tax credits, how these credits work, how they can help American children, how we can learn from the States that have passed education tax credits already, how we can learn from States that have engaged in this debate already and have drawn people together across partisan lines and begin discussing this in a way that I hope will result in Members from both parties here on the House floor working on this final draft of the legislation and aim it toward successful passage here in the House.

Our ultimate goal, of course, is to get a positive bill involving education tax credits to the President's desk. We feel very confident and optimistic about this. Again, I say that based on the experience of States where we see some of the most liberal Democrats joining with some of the most conservative Republicans, joining together for the distinct objective of trying to help America's schoolchildren.

Mr. HOEKSTRA. If the gentleman will yield, as we have gone around the country, the gentleman and I have been to a number of these places together. Whether it is Arizona, Minnesota, Pennsylvania, Florida, there has been a lot of excitement around the concept of tax credits. The gentleman is absolutely right. Number one, this is a focus on the children, making sure that every child in America has the opportunity to get a quality education, that they can go to a safe and drug-free school. And that one of the ways of doing this, and this is especially true when we introduce the concept of a tax credit at the Federal level, it does become a massive infusion of new money into our educational system.

But the difference between the money that is currently coming out of Washington and going to our local schools and the money that would be generated by a tax credit, the majority of the money that comes from Washington today that goes to your local school says, In exchange for this check, you will do this. As a matter of fact, in exchange for this check, you will not only do this but you will report back to us on a regular basis that you have actually done exactly what we have asked you to do.

What happens with a Federal tax credit is that people in a local community can write a check to their local public school, their local public or their private or parochial school, and that money then goes into that school's fund either for a designated cause which has been designated by the school saying, hey, we are going to do a fund-raiser for a new fine arts center, or we are going to do it for increasing and improving our technology or something else, but then the people within the local community can decide whether they want to make that additional investment into their local public school. And so what we have seen, I think, in the States that we have talked about, each of whom has crafted their proposal in a slightly different way, but it has generated more excitement and more enthusiasm for all kinds of education and it has created a new stream of money going into the schools, with the most important thing being that it provides the local school the opportunity of raising funds for some specific needs that maybe only that school has.

So this makes it very different than any of the other funding streams that currently come from Washington or that currently come from their State level. The gentleman is also absolutely right. As we take a look at how this has happened in the States, they have been bipartisan arrangements, so it has not been a group of Republicans or a group of Democrats who have pushed all the way through the process at the expense of the other party. It has been Republicans and Democrats coming together, suburbanites coming together with the folks living in our cities and saying this is a good way to go, this is a good way to structure an additional investment in education. I think we are all looking forward to putting that same kind of process together here that will lead us to a bill that this President can sign.

Mr. SCHAFFER. This focus you mention on local control and local priorities really is the most attractive feature, I think, in an education tax credit proposal.

Mr. HOEKSTRA. I think there are two features that make it especially attractive to our local schools. Number one, when we do this in Washington, it clearly is a new stream of money. It is not a diversion of money that would have been coming from Washington for education, anyway. It is a new stream of funds which I think can get to be a relatively significant amount of money into our local schools. The second thing is that it is nondesignated. It can be crafted and used in such a way to meet the needs of a local school district.

Mr. SCHAFFER. Honoring local priorities is something we have talked about a long time together and others in the House certainly have. That is what this tax credit proposal allows. As you mentioned, what we do right now in funding schools is really ludicrous in many ways. We have spent $125 billion on the Federal portion of the K–12 education program over the last 25 years. Those are rather steep increases that we have seen over the last few years. Some of these funds are perfectly legitimate and well spent, there is no question about that. But many of them are not, frankly. We know that.

What essentially happens, if a taxpayer were to follow their education investment dollar, here is what they would see, that is, that the Federal Government taxes the hard-working taxpayer, those dollars are withheld from their wages, they come here to Washington, D.C., we meet in committee rooms around here on Capitol Hill and decide how to divvy up those dollars on education programs. Washington evaluates education spending almost on a State-by-State basis, sometimes on a program-by-program basis, but the reality is we have a bunch of people here in Washington who are trying as hard as they can to distribute other people's money back to the States on a basis that is fair to the States, and after it is filtered through the Treasury Department and the Department of Education and Congress earmarks those funds and ties all kinds of strings and red tape to them, those funds end up going then primarily back to all 50 States and to the State governments who distribute those dollars further. Each level of government, by the way, takes its cut out of your education dollar.

So that by the time these funds actually reach a child, there is just a fraction left. What we are trying to do is get around that. An education tax credit really bypasses this whole bureaucratic and political structure and allows the taxpayer, the donor, to invest in programs that seem to make sense in the local community. That is a refreshing and a very promising approach to school finance and one that I think is the reason there is so much excitement and support for a tax credit.

Mr. HOEKSTRA. I think the other reason that there is a high level of excitement is, and the gentleman and I have gone through this a number of times over the last few years, you said when they watch what happens to their money here in Washington. We know that for quite a long time, when the money went to the Department of Education, we could not track it; that for 3 to 5 years, the Department of Education could not get a clean audit. We are excited by the work that, again, we did on a bipartisan basis during the Clinton administration to put pressure on the Department of Education to work towards getting to a clean audit. We are excited by the work that Secretary Paige and his staff are doing. It appears that many of these problems have been worked out.

But we have to recognize that for quite a while we had a laundry list of scandals within the Department of Education and failed audits. That again was one of the things, a lot of my local officials were saying, Just give us this money directly. This is what tax credits allow us to do. I think we also need to scale this. I am not sure exactly how we go after this, but the Department of Education spends about $40 billion here and K–12 may make up a little bit more than half of that, $24, $25 billion per year. Our tax credit that we are talking about here is less than 10 percent of that. So this is not massive, something that says, this is the amount of money that is being driven by Washington and now we are going to match that by an amount that is being driven by local tax credits. We are talking about probably less than 10 percent of what is being driven by Washington actually entrusting a citizen in the local community to make a donation to their schools.

Mr. SCHAFFER. I would point out just to emphasize this point, that the tax credit proposal, since it is a change in Tax Code, rather than the education budget, really has no impact at all on the funds that have been proposed by this Congress and by the President with respect to education. I know some have expressed or at least raised questions about whether a tax credit takes funds from the rest of the government school budget. The answer is clearly no. It is a separate funding stream certainly for the same purpose of trying to improve education, but one does not have any effect on the other from the standpoint of the budget and how much money there is.

Mr. HOEKSTRA. Absolutely. It becomes a supplemental stream to the money that is already coming through Washington. We have significantly increased funding in K–12 education over the last 4 to 5 years and with the President's new Leave No Child Behind plan, those funding increases are going to continue. There will continue to be significant increases in education investment through the Department of Education. This now provides for those individuals in those communities that believe that they have some special needs or their schools have a special challenge or their schools have done a phenomenal job and they are saying, hey, we really want to put a little more money into these schools. It allows them a vehicle and a mechanism to do that, and they get a dollar-for-dollar impact. You put a dollar in, and it does not come with a mandate, and you do not lose anything of going through the bureaucracy of a Lansing, Michigan, or of a Washington, D.C. That dollar goes into that school.

The decision as to how that dollar will be spent will be made locally, and it will benefit all of the children in that school. It is really a refreshing complement to the education funding that we already have in place. For a State like Michigan that has spent so much time and effort on leveling the funding so that across the State there is equal funding, this now provides an additional mechanism to now complement that because as we increase and level the funding in the State of Michigan, we also then attach a lot of mandates as it came back. School districts are struggling. They do not get enough unattached dollars, dollars that they have some discretion in how they are going to spend it for their local schools and to help their kids.

Mr. SCHAFFER. Talking about education spending within the context of freedom and liberty is very important for us, because we have not been able to do that too much in recent years. There are really strings and red tape and all kinds of parameters that are placed on Federal funds. This gives us a chance to get away from that.

Americans are really expecting and hoping that the Congress begins to talk about new and innovative ways and creative ways to improve schools across America.

□ 1715

What most Americans are dealing with right now, if they have children in school, are these mandatory tests. Almost every State is dealing with them right now. Mandatory tests that have been required by State legislatures, through State laws, and also the new mandatory requirements for testing that have come from the Federal level. That serves to achieve the accountability objectives that the President had outlined and that the Congress had focused on in the legislation we passed last year, and the outcome of that still remains to be seen. But what a tax credit really allows us to do is start speaking to the flexibility side, the decision-making side of locally elected school board members, superintendents, of principals and teachers, in identifying priorities in their own schools that they would go to the community for assistance on and would be made easier through a tax credit that we are proposing.

The other innovative side of a tax credit proposal is something that we are seeing in several States, and that is the creation of education investment organizations, little investment funds that provide direct assistance, usually to some of the neediest children and

communities. We are seeing that starting in Arizona now, which has I think 3 years of experience with their education tax credit; in the State of Pennsylvania; in the State of Florida. The proposals that we are seeing throughout the country are all around existing education investment organizations. In Arizona, they are called student tuition organizations. But what they exist to do is to raise funds from a community so that they can give scholarships to low-income children and the neediest children in communities to attend the school of their choice. It is providing just a remarkable relief valve for those who find themselves trapped in schools that are just not meeting the needs of children. Some of these schools are failing schools.

We have just received testimony from all across the country as we are reading newspaper articles about these opportunities, the testimony that is taking place in State legislatures, and we have also had some testimony right here in Congress during a hearing that we conducted just a week ago, and both of us were there. I wonder if the gentleman would comment on the 10-year-old boy that we met with; Joshua Holloway was his name. The whole panel of all of these experienced lobbyists were up there, but this kid, this 10-year-old from Denver, Colorado, he clearly exceeded the rest of them in effectiveness in reaching out to the committee and letting America know why these tax credits are so important.

Mr. HOEKSTRA. Mr. Speaker, what Joshua had to say was awesome. I mean, here we have a 10-year-old kid who is looking up at three rows of chairs and a row of Congress people up at the top, and very eloquently goes through his testimony and very eloquently answers the questions. His mom had passed away, so his grandfather was there with him at the hearing, talking about his mom's dream and his mom's vision that he attend a particular school, and that this school was providing him with all of the necessary training and skills to be successful in life. And I think it was one of her last requests to his grandfather to say, make sure that Joshua and, was it his brother or sister?

Mr. SCHAFFER. His brother.

Mr. HOEKSTRA. His brother. That they both have the opportunity to attend a particular school. And Joshua's grandfather saying, if it was not for the scholarships or these types of things, he would not be able to fulfill this wish and give Joshua and his brother the skills, put them in a school where they could get the skills that they would need to be successful, and that anything that would complement the current funding stream in education that would allow individuals to steer some money to the local public school or to steer it to an education investment fund, that that would be okay, and that would be really good for certain kids who maybe had specific needs or one school just was not working out for them, so that they could use that investment fund to perhaps transfer to another public school or to transfer to some other school. These things have been set up in a number of different ways around the country. Or, that they could be used to provide specific tutoring. But there are a number of different kinds of opportunities that these education investment funds could be set up for to help kids be successful.

I think that is where, when we talk about education, the important thing that we always have to keep the focus on is the kids. And the criteria that we as policymakers have to really embrace is we need to put together a system that enables every child to get a good education. We cannot afford, not from a monetary standpoint, but from a moral standpoint, we cannot leave a child behind. We have to reach out and do everything that we can to make sure that every child has the opportunity to go to a high-quality school where they can get the learning that they need.

Part of that is kids can only learn in safe schools. We cannot have kids going to schools where they are afraid to walk to their locker, where they are afraid to walk to their next class. The only fear that a kid should have while they are going to school is the fear of the next exam. That is the only fear that they should have: What is that teacher going to do to me now with the next exam, and am I ready? But other than that, it has to be a safe and drug-free school for every single one of our children.

Mr. SCHAFFER. Mr. Speaker, Americans want to help. I think most taxpayers are inclined to agree that investing in America's education system is a good idea and, if given the chance, they typically make the choice to do that. There are some tax hurdles in the way and we are trying to knock some of those down.

Mr. HOEKSTRA. Mr. Speaker, I think it is exactly what the people have found in the State of Arizona, where the numbers clearly indicate that there is an eager group of people who are willing to, and have a desire, and are willing not to be taxed, but to say, if I can steer that money to our local public schools without any strings attached to assist that public school, I will write the check. And there are others who are saying, I really want to go out and help some special kids, so I will steer my funds to an education investment fund. With that kind of flexibility, a State like Arizona is finding that they do not have to go to the legislature and raise taxes to get more money into education for all of our kids, or for all of their kids. They provide the tax credit and then people willingly go out, pay their taxes, and then willingly go out and voluntarily contribute an extra certain amount to their public schools and other funds.

Mr. SCHAFFER. Mr. Speaker, the tax burden on Americans is really unchanged through this tax credit proposal. I know the gentleman and I as conservatives tend to be of the opinion that we ought to lower the tax burden, and we certainly should. This is really a different argument, though, about what happens after the effective tax rate is established.

The question is, do taxpayers wish to continue just sending bags of cash back to Washington so that all of the politicians that we work with here have the opportunity, and just hope, these taxpayers may just hope that we will spend it in a way they want. That is kind of a gamble to take and a little bit of a risk. There are 435 of us and we do not agree on every topic every day, let alone how to spend money on education. So that is the one option, is to continue paying high amounts of taxes as Americans do today and shovel those dollars here to Washington.

Or, the tax burden would be the same, but what we are suggesting through this proposed legislation is to allow taxpayers to take a certain portion of their Federal tax liability, their Federal tax bill, and self-direct that anywhere in the education industry they want. It might be for a scholarship fund that allows a low-income child to attend a school of his or her choice, really rescue that child from a failing school in some cases, or maybe invest in the priority that has been established by a local school board or superintendent.

I want to get back to Joshua here. First, I am very proud of him. He is from the State of Colorado, and he testified in committee, and it was just awesome.

Mr. HOEKSTRA. He not only testified, he not only read his statement, he also took questions and answered questions.

Mr. SCHAFFER. He sure did. He sure did. His testimony was only one page long, so I will not ask that it be submitted, but I will just read a couple of the most moving lines that he read to the committee.

He says, ''My name is Joshua Holloway. I was born in Denver. My favorite subject is football,'' and he amended that later. He said that he wanted to be a lawyer, too, but football was just a hobby. He said, ''I am 10 years old. My mother passed away last year. I have a brother who is 6. His name is Jeremiah. We go to church every Sunday. Before I go to school I read the Bible. I live with my grandfather. Sometimes my cousins come over and we play outside and play video games.''

He says, ''Before my mom passed away, she told my grandfather to bring us to Watch Care.''

Watch Care Academy is a school I am somewhat familiar with that is in the metro area of Denver, and he goes on. This was just so compelling and I think really makes the case, almost singlehandedly, as to why we need an education tax credit proposal. He says, ''My grandpa could not afford to pay for me and my brother. So Mrs. Perry,'' who is the principal, told him about

the Ace scholarships. Ace is the name of one of these education investment organizations that provides scholarships for these low-income kids. So they applied to this organization.

He says, ''My grandpa applied and we were awarded Ace scholarships. Jeremiah and I say thank you, Ace.'' He said, ''It is with your help that my grandpa is able to bring us to this fantastic school. I know my mom is happy and thanks you also. When I grow up, I want to be a lawyer and then a football player,'' he says.

He says, ''Thank you for helping all of the children who are getting such a good education through your program. I want to win,'' he told the committee. He says, ''This will help my grandpa with the money for Jeremiah and me.''

I just cannot state it anymore clearly than Joshua did. These scholarship organizations exist to help poor children achieve the education that they deserve, and what we want to do is make it easier for Americans to contribute to these kinds of organizations, and these exist all over the country. These scholarship organizations or these education investment organizations, they exist in all 50 States and, in fact, in the States that have established a State income tax credit for education like we are proposing on the Federal level, we have seen these kinds of organizations flourish.

So just imagine Joshua's testimony multiplied by thousands of children who I believe probably have equally compelling stories and dreams for their academic future, and they have these financial burdens that are being lifted through these organizations. We can make them even more powerful and more effective and rely on the ingenuity of private initiative in order to provide more, just to rescue more kids like Joshua and Jeremiah in Colorado.

Mr. HOEKSTRA. We have to make sure we always come back to the point that this is a balanced approach, that this is available for public schools and it is also available for education investment funds.

Mr. Speaker, I could talk about my home district where we have a lot of good schools, but what has happened with our superintendents, the money rather that being raised locally through the property tax is now raised statewide through a sales tax. It is a very positive thing. It has lowered our property taxes and it has created a consistent funding stream across the State.

Again, we have kind of taken out the differences between schools. But what the situation reduced many of our superintendents to do is to kind of become almost beggars to Lansing, to go to Lansing and make their case with their State reps and their State senators that they deserve more or they need money for this or they need money for that; or in this district they have a very specific need, and over here they have another specific need. They kind of feel like they have lost control and their life now gets to be managing the rules and regulations that come from Washington and the rules and regulations that come from Lansing.

With a State tax credit, or if we did a Federal tax credit, it now allows them to supplement the income that they are getting from the State and get that money to go to some perhaps very targeted and specific needs that they may have identified. It is really exciting, because then the community who wants to embrace their schools because of the great job that they have done can now write that extra check to their local public school and build that public school.

□ 1730

In the States where they have adopted this, it is exactly what communities are doing. Communities are embracing their schools with the Ace program, they are embracing kids. So what this does is it gets to be, as I would say, a win-win. It increases the funding in education, but it makes, at least for this pot of educational expenditures, it makes it available to all of our kids. That I think is an exciting proposition.

We know that the idea is ripening here in Washington. As the gentleman and I did the survey of all the different types of tax credit legislation that has been introduced here in Washington in regard to education, there are a whole series of different ideas that are flourishing or are being proposed by both sides of the aisle.

I think what the gentleman and I and others are doing is to try to come up with a consensus piece of education tax credits that can be embraced by a diversity of Members here on the floor of the House to address some of the needs that we have identified in education. Will it be the total solution to everything? No. The President and this Congress has passed H.R. 1. That is a step forward. There will be increased funding as a result of H.R. 1, the No Child Left Behind Act. That is part of the puzzle. There is more testing.

The gentleman and I are not necessarily assured that that is part of the solution, but we hope it is. We hope that as it is implemented through the States, that it becomes a part of the solution package.

I really believe that as we lay these different things out, increased funding, the changes in the rules and regulations as a result of H.R. 1, the new testing protocol, then really the tax credits really fit with the President's vision, because what he really talked about was having accountability and more flexibility.

This tax credit component really now provides an additional opportunity for investment, but different than some of the other items that have been talked about for education funding, it does not take from one pot and say, okay, we thought we were going to give them this much, but they are going to get a little bit less and we are going to move it over here and give it to somebody else.

This pot, this educational investment area, is going to stay the same. It is probably going to grow, and it is probably going to grow significantly. And then over here there is going to be another one, but this one is going to be much more flexible as to where it is going to be used and who contributes, who does not.

When we put that whole package together, it actually gets to be a fairly comprehensive package of reforms that can be kind of exciting.

Mr. SCHAFFER. Madam Speaker, the management model that the gentleman described, that has become emblematic of public schools, is something that really needs to be changed. This tax credit proposal perhaps in a small way can really help achieve that.

Here is what I am talking about, specifically. The gentleman used really great language to describe what happens in schools, in schools today. That is, the administrators, the financial officers, and the business managers of America's schools have become proficient beggars to other governments.

There is a whole inside language that exists in American education today, and we see this on the Committee on Education and the Workforce here, as Members who serve on that committee. But also certainly we see that throughout the country. There is this inside language and all this technology that is only understood by the people who are on the inside of public school finance.

We have school board members who become very, very proficient at using the right words to appeal to other politicians at the State level and in State governments. They have their own code language that corresponds to requirements and rules that exist here in Washington. This works very nice within this little bureaucratic bubble, but it really alienates and abandons the rest of the community, in many cases, and certainly it alienates the children.

An education tax credit that provides an opportunity for the community to invest in real priorities of local schools begins to shift the focus, even if slightly, back toward the community. So now these school board members throughout the country have to become more proficient at appealing to me as a parent and to my child as a customer, and to the rest of the community, including corporate donors, in terms that make practical sense to those who are on the front line of American society and see the immediate impact of good schools.

Mr. HOEKSTRA. Madam Speaker, what we have is the evolution of our public schools, and they were called public because they reflected the community. The public schools evolved into government schools, okay, like the gentleman said, with the local school board now having to appeal to the State legislature for funds, and the State legislature appealing to the Federal Government, so they become kind of government schools.

What we have done is we have seen the breakdown in that critical link between superintendents and school boards and their local community. We have weakened that. It is not through any fault of the principals or the superintendents or the school boards. As a matter of fact, they want to focus on the parents. They want to focus on the kids.

But because of where the funding stream has gone, and the mandates and the directives, they have found that more and more of their time and attention has been pulled away from the children, has been pulled away from parents, has been pulled away from the community, and has been directed to the people in the State capital or the State board of education or the Department of Education.

This really now kind of moves it back a little bit more in balance. It says, keep that strong link with your community, the thing that has made you so successful, the thing that has always led people to say, there may be some problems with public education, but we have a good public school in our community. Now all my money goes to Lansing, but if I had an opportunity through a Federal tax credit, I will write another check to my local public school because I know the principal, I know the teacher, I know the school board, and these folks are doing a good job.

In other parts of the State or the country, they may say, we know that does not work for everybody, that some kids are not going to be successful there, so we are going to contribute to this education investment fund.

Mr. SCHAFFER. Madam Speaker, I think it can actually be even more profound than having an improved understanding of the management of the school or the academic objectives of school leaders. I think it comes down to people who really become part of the fan club for Joshua Holloway and other people like him, who really become Joshua's biggest supporter and promoter.

Joshua has real impact. When he testified in Congress, he had a pretty remarkable impact. But that is always true back in the State of Colorado, where people have read about Joshua, and they see this and they get inspired by it.

They think, here are schools, academic institutions, competing now to help Joshua, this 10-year-old poor child whose mother passed away last year. That is what we want to achieve. We want the American education system to fall all over itself trying to help Joshua succeed in life. And to the extent that occurs, I have to tell the gentleman, I think people are going to be very willing to open up their checkbooks and make the investment in little Joshua, and I think they will do it before they will trust people here in Washington to spend the money on Joshua. It is just a better bet. The tax credit really removes all the political decision-making from it, and it really leaves that decision to local communities.

In the end, Joshua is going to succeed if we can accomplish this objective for him.

Mr. HOEKSTRA. Madam Speaker, if the gentleman will yield further, I will give this example. It was a year and a half or 2 years ago in my local community. There is a school, Lincoln School. This is a landlocked community, so they are suffering from a problem that, again, the technocrats call ''declining enrollment.'' There are just not as many kids around.

This was a critical school in a critical part of the community. Because the enrollment was going down in the entire school district, the folks in Lansing said, sorry, this is the amount of money that you are going to get. Deal with it. Deal with it. And there was nothing that the local school board could do. They had to make some choices.

One of the choices that was not even on the table was, can we go to the community and can we appeal to them and say, we know that this is not the most efficient and effective decision if you are running the school as a business, all right? And maybe we really do not need that school. We can move some kids here and there, and that is a better and more effective and more efficient way to run it.

But they could not even go back and say, having that school there was right for the kids. It is not the most efficient, but it is the right thing to do. We do not want to take those kids out of their neighborhoods, and we want to leave that school open until maybe it gives us a little bit of time to deal with some other issues, or whatever.

They could not go and say, we are going to have a fundraising effort. Take your education tax credits and go to some of the corporations and say, hey, we need to raise X amount of dollars, and then the community could have had a say as to whether Lincoln School was going to stay open to help those kids because the community believed that that was the best educational investment that the community could make at that time, even though the green eyeshades people, the accountants, were saying, sorry, you have to cut.

Those are the kinds of decisions that we want to empower communities to make. We want to get cheerleaders, cheerleaders for our public schools to go out and say, this is what we need. We want to get cheerleaders for the education investment funds. We want to get cheerleaders saying that our educational system is so good, but we can make it better, and we want you to help. We want you to contribute to it. When you contribute to it, every dollar is going to find its way into a classroom and is going to help a Joshua or is going to help a child at Lincoln School, and is going to make a real difference.

Mr. SCHAFFER. Talking about funding schools from the standpoint of tax freedom, as opposed to just spending more money, I think makes eminent sense. That is the kind of discussion we have really needed here in Washington for a long, long time.

I am really proud of those States. I have mentioned there are a handful of States. There may be some who are curious about what States have already implemented tax credits with respect to their State taxes. Those States are Arizona, Minnesota, Iowa, Illinois, Florida, and Pennsylvania.

Mr. HOEKSTRA. Madam Speaker, I cannot believe Pennsylvania would have done it.

Mr. SCHAFFER. What is also important is that there are nine States that have no income tax, so they are really looking to the Federal Government to provide this kind of assistance and education funding through tax freedom in those States.

I might also add, these others that have already moved forward on tax credits on the State level, they are ahead of the curve. They are already, from an infrastructure standpoint, already equipped to really squeeze the greatest amount of buying power out of a Federal tax credit.

I think those six States that I mentioned already, they perhaps have the most to gain up front from an education tax credit that we can pass here. That is probably the reason why the Members of Congress from these States are some of the most enthusiastic supporters that we have seen so far, even at this stage of the discussions.

Mr. HOEKSTRA. The reason I made the comment about Pennsylvania was only because Madam Speaker tonight is from the great State of Pennsylvania, and the next time we have this discussion on where we are going with Federal tax credits, perhaps she can join us and talk about the success or the rationale for how the Pennsylvania legislature moved to embrace tax credits, and I believe do it in a bipartisan way, move forward and get that done, and how that would then complement what we would be doing here in Washington.

Mr. SCHAFFER. In the hearing we conducted last week on this topic, we had one opponent who was opposed to Joshua and his academic dreams. There was a group called Citizens for the American Way, and it was their representative.

Mr. HOEKSTRA. People for the American Way.

Mr. SCHAFFER. The lobbyist for that outfit was not particularly cogent when he was talking about the issue. But one of the tactics that he deployed in the committee was try to mislabel the education tax credit as a voucher.

The reality is, this is very, very different than a voucher proposal. It shares really nothing, nothing in common, except it has to deal with education. But the finance mechanism of this is nothing like a voucher at all. We have seen voucher proposals.

Mr. HOEKSTRA. I was going to say, we need to get that clear. In the State of Arizona, more than half of the money is going to public schools, and it is not following one student who may decide to go to another public school, so it is not even following that. That money is being given by parents to invest in that school, or a limited number of programs and ideas that the State has identified that that tax credit can be used for. So it is the farthest thing from the V word.

More than half the money in Arizona is going to local public schools because of the connection between the schools and their parents and their community at large saying, invest in our school. We have these kinds of needs, and people ante up and are saying, you are doing the job. You need these extra funds and we are going to help you out and support you.

Mr. SCHAFFER. A voucher entails government collecting cash from taxpayers and giving those same dollars back to taxpayers in the form of a voucher, a check that can only be spent at certain institutions, based on the rules that would be defined by the government when it issues and creates this voucher legislation.

□ 1745

We have seen that in some States, and some communities have fully put voucher legislation in place. And I guess when compared to what we have today in most places, which is a government-owned, unionized monopoly where there is no choice, a voucher represents a greater degree of choice, but it still involves government making decisions for Americans and for taxpayers. It also involves government money being appropriated as an expenditure in the voucher program.

The tax credit thing is nothing like that. This is not an appropriation, it is an academic investment, a massive cash infusion in American schools through tax freedom rather than through spending. So that is the key distinction between a tax credit proposal and a voucher proposal. I think this is an important distinction to make. I probably cannot make it often enough because there are some who do not support the idea of tax freedom and do not support the idea of Joshua being rescued; who tried to malign this whole discussion about Joshua's future by calling it a voucher, which it clearly is not.

Mr. HOEKSTRA. I think the gentleman becomes very, very clear when he says government money. I think that came up at the hearing. What exactly is government money? Government money is only that money we have claimed and taken from the American people. Once it gets to Washington, it is still the people's money, but they have entrusted it to us. But that is probably the clearest definition of what government money is when people have paid the taxes to us. That is exactly what a voucher is. A voucher becomes government money, and we just redistribute it.

What we were talking about here is the people's money in its pure sense. Those folks have the opportunity to choose as to whether they are going to write that check for an educational purpose or whether they are going to go use it for something else.

Mr. SCHAFFER. It becomes an investment.

Mr. HOEKSTRA. It becomes an investment. Whether they want to invest it in education or whether they want to put it in a savings account, whether they want to go out and buy a personal watercraft, whatever. It becomes personal money that they have the discretion as to where it is going to go.

Also with government money, one can make the argument more effectively, well, if it is government money, then you are taking it from this pot and giving it to this pot. This is not. This is private money where people are making the decision as to whether they are going to invest more in education or whether they are going to spend it somewhere else, but it is the freedom for them to choose what they are going to do.

And what we have seen in the States that have done this, people choose to a certain extent to invest more money into education voluntarily, and that is a great direction to take.

Mr. SCHAFFER. These proposals have been studied. I am holding in my hand a study of the Arizona scholarship program that exists there. This study was done by Carrie Lips and Jennifer Jacoby. It is only a few months old. And what this study has found is that from 1998 to 2000, the time frame that was studied in this report, the Arizona tax credits generated $32 million for children in Arizona, providing almost 19,000 scholarships for children in the State, and that is through about 30 different organizations that just sprung up after the Arizona legislation passed. But most of those scholarships, in fact, 80 percent of those scholarships were selected on the basis of financial need.

So think of that; $32 million invested, a massive cash infusion in the Arizona school system within the State that provided assistance to 19,000 individuals in the State of Arizona. This is money that would not have occurred otherwise. It is money that did not come out of the Arizona school finance act.

In fact, that point was clarified at the hearing we had last week, too. These are new dollars. They do not replace, they are not taken from the Arizona school funds, just as our proposal would not take dollars out of the national education budget. But because this tax mechanism exists in another place in the law, it actually creates new money for American education. If we can do it for the country, which generates $32 million over a very short time period for 19,000 individuals, and magnify that on a national basis, we are talking about billions of dollars, really a massive cash infusion in America's education system.

Mr. HOEKSTRA. For two purposes.

Mr. SCHAFFER. And it is a remarkable goal. Hopefully, we can achieve it.

Mr. HOEKSTRA. For two purposes; again, for education investment funds and for investments in traditional public schools.

Mr. SCHAFFER. It does not discriminate. These investments will not be encumbered by the judgment of politicians or these internal political battles that take place between school buildings and school sites. It, rather, leaves the decisions to taxpayers to invest in children like Joshua, and without any regard to the kind of academic setting that Joshua might choose. It focuses on children rather than agencies and institutions, and from that standpoint really drops the discriminatory nature that we see in the Federal funding that we have today where politicians decide which States are going to win, which States are going to lose, which States are behaving the way the bureaucrats in Washington want them to behave, which States are charting their own course.

These kinds of discriminatory features really define how money gets back to our neighborhoods in America through Federal spending, and this tax credit gets rid of all that baloney, and, frankly, starts suggesting that Joshua is more important than the guy who hands out the grant down the street from here.

Mr. HOEKSTRA. Right. I think in fairness now to what is going on with H.R. 1, we are hoping that the results of H.R. 1 will be less focused on process and more focused on results, and so we will have much less of a process debate.

But this gets to be, again, it gets to be a wonderful commitment to the pieces that we are already putting in place in many ways. And this is why the President supports the concept of a tax credit and why he had it in the budget that he proposed that he wants to invest more money in education and he wants more flexibility and he wants children to have a range of options for education, recognizing that perhaps one size does not fit all of our kids. And when the focus continues to be on our kids, that is exactly where it needs to be.

So often we talk in the aggregate. But, again, you and I have been in schools around the country. We have been in inner-city New York, Detroit, Cleveland, Kentucky, Columbus, Cincinnati, Los Angeles, Phoenix.

Mr. SCHAFFER. Tampa.

Mr. HOEKSTRA. Tampa. We were down in Tampa. And we talked to a lot of parents and we talked to a lot of kids. And so we have seen hundreds and we have seen thousands of Joshuas around the country, and not everyone has an Ace scholarship, but what we see is thousands of Joshuas, many of them who are succeeding in traditional public schools, some who are succeeding in charter schools, and some

who are succeeding in private or parochial, and others who are succeeding as home schoolers. So there is not one model that does fits all.

The important thing is that every child be given an opportunity. This does not even come close to equating funding for one to the other. This really is, it will be the only pot of money that becomes available for all of our kids and does not discriminate against any of them.

Mr. SCHAFFER. Let me go back to the Arizona model because it has been studied heavily and it is probably the example of a State that has helped the greatest number of children through an education tax credit. It is useful and instructive for us to consider the Arizona model with respect to trying to project the potential impact for the company.

The analysis suggests that in Arizona, the tax credit is revenue-neutral when it comes to the existing expenditures for schools. That is critical, because I think that argument is one we are going to have to make in Washington here, too, for some that have some concerns about that.

But listen to this. It is estimated that by 2015 the scholarship credit in Arizona will be raising $58 million per year, funding 35- to 61,000 scholarships annually, and helping send 11,000 to 37,000 students who otherwise would have to attend a government-defined school to attend the school of their choice. Sixty-one thousand scholarships; 37,000 students would be helped. And Arizona is not the largest State in the Union by any means.

So when we start talking about what can happen if we provide some leadership at the Federal level, establishing a basis for the Federal tax credit and seeing it carried out, seeing the State initiatives duplicated in more and more States, it becomes very, very exciting because it really does begin to create an education, an academic marketplace where there is no discrimination between schools and where children become the primary objective. I am so thrilled that we are seeing that kind of enthusiasm starting to build now.

Again, the bill has not been introduced yet, but the discussions we have had so far have been very, very positive, Republicans and Democrats. And I am very, very hopeful once this bill gets introduced in its final form, I have the drafts here, that we will see it come to the floor quickly. And we have the commitments to make that happen from the leadership and support from the President.

Mr. HOEKSTRA. Does that analysis also take into account or talk about how much money they are projecting will be invested into the public schools, not into the investment scholarship funds?

Mr. SCHAFFER. It does, but I do not have the summary in front of me.

Mr. HOEKSTRA. Was that number 59 million?

Mr. SCHAFFER. $58 million.

Mr. HOEKSTRA. $58 million. I think, going along the trend, you might be able to extrapolate that roughly the same if not more money will be flowing into traditional public schools. So that talks about the strength of this idea, $160 million flowing voluntarily into the school systems that otherwise would not be there. And that is why this is a powerful idea; people having the freedom to invest more money into education that otherwise would not.

Mr. SCHAFFER. I appreciate the gentleman joining me on the floor tonight, and I think my time has expired.

RECESS

The SPEAKER pro tempore (Ms. HART). Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 5 o'clock and 58 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1828

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SESSIONS) at 6 o'clock and 28 minutes p.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3231, BARBARA JORDAN IMMIGRATION REFORM AND ACCOUNTABILITY ACT OF 2002

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 107–419) on the resolution (H. Res. 396) providing for consideration of the bill (H.R. 3231) to replace the Immigration and Naturalization Service with the Agency for Immigration Affairs, and for other purposes, which was referred to the House Calendar and ordered to be printed.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. PALLONE, for 5 minutes, today.

Mr. LANGEVIN, for 5 minutes, today.

Mr. HOYER, for 5 minutes, today.

Mrs. MALONEY of New York, for 5 minutes, today.

Mr. WEINER, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. LIPINSKI, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Ms. ESHOO, for 5 minutes, today.

Mr. SCHIFF, for 5 minutes, today.

Mr. BONIOR, for 5 minutes, today.

Mr. MCGOVERN, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. SHERMAN, for 5 minutes, today.

(The following Members (at the request of Mr. KNOLLENBERG) to revise and extend their remarks and include extraneous material:)

Mr. GUTKNECHT, for 5 minutes, today.

Mr. SOUDER, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. HOEKSTRA, for 5 minutes, today.

ENROLLED BILL SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 861. An act to make technical amendments to section 10 of title 9, United States Code.

ADJOURNMENT

Mr. LINDER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 29 minutes p.m.), the House adjourned until tomorrow, Thursday, April 25, 2002, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

6361. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule—Nectarines and Peaches Grown in California; Revision of Handling Requirements for Fresh Nectarines and Peaches [Docket No. FV02–916–1 IFR] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6362. A letter from the Administrator, Agriculture Marketing Service, Department of Agriculture, transmitting the Department's final rule—2001 Amendment to Cotton Board Rules and Regulations Adjusting Supplemental Assessment on Imports [CN–01–001] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6363. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule—Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Modifying Procedures and Establishing Regulations to Limit the Volume of Small Red Seedless Grapefruit [Docket No. FV01–905–2 IFR] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6364. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule—Pork Promotion, Research, and Consumer Information Order—Increase in Importer Assessments [No. LS–01–02] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6365. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule—Increase in Fees and Charges for Egg, Poultry, and Rabbit Grading [Docket No. PY–01–005] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6366. A letter from the Secretary of the Army, Department of Defense, transmitting a determination that the Nunn-McCurdy

Unit Cost thresholds for both Program Acquisition Unit Cost and Average Procurement Unit Cost have been breached, pursuant to 10 U.S.C. 2433(e)(1); to the Committee on Armed Services.

6367. A letter from the Assistant General Counsel for Regulatory Law, Department of Energy, transmitting the Department's final rule—Acquisition Regulation: Security Amendments to Implement Executive Order 12829, National Industrial Security Program (RIN: 1991–AB42) received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6368. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Washington: Final Authorization of State Hazardous Waste Management Program Revision [FRL–7168–8] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6369. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plan: Revision to the Alabama Department of Environmental Management (ADEM) Administrative Code for the Air Pollution Control Program [AL–058–200219(a); FRL–7169–1] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6370. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans: Kentucky: Nitrogen Oxides Budget and Allowance Trading Program [KY–123; KY–123–1; KY 137–200218(a); FRL–7169–7] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6371. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E airspace, Kanab, UT [Airspace Docket No. 01–ANM–04] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6372. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Revision of Class E airspace, Cedar City, UT [Airspace Docket No. 01–ANM–06] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6373. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Flint, MI [Airspace Docket No. 01–AGL–18] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6374. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Twentynine Palms, CA [Airspace Docket No. 01–AWP–30] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6375. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Mount Vernon, OH [Airspace Docket No. 01–AGL–15] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6376. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Portsmouth, OH [Airspace Docket No. 01–AGL–16] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6377. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Washington Court House, OH [Airspace Docket No. 01–AGL–20] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6378. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Ashland, OH [Airspace Docket No. 01–AGL–19] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6379. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Stanley, ND [Airspace Docket No. 00–AGL–28] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6380. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Hillsboro, ND [Airspace Docket No. 00–AGL–29] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6381. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Youngstown Warren-Regional Airport, OH [Airspace Docket No. 00–AGL–24] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6382. A letter from the Paralegal, FTA, Department of Transportation, transmitting the Department's final rule—Rail Fixed Guideway Systems; State Safety Oversight (RIN: 2132–AA69) received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6383. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30297; Amdt. No. 2095] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6384. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on the funds appropriated by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001; jointly to the Committees on Appropriations and International Relations.

6385. A letter from the Secretary and Attorney General, Department of Health and Human Services and the Department of Justice, transmitting a report entitled, ''Health Care Fraud and Abuse Control Program Annual Report For FY 2001''; jointly to the Committees on Energy and Commerce and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. OXLEY: Committee on Financial Services. Supplemental report on H.R. 3764. A bill to authorize appropriations for the Securities and Exchange Commission (Rept. 107–415 Pt. 2).

Mr. LINDER: Committee on Rules. House Resolution 396. Resolution providing for consideration of the bill (H.R. 3231) to replace the Immigration and Naturalization Service with the Agency for Immigration Affairs, and for other purposes (Rept. 107–419). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. SMITH of New Jersey (for himself and Mr. EVANS) (both by request):

H.R. 4559. A bill to amend title 38, United States Code, to establish a new Assistant Secretary to perform operations, preparedness, security and law enforcement functions, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. TAUZIN (for himself, Mr. UPTON, Mr. MARKEY, Mr. BARTON of Texas, Mr. WAXMAN, Mr. GILLMOR, Mr. HALL of Texas, Mr. GREENWOOD, Mr. BOUCHER, Mr. DEAL of Georgia, Mr. TOWNS, Mr. BURR of North Carolina, Mr. PALLONE, Mr. WHITFIELD, Mr. BROWN of Ohio, Mr. NORWOOD, Mr. GORDON, Mrs. CUBIN, Mr. RUSH, Mr. SHIMKUS, Ms. ESHOO, Mr. PICKERING, Mr. STUPAK, Mr. FOSSELLA, Mr. ENGEL, Mr. BLUNT, Mr. SAWYER, Mr. TOM DAVIS of Virginia, Mr. WYNN, Mr. BRYANT, Mr. GREEN of Texas, Mr. EHRLICH, Ms. MCCARTHY of Missouri, Mr. BUYER, Mr. STRICKLAND, Mr. RADANOVICH, Ms. DEGETTE, Mr. BASS, Mr. BARRETT, Mr. PITTS, Mr. LUTHER, Mrs. BONO, Mrs. CAPPS, Mr. WALDEN of Oregon, Mr. DOYLE, Mr. TERRY, Mr. JOHN, Mr. FLETCHER, Ms. HARMAN, Mr. SHADEGG, and Mrs. WILSON of New Mexico):

H.R. 4560. A bill to eliminate the deadlines for spectrum auctions of spectrum previously allocated to television broadcasting; to the Committee on Energy and Commerce.

By Mr. BARR of Georgia (for himself, Mr. CHABOT, Mr. WATT of North Carolina, Mr. GEKAS, Mr. NADLER, Mr. GREEN of Wisconsin, and Mr. SHOWS):

H.R. 4561. A bill to amend title 5, United States Code, to require that agencies, in promulgating rules, take into consideration the impact of such rules on the privacy of individuals, and for other purposes; to the Committee on the Judiciary.

By Mr. BARTLETT of Maryland:

H.R. 4562. A bill to suspend temporarily the duty on upholstery leather; to the Committee on Ways and Means.

By Mr. BARTLETT of Maryland:

H.R. 4563. A bill to suspend temporarily the duty on pretanned bovine leather; to the Committee on Ways and Means.

By Mr. BARTLETT of Maryland:

H.R. 4564. A bill to suspend temporarily the duty on Astacin Finish PUM; to the Committee on Ways and Means.

By Mr. BARTLETT of Maryland:

H.R. 4565. A bill to suspend temporarily the duty on Bayderm Bottom 51-UD; to the Committee on Ways and Means.

By Mr. BARTLETT of Maryland:

H.R. 4566. A bill to suspend temporarily the duty on Bayderm Bottom DLV; to the Committee on Ways and Means.

By Mr. BARTLETT of Maryland:

H.R. 4567. A bill to suspend temporarily the duty on Relugan D; to the Committee on Ways and Means.

By Mr. BARTLETT of Maryland:

H.R. 4568. A bill to suspend temporarily the duty on Bayderm Bottom 10UD; to the Committee on Ways and Means.

By Mr. BARTLETT of Maryland:

H.R. 4569. A bill to suspend temporarily the duty on Basyntan MLB Powder; to the Committee on Ways and Means.

By Mr. BARTLETT of Maryland:

H.R. 4570. A bill to suspend temporarily the duty on SYNCUROL SE; to the Committee on Ways and Means.

By Mr. BARTLETT of Maryland:

H.R. 4571. A bill to suspend temporarily the duty on Luganil Brown NGT Powder; to the Committee on Ways and Means.

By Mr. DINGELL:

H.R. 4572. A bill to amend the Federal Water Pollution Control Act to increase certain criminal penalties, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DOGGETT (for himself, Mr. EVANS, Mr. LANTOS, Ms. BROWN of Florida, Mr. CRAMER, Mr. DINGELL, Mr. EDWARDS, Mr. FILNER, Mr. FROST, Mr. GONZALEZ, Mr. GREEN of Texas, Ms. HART, Ms. JACKSON-LEE of Texas, Mr. JEFFERSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. KELLY, Mr. LAMPSON, Ms. LEE, Mr. LUTHER, Mr. MCGOVERN, Ms. MCKINNEY, Mr. MENENDEZ, Mr. GEORGE MILLER of California, Mr. ORTIZ, Mr. REYES, Ms. RIVERS, Mr. RODRIGUEZ, Mr. SANDERS, Ms. SANCHEZ, Mr. SANDLIN, Mr. SKELTON, Mr. STARK, Mr. TIERNEY, Mr. TOWNS, Mr. TURNER, and Ms. WOOLSEY):

H.R. 4573. A bill to provide for the adjudication of certain claims against the Government of Iraq and to ensure priority for United States veterans filing such claims; to the Committee on International Relations.

By Mr. ENGLISH (for himself, Mr. REGULA, Ms. HART, Mr. ADERHOLT, Mr. GEKAS, and Mr. SHIMKUS):

H.R. 4574. A bill to facilitate the consolidation and rationalization of the steel industry, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Education and the Workforce, and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FROST (for himself, Mr. REYES, Mr. SKELTON, Mr. MENENDEZ, and Mr. ORTIZ):

H.R. 4575. A bill to amend the Immigration and Nationality Act to change the requirements for naturalization to citizenship through service in the Armed Forces of the United States; to the Committee on the Judiciary.

By Mr. GILCHREST:

H.R. 4576. A bill to decide the name of a creek in Queen Anne's County, Maryland; to the Committee on Resources.

By Mr. HOLDEN:

H.R. 4577. A bill to suspend temporarily the duty on Sella Fast Brown OM; to the Committee on Ways and Means.

By Mr. HOLDEN:

H.R. 4578. A bill to suspend temporarily the duty on Sella Fast Brown DS; to the Committee on Ways and Means.

By Mr. GEORGE MILLER of California (for himself, Mr. PALLONE, Mr. ANDREWS, Mr. ALLEN, Ms. BALDWIN, Mr. BARRETT, Ms. BERKLEY, Mr. BERMAN, Mr. BLAGOJEVICH, Mr. BLUMENAUER, Mr. BONIOR, Mr. BORSKI, Mr. BROWN of Ohio, Ms. CARSON of Indiana, Mr. CLAY, Mr. COYNE, Mr. CROWLEY, Mr. DAVIS of Illinois, Ms. DEGETTE, Mr. DELAHUNT, Ms. DELAURO, Mr. DEUTSCH, Mr. DEFAZIO, Ms. ESHOO, Mr. FARR of California, Mr. FRANK, Mr. GUTIERREZ, Mr. HALL of Ohio, Mr. HASTINGS of Florida, Mr. HINCHEY, Mr. HOEFFEL, Mr. HOLT, Mrs. JOHNSON of Connecticut, Mr. INSLEE, Mr. KILDEE, Mr. KUCINICH, Mr. LANTOS, Mr. LARSON of Connecticut, Ms. LEE, Mr. LEVIN, Mr. LEWIS of Georgia, Mrs. LOWEY, Mrs. MALONEY of New York, Mr. MALONEY of Connecticut, Mr. MARKEY, Ms. MCCARTHY of Missouri, Ms. MCCOLLUM, Ms. MCKINNEY, Mr. MCDERMOTT, Mr. MCGOVERN, Mr. MCNULTY, Mr. MOORE, Mr. MORAN of Virginia, Mrs. MORELLA, Mr. NEAL of Massachusetts, Ms. NORTON, Mr. OLVER, Mr. OWENS, Mr. PASCRELL, Mr. PAYNE, Ms. PELOSI, Mr. RAHALL, Ms. RIVERS, Mr. ROTHMAN, Mr. SABO, Mr. SANDERS, Ms. SCHAKOWSKY, Mr. SERRANO, Mr. SHAYS, Mr. SHERMAN, Ms. SLAUGHTER, Mr. SMITH of Washington, Mr. STARK, Mr. TIERNEY, Mr. UDALL of Colorado, Mr. WAXMAN, Mr. WEXLER, and Ms. WOOLSEY):

H.R. 4579. A bill to amend the Endangered Species Act of 1973 to ensure the recovery of our Nation's declining biological diversity; to reaffirm and strengthen this Nation's commitment to protect wildlife; to safeguard our children's economic and ecological future; and to provide assurances to local governments, communities, and individuals in their planning and economic development efforts; to the Committee on Resources, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MORELLA:

H.R. 4580. A bill to provide for reform relating to Federal employee career development and benefits, and for other purposes; to the Committee on Government Reform.

By Ms. NORTON:

H.R. 4581. A bill to amend title VI of the Elementary and Secondary Education Act of 1965 to include programs that encourage academic rigor in scientific education in elementary schools; to the Committee on Education and the Workforce.

By Mr. PETRI (for himself, Mr. GEORGE MILLER of California, Mrs. ROUKEMA, Mr. KILDEE, Mr. GREENWOOD, Mr. TIERNEY, Mr. KIND, Mr. PLATTS, Mr. KUCINICH, Mrs. DAVIS of California, Mr. LEACH, Mr. FROST, Mr. KLECZKA, Mr. SMITH of Washington, Mr. NUSSLE, Mr. GREEN of Texas, Mr. BOSWELL, Mr. GANSKE, Mr. TURNER, Mr. SCHIFF, Mr. HORN, Mr. MURTHA, Mr. BARRETT, Mrs. MORELLA, Mr. ABERCROMBIE, Mr. MORAN of Virginia, Mr. COOKSEY, Mr. BROWN of Ohio, Mr. LEWIS of Georgia, Mr. FRANK, Mr. FATTAH, Ms. KAPTUR, Ms. SCHAKOWSKY, Mr. SHAYS, Mr. WAXMAN, Mr. GREEN of Wisconsin, Mr. MATHESON, Mr. LATOURETTE, Mr. MCDERMOTT, Mr. BALDACCI, Mr. SANDERS, and Mr. VITTER):

H.R. 4582. A bill to improve access to printed instructional materials used by blind or other persons with print disabilities in elementary and secondary schools, and for other purposes; to the Committee on Education and the Workforce.

By Mr. POMBO:

H.R. 4583. A bill to reduce the duty on certain straw hats; to the Committee on Ways and Means.

By Mr. UPTON (for himself, Mr. HALL of Texas, Mr. TAUZIN, and Mr. BILIRAKIS):

H.R. 4584. A bill to amend title XIX of the Social Security Act to extend the authorization of transitional medical assistance for 1 year; to the Committee on Energy and Commerce.

By Mr. UPTON (for himself, Mr. HALL of Texas, Mr. TAUZIN, and Mr. BILIRAKIS):

H.R. 4585. A bill to amend title V of the Social Security Act to extend abstinence education funding under maternal and child health program through fiscal year 2007; to the Committee on Energy and Commerce.

By Ms. VELAZQUEZ:

H.R. 4586. A bill to amend the Small Business Act and the Small Business Investment Act of 1958 to authorize grants and other assistance to promote the redevelopment of certain remediated sites; to the Committee on Small Business.

By Mr. YOUNG of Alaska:

H.R. 4587. A bill to establish the Joint Federal and State Navigable Waters Commission for Alaska; to the Committee on Resources.

By Mr. SMITH of New Jersey (for himself and Mr. FRANK):

H.J. Res. 89. A joint resolution posthumously proclaiming Andrei Dmitrievich Sakharov to be an honorary citizen of the United States; to the Committee on the Judiciary.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

219. The SPEAKER presented a memorial of the Senate of the Commonwealth of Pennsylvania, relative to Senate Resolution No. 141 memorializing the Congress of the United States to fulfill the commitment of the Individuals with Disabilities Education Act by taking immediate action on legislation that would provide resources equal to 40% of the national average per pupil expenditure for special education students for each Pennsylvania student with special needs; to the Committee on Education and the Workforce.

220. Also,a memorial of the House of Representatives of the State of Michigan, relative to House Resolution No. 233 memorializing the Congress of the United States to amend federal laws and regulations to address the issue of unopened prescription medications recovered from deceased patients; to the Committee on Energy and Commerce.

221. Also,a memorial of the Senate of the State of Wisconsin, relative to Senate Resolution 11 memorializing the United States Congress to endorse President Bush's commitment to undertake significant efforts in order to promote substantial progress towards a solution of the Cyprus problem in 2001, so that all in Cyprus may enjoy rights and freedoms regardless of their ethnic origins; to the Committee on International Relations.

222. Also,a memorial of the House of Representatives of the State of Michigan, relative to House Resolution No. 314 memorializing the Congress of the United States and the Immigration and Naturalization Service to determine the appropriateness of increasing the number of visas for temporary agricultural workers; to the Committee on the Judiciary.

223. Also,a memorial of the General Assembly of the State of Vermont, relative to Joint Senate Resolution No. 217 memorializing the United States Congress to express its respect and admiration for our United States Flag and be it further that the General Assembly expresses its condemnation of all acts of flag desecration, and similar displays of disrespect for the United States Flag; to the Committee on the Judiciary.

224. Also,a memorial of the House of Representatives of the State of Maine, relative to H.P. 1649 Joint Resolution memorializing the President of the United States and the United States Congress to restore the federal highway funding commitment to states and municipalities and to pursue equitable and fair distribution of federal dollars for transportation ventures; to the Committee on Transportation and Infrastructure.

225. Also,a memorial of the House of Representatives of the State of Michigan, relative to House Resolution No. 192 memorializing the Congress of the United States to enact H.R. 2374 to amend the Internal Revenue Code to consider certain transitional dealer assistance related to the phase out of Oldsmobile as an involuntary conversion; to the Committee on Ways and Means.

226. Also,a memorial of the Senate of the Commonwealth of Pennsylvania, relative to Senate Resolution No. 128 memorializing the Congress of the United States to enact S. 1508, which increases the preparedness of the United States to respond to a biological or chemical weapons attack; jointly to the Committees on Ways and Means, Energy and Commerce, Education and the Workforce, and Financial Services.

227. Also,a memorial of the Senate of the Commonwealth of Pennsylvania, relative to Senate Resolution No. 137 memorializing the Congress of the United States to address the critical areas that will create economic stability and allow future growth; jointly to the Committees on Ways and Means, Energy and Commerce, Education and the Workforce, and Financial Services.

228. Also,a memorial of the Legislature of the State of Minnesota, relative to Resolution No. 6 memorializing the President of the United States and the United States Congress to extend its deepest sympathies to the people of New York City, Washington, D.C., and Northern Virginia, and to the many families in Minnesota and all across the country whose loved ones lost their lives on September 11, 2001; jointly to the Committees on Armed Services, Transportation and Infrastructure, Intelligence (Permanent Select), the Judiciary, Government Reform, and Energy and Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. FORBES introduced a bill (H.R. 4588) to provide for the liquidation or reliquidation of certain entries; which was referred to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 68: Mr. BONIOR.
H.R. 218: Mr. EVANS.
H.R. 537: Mr. DAVIS of Illinois.
H.R. 595: Mr. INSLEE and Mr. GORDON.
H.R. 600: Mr. SIMMONS.
H.R. 744: Mr. MCINNIS.
H.R. 786: Mr. BACA.
H.R. 792: Mr. LAHOOD.
H.R. 831: Mr. ENGLISH, Mr. ISRAEL, Mr. REYNOLDS, and Mr. WALSH.
H.R. 1073: Mr. GOODLATTE.
H.R. 1111: Mr. DAVIS of Illinois, Ms. MILLENDER-MCDONALD, Mr. VISCLOSKY, Mr. FATTAH, and Mr. DINGELL.
H.R. 1187: Mr. SABO.
H.R. 1212: Mr. THOMPSON of Mississippi.
H.R. 1305: Mr. BURTON of Indiana, Mr. PRICE of North Carolina, and Mr. PETERSON of Minnesota.
H.R. 1322: Mr. MCNULTY.
H.R. 1362: Ms. CARSON of Indiana.
H.R. 1405: Mr. LAHOOD.
H.R. 1509: Mrs. DAVIS of California.
H.R. 1520: Mr. HOLT.
H.R. 1543: Mr. HALL of Ohio, Mr. BARCIA, and Mr. SMITH of Michigan.
H.R. 1556: Mr. LUCAS of Oklahoma, Mr. CARSON of Oklahoma, and Mr. SANDERS.
H.R. 1577: Mr. OXLEY, Mr. STENHOLM, Mr. DINGELL, and Mr. CONYERS.
H.R. 1581: Mr. JOHN and Mr. BARTLETT of Maryland.
H.R. 1609: Mr. LUCAS of Oklahoma, Mr. SANDERS, and Mr. HULSHOF.
H.R. 1624: Mrs. DAVIS of California, Mr. MEEKS of New York, Ms. MCCARTHY of Missouri, Mr. CLEMENT, Mr. UNDERWOOD, Mr. BACA, and Mr. SHERMAN.
H.R. 1759: Mr. BAIRD.
H.R. 1808: Mr. NEAL of Massachusetts.
H.R. 1887: Mr. DAVIS of Illinois.
H.R. 1908: Mr. HOSTETTLER.
H.R. 1919: Mr. BOEHLERT.
H.R. 1984: Mr. SHAYS.
H.R. 2035: Mr. CROWLEY and Mr. COSTELLO.
H.R. 2235: Mr. BOYD.
H.R. 2349: Mr. PHELPS.
H.R. 2405: Mr. FATTAH.
H.R. 2466: Mrs. MYRICK, Mr. SCHAFFER, Mr. REYNOLDS, Mr. BOYD, Mr. GIBBONS, Mr. WAMP, Mr. KINGSTON, Mr. FILNER, and Mr. HOSTETTLER.
H.R. 2570: Mr. BRADY of Pennsylvania and Mr. BERMAN.
H.R. 2683: Ms. BERKLEY, Mr. KELLER, Mr. THUNE, Mr. WAMP, and Mr. HASTINGS of Washington.
H.R. 2763: Mr. RILEY.
H.R. 2820: Mr. THOMPSON of Mississippi and Mrs. LOWEY.
H.R. 2829: Mr. THORNBERRY, Mr. SHADEGG, Mr. CALLAHAN, Mr. OSE, and Mr. JONES of North Carolina.
H.R. 2874: Mr. FILNER.
H.R. 3037: Ms. VELAZQUEZ.
H.R. 3113: Mr. GREEN of Texas.
H.R. 3130: Mr. BERMAN and Mr. BAIRD.
H.R. 3236: Mrs. MINK of Hawaii, Ms. MCCOLLUM, Ms. EDDIE BERNICE JOHNSON of Texas, and Mr. LEWIS of Georgia.
H.R. 3320: Mr. WU.
H.R. 3333: Mr. SAXTON.
H.R. 3358: Mr. WATT of North Carolina.
H.R. 3382: Mr. ISRAEL.
H.R. 3388: Mr. HOBSON.
H.R. 3424: Ms. ROYBAL-ALLARD.
H.R. 3450: Mr. CUNNINGHAM, Ms. MILLENDER-MCDONALD, Mr. MCDERMOTT, and Mr. WU.
H.R. 3478: Mr. CRENSHAW and Mr. GREEN of Wisconsin.
H.R. 3482: Mr. DUNCAN.
H.R. 3493: Mr. UDALL of Colorado.
H.R. 3533: Mr. LATOURETTE and Mr. SCHROCK.
H.R. 3581: Mr. WAXMAN and Mr. EVANS.
H.R. 3597: Ms. CARSON of Indiana.
H.R. 3605: Mr. ROYCE.
H.R. 3681: Mr. LANGEVIN and Mr. FILNER.
H.R. 3686: Mr. BOOZMAN.
H.R. 3717: Mr. OSBORNE.
H.R. 3771: Mr. CARSON of Oklahoma and Ms. CARSON of Indiana.
H.R. 3781: Ms. VELAZQUEZ, Ms. RIVERS, Mr. FORD, and Mr. GRUCCI.
H.R. 3782: Mr. THOMPSON of California, Mr. LARSEN of Washington, Mr. DOOLEY of California, Mrs. BONO, and Mr. BLUMENAUER.
H.R. 3811: Mr. TANCREDO.
H.R. 3831: Mr. HILLEARY, Mr. COOKSEY, and Mr. DEFAZIO.
H.R. 3842: Mr. DAVIS of Illinois and Mr. BENTSEN.
H.R. 3882: Mr. LATOURETTE, Ms. HART, Mr. MCINNIS, Mr. LANGEVIN, Mr. MATHESON, Mr. GOODE, Mr. WELDON of Florida, Mr. MCHUGH, and Mr. EVANS.
H.R. 3884: Mr. LIPINSKI and Mr. SKELTON.
H.R. 3887: Mr. BENTSEN, Mr. LANTOS, Ms. CARSON of Indiana, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. CAPUANO, Mr. INSLEE, and Mr. BARRETT.
H.R. 3897: Mr. HORN, Mr. GOODE, and Mrs. KELLY.
H.R. 3911: Mr. LARSON of Connecticut.
H.R. 3915: Mr. BONIOR.
H.R. 3916: Ms. CARSON of Indiana.
H.R. 3940: Mr. HILLEARY.
H.R. 3974: Mr. MCHUGH and Mr. FOLEY.
H.R. 3990: Mr. GEKAS.
H.R. 4008: Mr. BALDACCI, Ms. CARSON of Indiana, Ms. NORTON, Mr. ENGLISH, and Mr. BONIOR.
H.R. 4010: Mr. PENCE and Mr. SULLIVAN.
H.R. 4013: Mr. PLATTS, Ms. VELÁZQUEZ, Mr. KIND, Mrs. JOHNSON of Connecticut, Mr. BONIOR, Mr. WEXLER, and Ms. NORTON.
H.R. 4014: Mr. BONIOR, Mr. WEXLER, and Ms. NORTON.
H.R. 4025: Mr. GORDON, Mr. PICKERING, Mr. BLUNT, Mr. WEXLER, Mr. ISRAEL, and Mr. KLECZKA.
H.R. 4043: Mr. JEFF MILLER of Florida.
H.R. 4060: Mr. DICKS, Ms. RIVERS, Mr. HOLT, Mr. ROTHMAN, Mr. FRANK, and Ms. MCKINNEY.
H.R. 4066: Mr. DINGELL, Mrs. WILSON of New Mexico, and Mr. WU.
H.R. 4071: Mr. MCINNIS.
H.R. 4018: Mr. KINGSTON.
H.R. 4152: Mr. PUTNAM, Mrs. MINK of Hawaii, Mr. JONES of North Carolina, and Mrs. THURMAN.
H.R. 4373: Mr. DAVIS of Illinois.
H.R. 4483: Mr. TERRY, Mr. GILMAN, Mr. SOUDER, Mr. LOBIONDO, Mr. HAYWORTH, Mr. GRUCCI, Mr. LATOURETTE, Mr. SCHROCK, Mr. ROTHMAN, Mr. CANTOR, Mr. DIAZ-BALART, Mr. ISRAEL, Mr. DEUTSCH, Mr. HOEFFEL, Mr. HASTINGS of Florida, Mr. CROWLEY, Mr. MARKEY, and Ms. BERKLEY.
H. Con. Res. 99: Ms. SLAUGHTER, Mr. TOWNS, Mr. ABERCROMBIE, and Mr. HOLDEN.
H. Con. Res. 309: Mr. WAXMAN, Mr. MENENDEZ, Mr. DINGELL, Mr. STARK, Mrs. MINK of Hawaii, Mrs. NAPOLITANO, Ms. PELOSI, and Ms. CARSON of Indiana.
H. Con. Res. 315: Mr. BACHUS, Mr. PHELPS, and Mr. TAYLOR of North Carolina.
H. Con. Res. 349: Mrs. JONES of Ohio, Mrs. MINK of Hawaii, Mr. MCGOVERN, Mr. FARR of California, Ms. BROWN of Florida, Mr. JEFFERSON, Mr. HASTINGS of Florida, Ms. WATSON, Mr. SNYDER, Mr. LIPINSKI, Mr. HONDA, Mrs. NAPOLITANO, Mr. CUMMINGS, Mr. SANDERS, Mr. PITTS, Mr. WATT of North Carolina, and Ms. CARSON of Indiana.
H. Con. Res. 350: Mr. JEFF MILLER of Florida.
H. Con. Res. 359: Mr. FILNER.
H. Con. Res. 366: Mr. ACKERMAN and Mr. LANTOS.
H. Con. Res. 368: Mr. CONYERS and Mrs. MINK of Hawaii.
H. Res. 355: Ms. JACKSON-LEE of Texas.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3113: Ms. RIVERS.

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of America

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PROCEEDINGS AND DEBATES OF THE 107th CONGRESS, SECOND SESSION

Vol. 148 WASHINGTON, WEDNESDAY, APRIL 24, 2002 *No. 47*

Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable EDWARD M. KENNEDY, a Senator from the State of Massachusetts.

PRAYER

The guest Chaplain, Father Daniel P. Coughlin, Chaplain of the House of Representatives, offered the following prayer:

Lord God, we ask that your Holy Spirit will fill the hearts and minds of our Nation's leadership on this day. Bless them with sacred wisdom that they may truly lead us through the complex issues that confront our people. Give them the courage to hold to what they believe to be right, and the humility to receive more truth than they possess.

Most of all, O God, we ask that You will give these leaders Your own great dreams for our life together, dreams that are greater than party allegiances, and certainly greater than the ambition any individual would carry into this Chamber. By Your Holy Spirit accommodate Your will to our political process that it may be used to lead this Nation to a future which is filled with hope.

And when the day is done and the Chamber is again empty, may all who have come here to serve the Republic know that their work has not been in vain. Encourage them in the certain conviction that You will use this day to build Your own great kingdom on Earth. This we ask in the name of the Lord, whose way we prepare. Amen.

PLEDGE OF ALLEGIANCE

The Honorable EDWARD M. KENNEDY 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 assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 24, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable EDWARD M. KENNEDY, a Senator from the State of Massachusetts, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RESERVATION OF LEADER TIME

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

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 517, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 517) to authorize funding for the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006 and for other purposes.

Pending:

Daschle/Bingaman further modified amendment No. 2917, in the nature of a substitute.

Landrieu/Kyl amendment No. 3050 (to amendment No. 2917), to increase the transfer capability of electric energy transmission systems through participant-funded investment.

Schumer/Clinton amendment No. 3093 (to amendment No. 2917), to prohibit oil and gas drilling activity in Finger Lakes National Forest, New York.

Dayton amendment No. 3097 (to amendment No. 2917), to require additional findings for FERC approval of an electric utility merger.

Murkowski/Breaux/Stevens amendment No. 3132 (to amendment No. 2917), to create jobs for Americans, to reduce dependence on foreign sources of crude oil and energy, to strengthen the economic self determination of the Inupiat Eskimos and to promote national security.

Feinstein amendment No. 3225 (to amendment No. 2917), to modify the provision relating to the renewable content of motor vehicle fuel to eliminate the required volume of renewable fuel for calendar year 2004.

Feinstein amendment No. 3170 (to amendment No. 2917), to reduce the period of time in which the Administrator may act on a petition by 1 or more States to waive the renewable fuel content requirement.

Fitzgerald amendment No. 3124 (to amendment No. 2917), to modify the definitions of biomass and renewable energy to exclude municipal solid waste.

Cantwell amendment No. 3234 (to amendment No. 2917), to protect electricity consumers.

Amendment No. 3231, as modified, which was to have been printed in yesterday's RECORD, is as follows:

(Purpose: To clarify the structure for, and improve the focus of, global climate change science research)

On page 470, beginning with line 10, strike through line 7 on page 532 and insert the following:

TITLE XIII—CLIMATE CHANGE SCIENCE AND TECHNOLOGY

Subtitle A—Department of Energy Programs

SEC. 1301. DEPARTMENT OF ENERGY GLOBAL CHANGE RESEARCH.

(a) PROGRAM DIRECTION.—The Secretary, acting through the Office of Science, shall conduct a comprehensive research program to understand and address the effects of energy production and use on the global climate system.

(b) PROGRAM ELEMENTS.—

(1) CLIMATE MODELING.—The Secretary shall—

(A) conduct observational and analytical research to acquire and interpret the data needed to describe the radiation balance from the surface of the Earth to the top of the atmosphere;

(B) determine the factors responsible for the Earth's radiation balance and incorporate improved understanding of such factors in climate models;

(C) improve the treatment of aerosols and clouds in climate models;

(D) reduce the uncertainty in decade-to-century model-based projections of climate change; and

(E) increase the availability and utility of climate change simulations to researchers and policy makers interested in assessing the relationship between energy and climate change.

(2) CARBON CYCLE.—The Secretary shall—

(A) carry out field research and modeling activities—

(i) to understand and document the net exchange of carbon dioxide between major terrestrial ecosystems and the atmosphere; or

(ii) to evaluate the potential of proposed methods of carbon sequestration;

(B) develop and test carbon cycle models; and

(C) acquire data and develop and test models to simulate and predict the transport, transformation, and fate of energy-related emissions in the atmosphere.

(3) ECOLOGICAL PROCESSES.—The Secretary shall carry out long-term experiments of the response of intact terrestrial ecosystems to—

(A) alterations in climate and atmospheric composition; or

(B) land-use changes that affect ecosystem extent and function.

(4) INTEGRATED ASSESSMENT.—The Secretary shall develop and improve methods and tools for integrated analyses of the climate change system from emissions of aerosols and greenhouse gases to the consequences of these emissions on climate and the resulting effects of human-induced climate change on economic and social systems, with emphasis on critical gaps in integrated assessment modeling, including modeling of technology innovation and diffusion and the development of metrics of economic costs of climate change and policies for mitigating or adapting to climate change.

(c) AUTHORIZATION OF APPROPRIATIONS.—From amounts authorized under section 1251(b), there are authorized to be appropriated to the Secretary for carrying out activities under this section—

(1) $150,000,000 for fiscal year 2003;

(2) $175,000,000 for fiscal year 2004;

(3) $200,000,000 for fiscal year 2005; and

(4) $230,000,000 for fiscal year 2006.

(d) LIMITATION ON FUNDS.—Funds authorized to be appropriated under this section shall not be used for the development, demonstration, or deployment of technology to reduce, avoid, or sequester greenhouse gas emissions.

SEC. 1302. AMENDMENTS TO THE FEDERAL NONNUCLEAR RESEARCH AND DEVELOPMENT ACT OF 1974.

Section 6 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5905) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking ''and'' at the end;

(B) in paragraph (3) by striking the period at the end and inserting '', and''; and

(C) by adding at the end the following:

''(4) solutions to the effective management of greenhouse gas emissions in the long term by the development of technologies and practices designed to—

''(A) reduce or avoid anthropogenic emissions of greenhouse gases;

''(B) remove and sequester greenhouse gases from emissions streams; and

''(C) remove and sequester greenhouse gases from the atmosphere;'' and

(2) in subsection (b)—

(A) in paragraph (2), by striking ''subsection (a)(1) through (3)'' and inserting ''paragraphs (1) through (4) of subsection (a)''; and

(B) in paragraph (3)—

(i) in subparagraph (R), by striking ''and'' at the end;

(ii) in subparagraph (S), by striking the period at the end and inserting ''; and''; and

(iii) by adding at the end the following:

''(T) to pursue a long-term climate technology strategy designed to demonstrate a variety of technologies by which stabilization of greenhouse gases might be best achieved, including accelerated research, development, demonstration and deployment of—

''(i) renewable energy systems;

''(ii) advanced fossil energy technology;

''(iii) advanced nuclear power plant design;

''(iv) fuel cell technology for residential, industrial and transportation applications;

''(v) carbon sequestration practices and technologies, including agricultural and forestry practices that store and sequester carbon;

''(vi) efficient electrical generation, transmission and distribution technologies; and

''(vii) efficient end use energy technologies.''.

Subtitle B—Department of Agriculture Programs

SEC. 1311. CARBON SEQUESTRATION BASIC AND APPLIED RESEARCH.

(a) BASIC RESEARCH.—

(1) IN GENERAL.—The Secretary of Agriculture shall carry out research in the areas of soil science that promote understanding of—

(A) the net sequestration of organic carbon in soil; and

(B) net emissions of other greenhouse gases from agriculture.

(2) AGRICULTURAL RESEARCH SERVICE.—The Secretary of Agriculture, acting through the Agricultural Research Service, shall collaborate with other Federal agencies in developing data and carrying out research addressing soil carbon fluxes (losses and gains) and net emissions of methane and nitrous oxide from cultivation and animal management activities.

(3) COOPRERATIVE STATE RESEARCH, EXTENSION, AND EDUCATION SERVICE.—

(A) IN GENERAL.—The Secretary of Agriculture, acting through the Cooperative State Research, Extension, and Education Service, shall establish a competitive grant program to carry out research on the matters described in paragraph (1) in land grant universities and other research institutions.

(B) CONSULTATION ON RESEARCH TOPICS.—Before issuing a request for proposals for basic research under paragraph (1), the Cooperative State Research, Extension, and Education Service shall consult with the Agricultural Research Service to ensure that proposed research areas are complementary with and do not duplicate research projects underway at the Agricultural Research Service or other Federal agencies.

(b) APPLIED RESEARCH.—

(1) IN GENERAL.—The Secretary of Agriculture shall carry out applied research in the areas of soil science, agronomy, agricultural economics and other agricultural sciences to—

(A) promote understanding of—

(i) how agricultural and forestry practices affect the sequestration of organic and inorganic carbon in soil and net emissions of other greenhouse gases;

(ii) how changes in soil carbon pools are cost-effectively measured, monitored, and verified; and

(iii) how public programs and private market approaches can be devised to incorporate carbon sequestration in a broader societal greenhouse gas emission reduction effort;

(B) develop methods for establishing baselines for measuring the quantities of carbon and other greenhouse gased sequestered; and

(C) evaluate leakage and performance issues.

(2) REQUIREMENTS.—To the maximum extent practicable, applied research under paragraph (1) shall—

(A) draw on existing technologies and methods; and

(B) strive to provide methodologies that are accessible to a nontechnical audience.

(3) MINIMIZATION OF ADVERSE ENVIRONMENTAL IMPACTS.—All applied research under paragraph (1) shall be conducted with an emphasis on minimizing adverse environmental impacts.

(4) NATURAL RESOURCES CONSERVATION SERVICES.—The Secretary of Agriculture, acting through the Natural Resources Conservation Service, shall collaborate with other Federal agencies, including the National Institute of Standards and Technology, in developing new measuring techniques and equipment or adapting existing techniques and equipment to enable cost-effective and accurate monitoring and verification, for a wide range of agricultural and forestry practices, of—

(A) changes in soil carbon content in agricultural soils, plants, and trees; and

(B) net emissions of other greenhouse gases.

(5) COOPERATIVE STATE RESEARCH, EXTENSION, AND EDUCATION SERVICE.—

(A) IN GENERAL.—The Secretary of Agriculture, acting through the Cooperative State Research, Extension, and Education Service, shall establish a competitive grant program to encourage research on the matters described in paragraph (1) by land grant universities and other research institutions.

(B) CONSULTATION ON RESEARCH TOPICS.—Before issuing a request for proposals for applied research under paragraph (1), the Cooperative State Research, Extension, and Education Service shall consult with the National Resources Conservation Service and the Agricultural Research Service to ensure that proposed research areas are complementary with and do not duplicate research projects underway at the Agricultural Research Service or other Federal agencies.

(c) RESEARCH CONSORTIA.—

(1) IN GENERAL.—The Secretary of Agriculture may designate not more than two research consortia to carry out research projects under this section, with the requirement that the consortia propose to conduct basic research under subsection (a) and applied research under subsection (b).

(2) SELECTION.—The consortia shall be selected in a competitive manner by the Cooperative State Research, Extension, and Education Service.

(3) ELIGIBLE CONSORTIUM PARTICIPANTS.—Entities eligible to participate in a consortium include—

(A) land grant colleges and universities;

(B) private research institutions;

(C) State geological surveys;

(D) agencies of the Department of Agriculture;

(E) research centers of the National Aeronautics and Space Administration and the Department of Energy;

(F) other Federal agencies;

(G) representatives of agricultural businesses and organizations with demonstrated expertise in these areas; and

(H) representatives of the private sector with demonstrated expertise in these areas.

(4) RESERVATION OF FUNDING.—If the Secretary of Agriculture designates one or two consortia, the Secretary of Agriculture shall reserve for research projects carried out by

the consortium or consortia not more than 25 percent of the amounts made available to carry out this section for a fiscal year.

(d) STANDARDS OF PRECISION.—

(1) CONFERENCE.—Not later than 3 years after the date of enactment of this subtitle, the Secretary of Agriculture, acting through the Agricultural Research Service and in consultation with the Natural Resources Conservation Service, shall convene a conference of key scientific experts on carbon sequestration and measurement techniques from various sectors (including the Government, academic, and private sectors) to—

(A) discuss benchmark standards of precision for measuring soil carbon content and net emissions of other greenhouse gases;

(B) designate packages of measurement techniques and modeling approaches to achieve a level of precision agreed on by the participants in the conference; and

(C) evaluate results of analyses on baseline, permanence, and leakage issues.

(2) DEVELOPMENT OF BENCHMARK STANDARDS.—

(A) IN GENERAL.—The Secretary shall develop benchmark standards for measuring the carbon content of soils and plants (including trees) based on—

(i) information from the conference under paragraph (1);

(ii) research conducted under this section; and

(iii) other information available to the Secretary.

(B) OPPORTUNITY FOR PUBLIC COMMENT.—The Secretary shall provide an opportunity for the public to comment on benchmark standards developed under subparagraph (A).

(3) REPORT.—Not later than 180 days after the conclusion of the conference under paragraph (1), the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry, of the Senate a report on the results of the conference.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 2003 through 2006.

(2) ALLOCATION.—Of the amounts made available to carry out this section for a fiscal year, at least 50 percent shall be allocated for competitive grants by the Cooperative State Research, Extension, and Education Service.

SEC. 1312. CARBON SEQUESTRATION DEMONSTRATION PROJECTS AND OUTREACH.

(a) DEMONSTRATION PROJECTS.—

(1) DEVELOPMENT OF MONITORING PROGRAMS.—

(A) IN GENERAL.—The Secretary of Agriculture, acting through the Natural Resources Conservation Service and in cooperation with local extension agents, experts from land grant universities, and other local agricultural or conservation organizations, shall develop user-friendly, programs that combine measurement tools and modeling techniques into integrated packages to monitor the carbon sequestering benefits of conservation practices and net changes in greenhouse gas emissions.

(B) BENCHMARK LEVELS OF PRECISION.—The programs developed under subparagraph (A) shall strive to achieve benchmark levels of precision in measurement in a cost-effective manner.

(2) PROJECTS.—

(A) IN GENERAL.—The Secretary of Agriculture, acting through the Farm Service Agency, shall establish a program under which projects use the monitoring programs developed under paragraph (1) to demonstrate the feasibility of methods of measuring, verifying, and monitoring—

(i) changes in organic carbon content and other carbon pools in agricultural soils, plants, and trees; and

(ii) net changes in emissions of other greenhouse gases.

(B) EVALUATION OF IMPLICATIONS.—The projects under subparagraph (A) shall include evaluation of the implications for reassessed baselines, carbon or other greenhouse gas leakage, and permanence of sequestration.

(C) SUBMISSION OF PROPOSALS.—Proposals for projects under subparagraph (A) shall be submitted by the appropriate agency of each State, in cooperation with interested local jurisdictions and State agricultural and conservation organizations.

(D) LIMITATION.—Not more than 10 projects under subparagraph (A) may be approved in conjunction with applied research projects under section 1311(b) until benchmark measurement and assessment standards are established under section 1311(d).

(E) NATIONAL FOREST SYSTEM LAND.—The Secretary of Agriculture shall consider the use of National Forest System land as sites to demonstrate the feasibility of monitoring programs developed under paragraph (1).

(b) OUTREACH.—

(1) IN GENERAL.—The Cooperative State Research, Extension, and Education Service shall widely disseminate information about the economic and environmental benefits that can be generated by adoption of conservation practices (including benefits from increased sequestration of carbon and reduced emission of other greenhouses gases).

(2) PROJECT RESULTS.—The Cooperative State Research, Extension, and Education Service shall inform farmers, ranchers, and State agricultural and energy offices in each State of—

(A) the results of demonstration projects under subsection (a)(2) in the State; and

(B) the ways in which the methods demonstrated in the projects might be applicable to the operations of those farmers and ranchers.

(3) POLICY OUTREACH.—On a periodic basis, the Cooperative State Research, Extension, and Education Service shall disseminate information on the policy nexus between global climate change mitigation strategies and agriculture, so that farmers and ranchers may better understand the global implications of the activities of farmers and ranchers.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2003 through 2006.

(2) ALLOCATION.—Of the amounts made available to carry out this section for a fiscal year, at least 50 percent shall be allocated for demonstration projects under subsection (a)(2).

Subtitle C—International Energy Technology Transfer

SEC. 1321. CLEAN ENERGY TECHNOLOGY EXPORTS PROGRAM.

(a) DEFINITIONS.—In this section:

(1) CLEAN ENERGY TECHNOLOGY.—The term ''clean energy technology'' means an energy supply or end-use technology that, over its lifecycle and compared to a similar technology already in commercial use in developing countries, countries in transition, and other partner countries—

(A) emits substantially lower levels of pollutants or greenhouse gases; and

(B) may generate substantially smaller or less toxic volumes of solid or liquid waste.

(2) INTERAGENCY WORKING GROUP.—The term ''interagency working group'' means the Interagency Working Group on Clean Energy Technology Exports established under subsection (b).

(b) INTERAGENCY WORKING GROUP.—

(1) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this section, the Secretary of Energy, the Secretary of Commerce, and the Administrator of the U.S. Agency for International Development shall jointly establish a Interagency Working Group on Clean Energy Technology Exports. The interagency working group will focus on opening and expanding energy markets and transferring clean energy technology to the developing countries, countries in transition, and other partner countries that are expected to experience, over the next 20 years, the most significant growth in energy production and associated greenhouse gas emissions, including through technology transfer programs under the Framework Convention on Climate Change, other international agreements, and relevant Federal efforts.

(2) MEMBERSHIP.—The interagency working group shall be jointly chaired by representatives appointed by the agency heads under paragraph (1) and shall also include representatives from the Department of State, the Department of Treasury, the Environmental Protection Agency, the Export-Import Bank, the Overseas Private Investment Corporation, the Trade and Development Agency, and other Federal agencies as deemed appropriate by all three agency heads under paragraph (1).

(3) DUTIES.—The interagency working group shall—

(A) analyze technology, policy, and market opportunities for international development, demonstration, and development of clean energy technology;

(B) investigate issues associated with building capacity to deploy clean energy technology in developing countries, countries in transition, and other partner countries, including—

(i) energy-sector reform;

(ii) creation of open, transparent, and competitive markets for energy technologies,

(iii) availability of trained personnel to deploy and maintain the technology; and

(iv) demonstration and cost-buydown mechanisms to promote first adoption of the technology;

(C) examine relevant trade, tax, international, and other policy issues to asses what policies would help open markets and improve U.S. clean energy technology exports in support of the following areas—

(i) enhancing energy innovation and cooperation, including energy sector and market reform, capacity building, and financing measures;

(ii) improving energy end-use efficiency technologies, including buildings and facilities, vehicle, industrial, and co-generation technology initiatives; and

(iii) promoting energy supply technologies, including fossil, nuclear, and renewable technology initiatives;

(D) establish an advisory committee involving the private sector and other interested groups on the export and deployment of clean energy technology;

(E) monitor each agency's progress towards meeting goals in the 5-year strategic plan submitted to Congress pursuant to the Energy and Water Development Appropriations Act, 2001, and the Energy and Water Development Appropriations Act, 2002;

(F) make recommendations to heads of appropriate Federal agencies on ways to streamline Federal programs and policies to improve each agency's role in the international development, demonstration, and deployment of clean energy technology;

(G) make assessments and recommendations regarding the distinct technological, market, regional, and stakeholder challenges necessary to carry out the program; and

(H) recommend conditions and criteria that will help ensure that United States funds promote sound energy policies in participating countries while simultaneously opening their markets and exporting United States energy technology.

(c) FEDERAL SUPPORT FOR CLEAN ENERGY TECHNOLOGY TRANSFER.—Notwithstanding any other provision of law, each Federal agency or Government corporation carrying out an assistance program in support of the activities of United States persons in the environment or energy sector of a developing country, country in transition, or other partner country shall support, to the maximum extent practicable, the transfer of United States clear energy technology as part of that program.

(d) ANNUAL REPORT.—Not later than 90 days after the date of the enactment of this Act, and on the April 1st of each year thereafter, 2002, and each year thereafter, the Interagency Working Group shall submit a report to Congress on its activities during the preceding calendar year. The report shall include a description of the technology, policy, and market opportunities for international development, demonstration, and deployment of clean energy technology investigated by the Interagency Working Group in that year, as well as any policy recommendations to improve the expansion of clean energy markets and U.S. clean energy technology exports.

(e) REPORT ON USE OF FUNDS.—Not later than October 1, 2002, and each year thereafter, the Secretary of State, in consultation with other Federal agencies, shall submit a report to Congress indicating how United States funds appropriated for clean energy technology exports and other relevant Federal programs are being directed in a manner that promotes sound energy policy commitments in developing countries, countries in transition, and other partner countries, including efforts pursuant to multilateral environmental agreements.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the departments, agencies, and entities of the United States described in subsection (b) such sums as may be necessary to support the transfer of clean energy technology, consistent with the subsidy codes of the World Trade Organization, as part of assistance programs carried out by those departments, agencies, and entities in support of activities of United States persons in the energy sector of a developing country, country in transition, or other partner country.

SEC. 1322. INTERNATIONAL ENERGY TECHNOLOGY DEPLOYMENT PROGRAM.

Section 1608 of the Energy Policy Act of 1992 (42 U.S.C. 13387) is amended by striking subsection (1) and inserting the following:

''(l) INTERNATIONAL ENERGY TECHNOLOGY DEPLOYMENT PROGRAM.—

''(1) DEFINITIONS.—In this subsection:

''(A) INTERNATIONAL ENERGY DEPLOYMENT PROJECT.—The term 'international energy deployment project' means a project to construct an energy production facility outside the United States—

''(i) the output of which will be consumed outside the United States; and

''(ii) the deployment of which will result in a greenhouse gas reduction per unit of energy produced when compared to the technology that would otherwise be implemented—

''(I) 10 percentage points or more, in the case of a unit placed in service before January 1, 2010;

''(II) 20 percentage points or more, in the case of a unit placed in service after December 31, 2009, and before January 1, 2020; or

''(III) 30 percentage points or more, in the case of a unit placed in service after December 31, 2019, and before January 1, 2030.

''(B) QUALIFYING INTERNATIONAL ENERGY DEPLOYMENT PROJECT.—The term 'qualifying international energy deployment project' means an international energy deployment project that—

''(i) is submitted by a United States firm to the Secretary in accordance with procedures established by the Secretary by regulation;

''(ii) uses technology that has been successfully developed or deployed in the United States;

''(iii) meets the criteria of subsection (k);

''(iv) is approved by the Secretary, with notice of the approval being published in the Federal Register; and

''(v) complies with such terms and conditions as the Secretary establishes by regulation.

''(C) UNITED STATES.—For purposes of this paragraph, the term 'United States', when used in a geographical sense, means the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

''(2) PILOT PROGRAM FOR FINANCIAL ASSISTANCE.—

''(A) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall, by regulation, provide for a pilot program for financial assistance for qualifying international energy deployment projects.

''(B) SELECTION CRITERIA.—After consultation with the Secretary of State, the Secretary of Commerce, and the United States Trade Representative, the Secretary shall select projects for participation in the program based solely on the criteria under this title and without regard to the country in which the project is located.

''(C) FINANCIAL ASSISTANCE.—

''(i) IN GENERAL.—A United States firm that undertakes a qualifying international energy deployment project that is selected to participate in the pilot program shall be eligible to receive a loan or a loan guarantee from the Secretary.

''(ii) RATE OF INTEREST.—The rate of interest of any loan made under clause (i) shall be equal to the rate for Treasury obligations then issued for periods of comparable maturities.

''(iii) AMOUNT.—The amount of a loan or loan guarantee under clause (i) shall not exceed 50 percent of the total cost of the qualified international energy deployment project.

''(iv) DEVELOPED COUNTRIES.—Loans or loan guarantees made for projects to be located in a developed country, as listed in Annex I of the United Nations Framework Convention on Climate Change, shall require at least a 50 percent contribution towards the total cost of the loan or loan guarantee by the host country.

''(v) DEVELOPING COUNTRIES.—Loans or loan guarantees made for projects to be located in a developing country (those countries not listed in Annex I of the United Nations Framework Convention on Climate Change) shall require at least a 50 percent contribution towards the total cost of the loan or loan guarantee by the host country.

''(vi) CAPACITY BUILDING RESEARCH.—Proposals made for projects to be located in a developing country may include a research component intended to build technological capacity within the host country. Such research must be related to the technologies being deployed and must involve both an institution in the host country and an industry, university or national laboratory participant from the United States. The host institution shall contribute at least 50 percent of funds provided for the capacity building research.

''(D) COORDINATION WITH OTHER PROGRAMS.—A qualifying international energy deployment project funded under this section shall not be eligible as a qualifying clean coal technology under section 415 of the Clean Air Act (42 U.S.C. 7651n).

''(E) REPORT.—Not later than 5 years after the date of enactment of this subsection, the Secretary shall submit to the President a report on the results of the pilot projects.

''(F) RECOMMENDATION.—Not later than 60 days after receiving the report under subparagraph (E), the President shall submit to Congress a recommendation, based on the results of the pilot projects as reported by the Secretary of Energy, concerning whether the financial assistance program under this section should be continued, expanded, reduced, or eliminated.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section $100,000,000 for each of fiscal years 2003 through 2011, to remain available until expended.''.

Subtitle D—Climate Change Science and Information

PART I—AMENDMENTS TO THE GLOBAL CHANGE RESEARCH ACT OF 1990

SEC. 1331. AMENDMENT OF GLOBAL CHANGE RESEARCH ACT OF 1990.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Global Change Research Act of 1990 (15 U.S.C. 2921 et seq.).

SEC. 1332. CHANGES IN DEFINITIONS.

Paragraph (1) of section 2 (15 U.S.C. 2921) is amended by striking ''Earth and Environmental Sciences'' inserting ''Global Change Research''.

SEC. 1333. CHANGE IN COMMITTEE NAME AND STRUCTURE.

Section 102 (15 U.S.C. 2932) is amended—

(1) by striking ''**EARTH AND ENVIRONMENT SCIENCES**'' in section heading and inserting ''**GLOBAL CHANGE RESEARCH**'';

(2) by striking ''Earth and Environmental Sciences'' in subsection (a) and inserting ''Global Change Research'';

(3) by striking the last sentence of subsection (b) and inserting ''The representatives shall be the Deputy Secretary or the Deputy Secretary's designee (or, in the case of an agency other than a department, the deputy head of that agency or the deputy's designee).'';

(4) by striking ''Chairman of the Council,'' in subsection (c) and inserting ''Director of the Office of National Climate Change Policy with advice from the Chairman of the Council, and'';

(5) by redesignating subsection (d) and (e) as subsections (e) and (f), respectively; and

(6) by inserting after subsection (c) the following:

''(d) SUBCOMMITTEES AND WORKING GROUPS.—

''(1) IN GENERAL.—There shall be a Subcommittee on Global Change Research, which shall carry out such functions of the Committee as the Committee may assign to it.

''(2) MEMBERSHIP.—The membership of the Subcommittee shall consist of—

''(A) the membership of the Subcommittee on Global Change Research of the Committee on Environment and Natural Resources (the functions of which are transferred to the Subcommittee established by this subsection) established by the National Science and Technology Council; and

''(B) such additional members as the Chair of the Committee may, from time to time, appoint.

''(3) CHAIR.—A high ranking official of one of departments or agencies described in subsection (b), appointed by the Chair of the Committee with advice from the Chairman of the Council, shall chair the subcommittee. The Chairperson shall be knowledgeable and experienced with regard to the administration of the scientific research programs, and shall be a representative of an agency that contributes substantially, in terms of scientific research capability and budget, to the Program.''.

''(4) OTHER SUBCOMMITTEES AND WORKING GROUPS.—The Committee may establish such additional subcommittees and working groups as it sees fit.''.

SEC. 1334. CHANGE IN NATIONAL GLOBAL CHANGE RESEARCH PLAN.

Section 104 (15 U.S.C. 2934) is amended—

(1) by inserting ''short-term and long-term'' before ''goals'' in subsection (b)(1);

(2) by striking ''usable information on which to base policy decisions related to'' in subsection (b)(1) and inserting ''information relevant and readily usable by local, State, and Federal decision-makers, as well as other end-users, for the formulation of effective decisions and strategies for measuring, predicting, preventing, mitigation, and adapting to'';

(3) by adding at the end of subsection (c) the following:

''(6) Methods for integration information to provide predictive and other tools for planning and decision making by governments, communities and the private sector.'';

(4) by striking subsection (d)(3) and inserting the following:

''(3) combine and interpret data from various sources to produce information readily usable by local, State, and Federal policy makers, and other end-users, attempting to formulate effective decisions and strategies for preventing, mitigating, and adapting to the effects of global change.'';

(5) by striking ''and'' in subsection (d)(2);

(6) by striking ''change.'' in subsection (d)(3) and inserting ''change; and'';

(7) by adding at the end of subsection (d) the following:

''(4) establish a common assessment and modeling framework that may be used in both research and operations to predict and assess the vulnerability of natural and managed ecosystems and of human society in the context of other environmental and social changes.''; and

(8) by adding at the end the following:

''(g) STRATEGIC PLAN; REVISED IMPLEMENTATION PLAN.—The Chairman of the Council, through the Committee, shall develop a strategic plan for the United States Global Climate Change Research Program for the 10-year period beginning in 2002 and submit the plan to the Congress within 180 days after the date of enactment of the Global Climate Change Act of 2002. The Chairman, through the Committee, shall also submit revised implementation plans as required under subsection (a).''.

SEC. 1335. INTEGRATED PROGRAM OFFICE.

Section 105 (15 U.S.C. 2935) is amended—

(1) by redesignating subsections (a), (b), and (c) as subsections (b), (c), and (d), respectively; and

(2) inserting before subsection (b), as redesignated, the following:

''(a) INTEGRATED PROGRAM OFFICE.—

''(1) ESTABLISHMENT.—There is established in the Office of Science and Technology Policy an integrated program office for the global change research program.

''(2) ORGANIZATION.—The integrated program office established under paragraph (1) shall be headed by the associate director with responsibility for climate change science and technology and shall include, to the maximum extent feasible, a representative from each Federal agency participating in the global change research program.

''(3) FUNCTION.—The integrated program office shall—

''(A) manage, working in conjunction with the Committee, interagency coordination and program integration of global change research activities and budget requests;

''(B) ensure that the activities and programs of each Federal agency or department participating in the program address the goals and objectives identified in the strategic research plan and interagency implementation plans;

''(C) ensure program and budget recommendations of the Committee are communicated to the President and are integrated into the climate change action strategy;

''(D) review, solicit, and identify, and allocate funds for, partnership projects that address critical research objectives or operational goals of the program, including projects that would fill research gaps identified by the program, and for which project resources are shared among at least two agencies participating in the program; and

''(E) review and provide recommendations on, in conjunction with the Committee, all annual appropriations requests from Federal agencies or departments participating in the program.'';

(3) by striking ''Committee.'' in paragraph (2) of subsection (c), as redesignated, and inserting ''Committee and the Integrated Program Office.''; and

(4) by inserting ''and the Integrated Program Office'' after ''Committee'' in paragraph (1) of subsection (d), as redesignated.

SEC. 1336. RESEARCH GRANTS.

Section 105 (15 U.S.C. 2935) is amended—

(1) by redesignating subsection (c) as (d); and

(2) by inserting after subsection (b) the following:

''(c) RESEARCH GRANTS.—

''(1) COMMITTEE TO DEVELOP LIST OF PRIORITY RESEARCH AREAS.—The Committee shall develop a list of priority areas for research and development on climate change that are not being addressed by Federal agencies.

''(2) DIRECTOR OF OSTP TO TRANSMIT LIST TO NSF.—The Director of the Office of Science and Technology Policy shall transmit the list to the National Science Foundation.

''(3) FUNDING THROUGH NSF.—

''(A) BUDGET REQUEST.—The National Science Foundation shall include, as part of the annual request for appropriations for the Science and Technology Policy Institute, a request for appropriations to fund research in the priority areas on the list developed under paragraph (1).

''(B) AUTHORIZATION.—For fiscal year 2003 and each fiscal year thereafter, there are authorized to be appropriated to the National Science Foundation not less than $17,000,000, to be made available through the Science and Technology Policy Institute, for research in those priority areas.''.

SEC. 1337. EVALUATION OF INFORMATION.

Section 106 (15 U.S.C. 2936) is amended—

(1) by striking ''**Scientific**'' in the section heading;

(2) by striking ''and'' after the semicolon in paragraph (2); and

(3) by striking ''years.'' in paragraph (3) and inserting ''years; and''; and

(4) by adding at the end the following:

''(4) evaluates the information being developed under this title, considering in particular its usefulness to local, State, and national decisionmakers, as well as to other stakeholders such as the private sector, after providing a meaningful opportunity for the consideration of the views of such stakeholders on the effectiveness of the Program and the usefulness of the information.''.

PART II—NATIONAL CLIMATE SERVICES AND MONITORING

SEC. 1341. AMENDMENT OF NATIONAL CLIMATE PROGRAM ACT.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the National Climate Program Act (15 U.S.C. 2901 et seq.).

SEC. 1342. CHANGES IN FINDINGS.

Section 2 (15 U.S.C. 2901) is amended—

(1) by striking ''Weather and climate change affect'' in paragraph (1) and inserting ''Weather, climate change, and climate variability affect public safety, environmental security, human health,'';

(2) by striking ''climate'' in paragraph (2) and inserting ''climate, including seasonal and decadal fluctuations,'';

(3) by striking ''changes.'' in paragraph (5) and inserting ''changes and providing free exchange of meteorological data.''; and

(4) by adding at the end the following:

''(7) The present rate of advance in research and development and application of such advances is inadequate and new developments must be incorporated rapidly into services for the benefit of the public.

''(8) The United States lacks adequate infrastructure and research to meet national climate monitoring and prediction needs.''.

SEC. 1343. TOOLS FOR REGIONAL PLANNING.

Section 5(d) (15 U.S.C. 2904(d)) is amended—

(1) by redesignating paragraphs (4) through (9) as paragraphs (5) through (10), respectively;

(2) by inserting after paragraph (3) the following:

''(4) methods for improving modeling and predictive capabilities and developing assessment methods to guide national, regional, and local planning and decision-making on land use, water hazards, and related issues;'';

(3) by inserting ''sharing,'' after ''collection,'' in paragraph (5), as redesignated;

(4) by striking ''experimental'' each place it appears in paragraph (9), as redesignated;

(5) by striking ''preliminary'' in paragraph (10), as redesignated;

(6) by striking ''this Act,'' the first place it appears in paragraph (10), as redesignated, and inserting ''the Global Climate Change Act of 2002,''; and

(7) by striking ''this Act,'' the second place it appears in paragraph (10), as redesignated, and inserting ''that Act,''.

SEC. 1344. AUTHORIZATION OF APPROPRIATIONS.

Section 9 (15 U.S.C. 2908) is amended—

(1) by striking ''1979,'' and inserting ''2002,'';

(2) by striking ''1980,'' and inserting ''2003,'';

(3) by striking ''1981,'' and inserting ''2004,''; and

(4) by striking ''$25,500,000'' and inserting ''$75,500,000''.

SEC. 1345. NATIONAL CLIMATE SERVICE PLAN.

The Act (15 U.S.C. 2901 et seq.) is amended by inserting after section 5 the following:

SEC. 6. NATIONAL CLIMATE SERVICE PLAN.

''Within 1 year after the date of enactment of the Global Climate Change Act of 2002, the Secretary of Commerce shall submit to the Senate Committee on Commerce, Science, and Transportation and the House Science Committee a plan of action for a National Climate Service under the National Climate Program. The plan shall set forth recommendations and funding estimates for—

''(1) a national center for operational climate monitoring and predicting with the

functional capacity to monitor and adjust observing systems as necessary to reduce bias;

''(2) the design, deployment, and operation of an adequate national climate observing system that builds upon existing environmental monitoring systems and closes gaps in coverage by existing systems;

''(3) the establishment of a national coordinated modeling strategy, including a national climate modeling center to provide a dedicated capability for climate modeling and a regular schedule of projections on a long and short term time schedule and at a range of spatial scales;

''(4) improvements in modeling and assessment capabilities needed to integrate information to predict regional and local climate changes and impacts;

''(5) in coordination with the private sector, improving the capacity to assess the impacts of predicted and projected climate changes and variations;

''(6) a program for long term stewardship, quality control, development of relevant climate products, and efficient access to all relevant climate data, products, and critical model simulations; and

''(7) mechanisms to coordinate among Federal agencies, State, and local government entities and the academic community to ensure timely and full sharing and dissemination of climate information and services, both domestically and internationally.''.

SEC. 1346. INTERNATIONAL PACIFIC RESEARCH AND COOPERATION.

The Secretary of Commerce, in cooperation with the Administrator of the National Aeronautics and Space Administration, shall conduct international research in the Pacific region that will increase understanding of the nature and predictability of climate variability in the Asia-Pacific sector, including regional aspects of global environmental change. Such research activities shall be conducted in cooperation with other nations of the region. There are authorized to be appropriated for purposes of this section $1,500,000 to the National Oceanic and Atmospheric Administration, $1,500,000 to the National Aeronautics and Space Administration, and $500,000 for the Pacific ENSO Applications Center.

SEC. 1347. REPORTING ON TRENDS.

(a) ATMOSPHERIC MONITORING AND VERIFICATION PROGRAM.—The Secretary of Commerce, in coordination with relevant Federal agencies, shall, as part of the National Climate Service, establish an atmospheric monitoring and verification program utilizing aircraft, satellite, ground sensors, and modeling capabilities to monitor, measure, and verify atmospheric greenhouse gas levels, dates, and emissions. Where feasible, the program shall measure emissions from identified sources participating in the reporting system for verification purposes. The program shall use measurements and standards that are consistent with those utilized in the greenhouse gas measurement and reporting system established under subsection (a) and the registry established under section 1102.

(b) ANNUAL REPORTING.—The Secretary of Commerce shall issue an annual report that identifies greenhouse emissions and trends on a local, regional, and national level. The report shall also identify emissions or reductions attributable to individual or multiple sources covered by the greenhouse gas measurement and reporting system established under section 1102.

SEC. 1348. ARCTIC RESEARCH AND POLICY.

(a) ARCTIC RESEARCH COMMISSION.—Section 103(d) of the Arctic Research and Policy Act of 1984 (15 U.S.C. 4102(d)) is amended—

(1) by striking ''exceed 90 days'' in the second sentence of paragraph (1) and inserting ''exceed, in the case of the chairperson of the Commission, 120 days, and, in the case of any other member of the Commission, 90 days,'';

(2) by striking ''Chairman'' in paragraph (2) and inserting ''chairperson''.

(b) GRANTS.—Section 104 of the Arctic Research and Policy Act of 1984 (15 U.S.C. 4103) is amended by adding at the end the following:

''(c) FUNDING FOR ARCTIC RESEARCH.—

''(1) IN GENERAL.—With the prior approval of the commission, or under authority delegated by the Commission, and subject to such conditions as the Commission may specify, the Executive Director appointed under section 106(a) may—

''(A) make grants to persons to conduct research concerning the Arctic; and

''(B) make funds available to the National Science Foundation or to Federal agencies for the conduct of research concerning the Arctic.

''(2) EFFECT OF ACTION BY EXECUTIVE DIRECTOR.—An action taken by the executive director under paragraph (1) shall be final and binding on the Commission.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission such sums as are necessary to carry out this section.''.

SEC. 1349. ABRUPT CLIMATE CHANGE RESEARCH.

(a) IN GENERAL.—The Secretary of Commerce, through the National Oceanic and Atmospheric Administration, shall carry out a program of scientific research on potential abrupt climate change designed—

(1) to develop a global array of terrestrial and oceanographic indicators of paleoclimate in order sufficiently to identify and describe past instances of abrupt climate change;

(2) to improve understanding of thresholds and nonlinearities in geophysical systems related to the mechanisms of abrupt climate change;

(3) to incorporate these mechanisms into advanced geophysical models of climate change; and

(4) to test the output of these models against an improved global array of records of past abrupt climate changes.

(b) ABRUPT CLIMATE CHANGE DEFINED.—In this section, the term ''abrupt climate change'' means a change in climate that occurs so rapidly or unexpectedly that human or natural systems may have difficulty adapting to it.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce $10,000,000 for each of the fiscal years 2003 through 2008, and such sums as may be necessary for fiscal years after fiscal year 2008, to carry out subsection (a).

PART III—OCEAN AND COASTAL OBSERVING SYSTEM

SEC. 1351. OCEAN AND COASTAL OBSERVING SYSTEM.

(a) ESTABLISHMENT.—The President, through the National Ocean Research Leadership Council, established by section 7902(a) of title 10, United States Code, shall establish and maintain an integrated ocean and coastal observing system that provides for long-term, continuous, and real-time observations of the oceans and coasts for the purposes of—

(1) understanding, assessing and responding to human-induced and natural processes of global change;

(2) improving weather forecasts and public warnings;

(3) strengthening national security and military preparedness;

(4) enhancing the safety and efficiency of marine operations;

(5) supporting efforts to restore the health of and manage coastal and marine ecosystems and living resources;

(6) monitoring and evaluating the effectiveness of ocean and coastal environmental policies;

(7) reducing and mitigating ocean and coastal pollution; and

(8) providing information that contributes to public awareness of the Sate and importance of the oceans.

(b) COUNCIL FUNCTIONS.—In addition to its responsibilities under section 7902(a) of such title, the Council shall be responsible for planning and coordinating the observing system and in carrying out this responsibility shall—

(1) develop and submit to the Congress, within 6 months after the date of enactment of this Act, a plan for implementing a national ocean and coastal observing system that—

(A) uses an end-to-end engineering and development approach to develop a system design and schedule for operational implementation;

(B) determines how current and planned observing activities can be integrated in a cost-effective manner;

(C) provides for regional and concept demonstration projects;

(D) describes the role and estimated budget of each Federal agency in implementing the plan;

(E) contributes, to the extent practicable, to the National Global Change Research Plan under section 104 of the Global Change Research Act of 1990 (15 U.S.C. 2934); and

(F) makes recommendations for coordination of ocean observing activities of the United States with those of other nations and international organizations;

(2) serve as the mechanism for coordinating Federal ocean observing requirements and activities;

(3) work with academic, State, industry and other actual and potential users of the observing system to make effective use of existing capabilities and incorporate new technologies;

(4) approve standards and protocols for the administration of the system, including—

(A) a common set of measurements to be collected and distributed routinely and by uniform methods;

(B) standards for quality control and assessment of data;

(C) design, testing and employment of forecast models for ocean conditions;

(D) data management, including data transfer protocols and archiving; and

(E) designation of coastal ocean observing regions; and

(5) in consultation with the Secretary of State, provide representation at international meetings on ocean observing programs and coordinate relevant Federal activities with those of other nations.

(c) SYSTEM ELEMENTS.—The integrated ocean and coastal observing system shall include the following elements:

(1) A nationally coordinated network of regional coastal ocean observing systems that measure and disseminate a common set of ocean observations and related products in a uniform manner and according to sound scientific practice, but that are adapted to local and regional needs.

(2) Ocean sensors for climate observations, including the Arctic Ocean and sub-polar seas.

(3) Coastal, relocatable, and cabled sea floor observatories.

(4) Broad bandwidth communications that are capable of transmitting high volumes of data from open ocean locations at low cost and in real time.

(5) Ocean data management and assimilation systems that ensure full use of new sources of data from space-borne and in situ sensors.

(6) Focused research programs.

(7) Technology development program to develop new observing technologies and techniques, including data management and dissemination.

(8) Public outreach and education.

SEC. 1352. AUTHORIZATION OF APPROPRIATIONS.

For development and implementation of an integrated ocean and coastal observation system under this title, including financial assistance to regional coastal ocean observing systems, there are authorized to be appropriated $235,000,000 in fiscal year 2003, $315,000,000 in fiscal year 2004, $390,000,000 in fiscal year 2005, and $445,000,000 in fiscal year 2006.

Subtitle E—Climate Change Technology

SEC. 1361. NIST GREENHOUSE GAS FUNCTIONS.

Section 2(c) of the National Institute of Standards and Technology Act (15 U.S.C. 272(c)) is amended—

(1) striking ''and'' after the semicolon in paragraph (21);

(2) by redesignating paragraph (22) as paragraph (23); and

(3) by inserting after paragraph (21) the following:

''(22) perform research to develop enhanced measurements, calibrations, standards, and technologies which will enable the reduced production in the United States of greenhouse gases associated with global warming, including carbon dioxide, methane, nitrous oxide, ozone, perfluorocarbons, hydrofluorocarbons, and sulfur hexafluoride; and''.

SEC. 1362. DEVELOPMENT OF NEW MEASUREMENT TECHNOLOGIES.

(a) IN GENERAL.—The Secretary of Commerce shall initiate a program to develop, with technical assistance from appropriate Federal agencies, innovative standards and measurement technologies (including technologies to measure carbon changes due to changes in land use cover) to calculate—

(1) greenhouse gas emissions and reductions from agriculture, forestry, and other land use practices;

(2) non-carbon dioxide greenhouse gas emissions from transportation;

(3) greenhouse gas emissions from facilities or sources using remote sensing technology; and

(4) any other greenhouse gas emission or reductions for which no accurate or reliable measurement technology exists.

SEC. 1363. ENHANCED ENVIRONMENTAL MEASUREMENTS AND STANDARDS

The National Institute of Standards and Technology Act (15 U.S.C. 271 et seq.) is amended—

(1) by redesignating sections 17 through 32 as sections 18 through 33, respectively; and

(2) by inserting after section 16 the following:

''SEC. 17. CLIMATE CHANGE STANDARDS AND PROCESSES.

''(a) IN GENERAL.—The Director shall establish within the Institute a program to perform and support research on global climate change standards and processes, with the goal of providing scientific and technical knowledge applicable to the reduction of greenhouse gases (as defined in section 4 of the Global Climate Change Act of 2002).

''(b) RESEARCH PROGRAM.—

''(1) IN GENERAL.—The Director is authorized to conduct, directly or through contracts or grants, a global climate change standards and processes research program.

''(2) RESEARCH PROJECTS.—The specific contents and priorities of the research program shall be determined in consultation with appropriate Federal agencies, including the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, and the National Aeronautics and Space Administration. The program generally shall include basic and applied research—

''(A) to develop and provide the enhanced measurements, calibrations, data, models, and reference material standards which will enable the monitoring of greenhouse gases;

''(B) to assist in establishing of a baseline reference point for future trading in greenhouse gases and the measurement of progress in emissions reduction;

''(C) that will be exchanged internationally as scientific or technical information which has the stated purpose of developing mutually recognized measurements, standards, and procedures for reducing greenhouses gases; and

''(D) to assist in developing improved industrial processes designed to reduce or eliminate greenhouse gases.

''(c) NATIONAL MEASUREMENT LABORATORIES.—

''(1) IN GENERAL.—In carrying out this section, the Director shall utilize the collective skills of the National Measurement Laboratories of the National Institute of Standards and Technology to improve the accuracy of measurements that will permit better understanding and control of these industrial chemical processes and result in the reduction or elimination of greenhouse gases.

''(2) MATERIAL, PROCESS, AND BUILDING RESEARCH.—The National Measurement Laboratories shall conduct research under this subsection that includes—

''(A) developing material and manufacturing processes which are designed for energy efficiency and reduced greenhouse gas emissions into the environment;

''(B) developing environmentally-friendly, 'green' chemical processes to be used by industry; and

''(C) enhancing building performance with a focus in developing standards or tools which will help incorporate low or no-emission technologies into building designs.

''(3) STANDARDS AND TOOLS.—The National Measurement Laboratories shall develop standards and tools under this subsection that include software to assist designers in selecting alternate building materials, performance data on materials, artificial intelligence-aided design procedures for building sub-systems and 'smart buildings', and improve test methods and rating procedures for evaluating the energy performance of residential and commercial appliances and products.

''(d) NATIONAL VOLUNTARY LABORATORY ACCREDITATION PROGRAM.—The Director shall utilize the National Voluntary Laboratory Accreditation Program under this section to establish a program to include specific calibration or test standards and related methods and protocols assembled to satisfy the unique needs for accreditation in measuring the production of greenhouse gases. In carrying out this subsection the Director may cooperate with other departments and agencies of the Federal Government, State and local governments, and private organizations.''.

SEC. 1364. TECHNOLOGY DEVELOPMENT AND DIFFUSION.

The Director of the National Institute of Standards and Technology, through the Manufacturing Extension Partnership Program, may develop a program to support the implementation of new ''green'' manufacturing technologies and techniques by the more than 380,000 small manufacturers.

SEC. 1365. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Director to carry out functions pursuant to sections 1345, 1351, and 1361 through 1363, $10,000,000 for fiscal years 2002 through 2006.

Subtitle F—Climate Adaptation and Hazards Prevention

PART I—ASSESSMENT AND ADAPTATION

SEC. 1371. REGIONAL CLIMATE ASSESSMENT AND ADAPTATION PROGRAM.

(a) IN GENERAL.—The President shall establish within the Department of Commerce a National Climate Change Vulnerability and Adaptation Program for regional impacts related to increasing concentrations of greenhouse gases in the atmosphere and climate variability.

(b) COORDINATION.—In designing such program the Secretary shall consult with the Federal Emergency Management Agency, the environmental Protection Agency, the Army Corps of Engineers, the Department of Transportation, and other appropriate Federal, State, and local government entities.

(c) VULNERABILITY ASSESSMENTS.—The program shall—

(1) evaluate, based on predictions and other information developed under this Act and the National Climate Program Act (15 U.S.C. 2901 et seq.), regional vulnerability to phenomena associated with climate change and climate variability, including—

(A) increases in severe weather events;

(B) sea level rise and shifts in the hydrological cycle;

(C) natural hazards, including tsunami, drought, flood and fire; and

(D) alteration of ecological communities including at the ecosystem or watershed levels; and

(2) build upon predictions and other information developed in the National Assessments prepared under the Global Change Research Act of 1990 (15 U.S.C. 2921 et seq.).

(d) PREPAREDNESS RECOMMENDATIONS.—The program shall submit a report to Congress within 2 years after the date of enactment of this Act that identifies and recommends implementation and funding strategies for short- and long-term actions that may be taken at the national, regional, State, and local level—

(1) to reduce vulnerability of human life and property;

(2) to improve resilience to hazards;

(3) to minimize economic impacts; and

(4) to reduce threats to critical biological ecological processes.

(e) INFORMATION AND TECHNOLOGY.—The Secretary shall make available appropriate information and other technologies and products that will assist national, regional, State, and local efforts, as well as efforts by other end-users, to reduce loss of life and property, and coordinate dissemination of such technologies and products.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce $4,500,000 to implement the requirements of this section.

SEC. 1372. COASTAL VULNERABILITY AND ADAPTATION.

(a) COASTAL VULNERABILITY.—Within 2 years after the date of enactment of this Act, the Secretary shall, in consultation with the appropriate Federal, State, and local governmental entities, conduct regional assessments of the vulnerability of coastal areas to hazards associated with climate change, climate variability, sea level rise, and fluctuation of Great Lakes water levels. The Secretary may also establish, as warranted, longer term regional assessment programs. The Secretary may also consult with the governments of Canada and Mexico as appropriate in developing such regional assessments. In preparing the regional assessments, the Secretary shall collect and compile current information on climate change, sea level rise, natural hazards, and coastal erosion and mapping, and specifically address impacts on Arctic regions and

the Central, Western, and South Pacific regions. The regional assessments shall include an evaluation of—

(1) social impacts associated with threats to and potential losses of housing, communities, and infrastructure;

(2) physical impacts such as coastal erosion, flooding and loss of estuarine habitat, saltwater intrusion of aquifers and saltwater encroachment, and species migration; and

(3) economic impact on local, State, and regional economics, including the impact on abundance or distribution of economically important living marine resources.

(b) COASTAL ADAPTATION PLAN.—The Secretary shall, within 3 years after the date of enactment of this Act, submit to the Congress a national coastal adaptation plan, composed of individual regional adaption plans that recommend targets and strategies to address coastal impacts. associated with climate change, sea level rise, or climate variability. The plan shall be developed with the participation of other Federal, State, and local government agencies that will be critical in the implementation of the plan at the State and local levels. The regional plans that will make up the national coastal adaptation plan shall be based on the information contained in the regional assessments and shall identify special needs associated with Arctic areas and the Central, Western, and South Pacific regions. The Plan shall recommend both short- and long-term adaptation strategies and shall include recommendations regarding—

(1) Federal flood insurance program modifications;

(2) areas that have been identified as high risk through mapping and assessment;

(3) mitigation incentives such as rolling easements, strategic retreat, State or Federal acquisition in fee simple or other interest in land, construction standards, and zoning;

(4) land and property owner education;

(5) economic planning for small communities dependent upon affected coastal resources, including fisheries; and

(6) funding requirements and mechanisms.

(c) TECHNICAL PLANNING ASSISTANCE.—The Secretary, through the National Ocean Service, shall establish a coordinated program to provide technical planning assistance and products to coastal States and local governments as they develop and implement adaptation or mitigation strategies and plans. Products, information, tools and technical expertise generated from the development of the regional assessments and the regional adaptation plans will be made available to coastal States for the purposes of developing their own State and local plans.

(d) COASTAL ADAPTATION GRANTS.—The Secretary shall provide grants of financial assistance to coastal States with federally approved coastal zone management programs to develop and begin implementing coastal adaptation programs if the State provides a Federal-to-State match of 4 to 1 in the first fiscal year, 2.3 to 1 in the second fiscal year, 2 to 1 in the third fiscal year, and 1 to 1 thereafter. Distribution of these funds to coastal States shall be based upon the formula established under section 306(c) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455(c)), adjusted in consultation with the States as necessary to provide assistance to particularly vulnerable coastlines.

(e) COASTAL RESPONSE PILOT PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish a 4-year pilot program to provide financial assistance to coastal communities most adversely affected by the impact of climate change or climate variability that are located in States with federally approved coastal zone management programs.

(2) ELIGIBLE PROJECTS.—A project is eligible for financial assistance under the pilot program if it—

(A) will restore or strengthen coastal resources, facilities, or infrastructure that have been damaged by such an impact, as determined by the Secretary;

(B) meets the requirements of the Coastal Zone Management Act (16 U.S.C. 1451 et seq.) and is consistent with the coastal zone management plan of the State in which it is located; and

(C) will not cost more than $100,000.

(3) FUNDING SHARE.—The Federal funding share of any project under this subsection may not exceed 75 percent of the total cost of the project. In the administration of this paragraph—

(A) the Secretary may take into account in-kind contributions and other non-cash support or any project to determine the Federal funding share for that project; and

(B) the Secretary may waive the requirements of this paragraph for a project in a community if—

(i) the Secretary determines that the project is important; and

(ii) the economy and available resources of the community in which the project is to be conducted are insufficient to meet the non-Federal share of the project's costs.

(f) DEFINITIONS.—Any term used in this section that is defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453) has the meaning given it by that section.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $3,000,000 annually for regional assessments under subsection (a), and $3,000,000 annually for coastal adaptation grants under subsection (d).

SEC. 1373. ARCTIC RESEARCH CENTER.

(a) ESTABLISHMENT.—The Secretary of Commerce, in consultation with the Secretaries of Energy and the Interior, the Director of the National Science Foundation, and the Administrator of the Environmental Protection Agency, shall establish a joint research facility, to be known as the Barrow Arctic Research Center, to support climate change and other scientific research activities in the Arctic.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretaries of Commerce, Energy, and the Interior, the Director of the National Science Foundation, and the Administrator of the Environmental Protection Agency, $35,000,000 for the planning, design, construction, and support of the Barrow Arctic Research Center.

PART II—FORECASTING AND PLANNING PILOT PROGRAMS

SEC. 1381. REMOTE SENSING PILOT PROJECTS.

(a) IN GENERAL.—The Administrator of the National Aeronautics and Space Administration may establish, through the National Oceanic and Atmospheric Administration's Coastal Services Center, a program of grants for competitively awarded pilot projects to explore the integrated use of sources of remote sensing and other geospatial information to address State, local, regional, and tribal agency needs to forecast a plan for adaptation to coastal zone and land use changes that may result as a consequence of global climate change or climate variability.

(B) PREFERRED PROJECTS.—In awarding grants under this section, the Center shall give preference to projects that—

(1) focus on areas that are most sensitive to the consequences of global climate change or climate variability;

(2) make use of existing public or commercial data sets;

(3) integrate multiple sources of geospatial information, such as geographic information system data, satellite-provided positioning data, and remotely sensed data, in innovative ways;

(4) offer diverse, innovative approaches that may serve as models for establishing a future coordinated framework for planning strategies for adaptation to coastal zone and land use changes related to global climate change or climate variability;

(5) include funds or in-kind contributions from non-Federal sources;

(6) involve the participation of commercial entities that process raw or lightly processed data, often merging that data with other geospatial information, to create data products that have significant value added to the original data; and

(7) taken together demonstrate as diverse a set of public sector applications as possible.

(c) OPPORTUNITIES.—In carrying out this section, the Center shall seek opportunities to assist—

(1) in the development of commercial applications potentially available from the remote sensing industry; and

(2) State, local, regional, and tribal agencies in applying remote sensing and other geospatial information technologies for management and adaption to coastal and land use consequences of global climate change or climate variability.

(d) DURATION.—Assistance for a pilot project under subsection (a) shall be provided for a period of not more than 3 years.

(e) RESPONSIBILITIES OF GRANTEES.—Within 180 days after completion of a grant project, each recipient of a grant under subsection (a) shall transmit a report to the Center on the results of the pilot project and conduct at least one workshop for potential users to disseminate the lessons learned from the pilot project as widely as feasible.

(f) REGULATIONS.—The Center shall issue regulations establishing application, selection, and implementation procedures for pilot projects, and guidelines for reports and workshops require by this section.

SEC. 1382. DATABASE ESTABLISHMENT.

The Center shall establish and maintain an electronic, Internet-accessible database of the results of each pilot project completed under section 1381.

SEC. 1383. DEFINITIONS.

In this subtitle:

(1) CENTER.—The term ''Center'' means the Coastal Services Center of the National Oceanic and Atmospheric Administration.

(2) GEOSPATIAL INFORMATION.—The term ''geospatial information'' means knowledge of the nature and distribution of physical and cultural features on the landscape based on analysis of data from airborne or spaceborne platforms or other types and sources of data.

(3) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

SEC. 1384. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Administrator to carry out the provisions of this subtitle—

(1) $17,500,000 for fiscal year 2003;

(2) $20,000,000 for fiscal year 2004;

(3) $22,500,000 for fiscal year 2005; and

(4) $25,000,000 for fiscal year 2006.

SEC. 1385. AIR QUALITY RESEARCH, FORECASTS AND WARNINGS.

(a) REGIONAL STUDIES.—The Secretary of Commerce, through the Administration of the National Oceanographic and Atmospheric Administration, shall, in order of priority as listed in section (c), conduct regional studies of the air quality within specific regions of the United States. Such studies should assess the effect of in-situ emissions of air pollutants and their precursors, transport of such emissions and precursors from outside the region, and production of

air pollutants with region via chemical reactions.

(b) FORECASTS AND WARNINGS.—The Secretary of Commerce, through the Administrator of the National Oceanographic and Atmospheric Administration, shall, in order of priority as listed in section (c), establish a program to provide operational air quality forecasts and warnings for specific regions of the United States.

(c) DEFINITION.—For the purposes of this section, the term ''specific regions of the United States'' means the following geographical areas:

(1) the Northeast, composed of Main, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Maryland, Delaware, the District of Columbia, and West Virginia;

(2) the Southeast, composed of Virginia, North Carolina, South Carolina, Georgia, Alabama, and Florida;

(3) the Midwest, composed of Minnesota, Wisconsin, Iowa, Missouri, Illinois, Kentucky, Indiana, Ohio, and Michigan;

(4) the South, composed of Tennessee, Mississippi, Louisiana, Arkansas, Oklahoma, and Texas;

(5) the High Plains, composed of North Dakota, South Dakota, Nebraska, and Kansas;

(6) the Northwest, composed of Washington, Oregon, Idaho, Montana, and Wyoming;

(7) the Southwest, composed of California, Nevada, Utah, Colorado, Arizona, and New Mexico;

(8) Alaska; and

(9) Hawaii.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce $3,000,000 for each of fiscal years 2003 through 2006 for studies pursuant to subsection (b) of this section, and $5,000,000 for fiscal year 2003 and such sums as may be necessary for subsequent fiscal years for the forecast and warning program pursuant to subsection (c) of this section.

The text of submitted amendment No. 3274, as modified, which was to have been printed in yesterday's RECORD, is as follows:

(Purpose: To increase the transfer capability of electric energy transmission systems through participant-funded investment)

At the appropriate place, insert the following:

SEC. . TRANSMISSION EXPANSION.

Section 205 of the Federal Power Act is amended by inserting after subsection (h) the following:

''(i) RULEMAKING.—Within six months of Enactment of this Act, the Commission shall issue final rules governing the pricing of transmission services.

''(1) TRANSMISSION PRICING PRINCIPLES.—Rules for transmission pricing issued by the Commission under this subsection shall adhere to the following principles:

''(A) transmission pricing must provide accurate and proper price signals for the efficient and reliable use and expansion of the transmission system; and

''(B) new transmission facilities should be funded by those parties who benefit from such facilities.

''(2) FUNDING OF CERTAIN FACILITIES.—The rules established pursuant to this subsection shall, among other things, provide that, upon request of a regional transmission organization or other Commission-approved transmission organization, certain new transmission facilities that increase the transfer capability of the transmission system may be Participant Funded. In such rules, the Commission shall also provide guidance as to what types of facilities may be participant funded.

''(3) PARTICIPANT-FUNDING.—The term 'participant-funding' means an investment in the transmission system controlled by a RTO, made after the date that the RTO or other transmission organization is approved by the Commission, that—

''(A) increases the transfer capability of the transmission system; and

''(B) is funded by the entities that, in return for payment, receives the tradable transmission rights created by the investment.

''(4) TRADABLE TRANSMISSION RIGHT.—The term 'tradable transmission right' means the right of the holder of such right to avoid payment of, or have rebated, transmission congestion charges on the transmission system of a regional transmission organization, the right to use a specified capacity of such transmission system without payment of transmission congestion charges, or other rights as determined by the Commission.''.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. Mr. President, as the Chair has announced, we have resumed consideration of the energy reform bill. Members know there are 18 hours remaining postcloture, after the cloture vote that took place yesterday. There will be rollcall votes in relation to amendments to the bill throughout the day. First-degree amendments to the Baucus language in the energy reform bill must be filed prior to 1 p.m. today.

Mr. President, the Senator from Washington was next in order. Her amendment is pending.

I ask, with the consent of the managers, that that amendment be set aside and that we proceed to the Nelson-Craig amendment dealing with hydro.

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

The Senator from Nebraska.

Mr. NELSON of Nebraska. Mr. President, I rise today in support of my amendment to title III dealing with hydroelectric license improvement. This is an issue of vital importance to the electricity consumers of Nebraska and I ask unanimous consent to call up amendment No. 3140.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

Mr. REID. Mr. President, that requires unanimous consent, does it not?

The ACTING PRESIDENT pro tempore. It does require that we set aside the current amendment. Does the Senator request we temporarily set aside the current amendment?

Mr. NELSON of Nebraska. I request that we set aside the pending amendment.

Mr. REID. Mr. President, reserving right to object, 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. REID. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. REID. Mr. President, I ask unanimous consent that the Senate now return to the consideration of the Cantwell amendment which is the matter that was pending when we started this morning.

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

The Senator from Washington.

AMENDMENT NO. 3234

Ms. CANTWELL. Mr. President, I rise today to speak about my electricity consumer protection amendment to improve what I believe is a flawed deregulation provision in the underlying energy bill.

It is not widely known that the electricity title of this bill includes a new provision to further deregulate our energy markets. Indeed, many of these provisions were included, I believe, without adequate consideration and review by this body.

For the first time this bill gives the Federal Energy Regulatory Commission the statutory authority to allow market-based rates, a key component of deregulation. It also lowers the standard by which mergers of utilities can take place, and it repeals a current law that has been the cornerstone of consumer protection.

Given the sweeping changes in this bill, I think it is important that we proceed cautiously on this path, and that we put safeguards in place, which my amendment does, to protect consumers as FERC is given this new responsibility.

After last year's energy crisis, we should be asking ourselves, how do we better protect consumers, not how do we loosen the rules for utility companies so that they can have better controls in the marketplace.

My amendment is written to protect consumers basically across the country from the same mishaps that happened in the western markets that have caused consumers in the West so much harm. After all we learned from the energy crisis and the collapse of Enron, it is plain that we need to move forward and set a clear set of rules to ensure that, in deregulated markets, consumers are protected. The fact is that consumers deserve efficient electricity markets with adequate protections and efficient oversight.

As the bill now stands, we are giving the Enrons of the world more power to manipulate markets. In fact, without this consumer protection amendment this bill sends some of those people the opportunity, I believe, to actually end up overcharging consumers.

These are commonsense ideas and that is why this amendment has gained support from a wide range of consumer, industry, local government and environmental groups. They are united behind the idea that consumers should be protected as this bill moves towards deregulation.

I am pleased to be joined by Senators DAYTON, WELLSTONE, FEINGOLD, BOXER,

WYDEN, MURRAY, and STABENOW in this effort.

Groups ranging from AARP to the American Public Power Association, to the Consumers Union and the Sierra Club, to the U.S. Conference of Mayors stand behind the consumer protection measures in this amendment.

I ask unanimous consent that a full list of the organizations which support this legislation be printed in the RECORD.

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

SUPPORT THE CONSUMER PROTECTION PACKAGE

Amendment No. 3097, offered by Senators Dayton, Wellstone, Feingold, Cantwell, Boxer and Wyden, would add crucial consumer protections to the electricity title of the Senate energy bill, incorporating lessons learned from the Western electricity crisis and Enron's collapse.

Air Conditioning Contractors of America.
American Association of Retired Persons.
American Public Power Association.
Consumer Federation of America.
Consumers for Fair Competition.
Consumers Union.
Electricity Consumers Resource Council.
National Association of State Utility Consumer Advocates.
National Environmental Trust.
National League of Cities.
National Rural Electric Cooperatives Association.
Natural Resources Defense Council.
Physicians for Social Responsibility.
Public Citizen.
Sierra Club.
Transmission Access Policy Study Group.
U.S. Conference of Mayors.
Union of Concerned Scientists.
U.S. Public Interest Research Group.

Vote ''yes'' on the Consumer Protection Package.

Ms. CANTWELL. Mr. President, their voice is loud and clear. After last year's energy crisis, it is unacceptable to launch a new round of deregulation without first putting in place adequate consumer protections.

I would like to read from a letter signed by the Consumers Union, Sierra Club, NRDC, Consumer Federation of America, and others. It reads:

This amendment would add important and much-needed protections to legislation that actually repeals already weak consumer protections in current law. S. 517 repeals most of the Public Utility Holding Company Act (PUHCA), including provisions that have been in place for over six decades, and does almost nothing to ensure that consumer protections will be maintained. Now, with the exposure of Enron's questionable trading deals, we need these protections more than ever to prevent energy companies from manipulating prices and supply. We need to strengthen consumer protections, not weaken them.

Consumers for Fair Competition wrote:

In the wake of the West Coast electricity crisis and Enron collapse, Congress should only pass electricity legislation if it takes needed steps to protect consumers and prevent a repetition of these crises.

I ask unanimous consent to have printed in the RECORD letters of support that I have received from these organizations.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

APRIL 15, 2002.

DEFEND ELECTRICITY CONSUMERS' RIGHTS—SUPPORT THE CONSUMER PROTECTION PACKAGE: S.A. 3097 TO S. 517

DEAR SENATOR: We are writing to urge you to support S.A. 3097, the consumer protection amendment to the Senate energy bill (S. 517), offered by Senators Dayton, Wellstone, Feingold, Cantwell, Boxer, and Wyden. This amendment would add important and much-needed protections to legislation that actually repeals already weak consumer protections in current law. S. 517 repeals most of the Public Utility Holding Company Act (PUHCA), including provisions that have been in place for over six decades, and does almost nothing to ensure that consumer protections will be maintained. Now, with the exposure of Enron's questionable trading deals, we need these protections more than ever to prevent energy companies from manipulating prices and supply. We need to strengthen consumer protections, not weaken them.

This consumer protection package would:

Ensure that mergers in the energy sector ''advance the public interest,'' based on objective criteria that would be evaluated by the Federal Energy Regulatory Commission (FERC). In repealing the higher merger standards of PUHCA, S. 517 would simply require a determination for a merger approval that the merger is ''consistent with the public interest.'' Given the wave of mergers sweeping through the electric industry and the collapse of meaningful competition in California and other states, we believe that a more protective standard is necessary to adequately protect consumers from abuse. FERC must hold the public interest paramount in evaluating any potential energy company mergers. The amendment would: establish criteria for FERC to consider in order to determine that a merger would ''advance the public interest,'' including efficiency gains, impact on competition, and its ability to effectively regulate the industry; clarify that these provisions would apply to all potential financial arrangements (not just stock acquisitions) which could lead to exertion of control over the entity, including partnerships; and clarify that FERC review applies to all electric and gas combinations.

Direct FERC to precisely define a competitive market and establish rules for when market-based rates will be permitted. In addition, it would put in place market monitoring procedures so that FERC can better detect problems before they lead to a complete breakdown in the market, and give FERC more authority to take action to protect consumers when the market is failing. This change is necessary to ensure that electricity suppliers do not continue to manipulate the market to the detriment of consumers, as they did in the western electricity market in 2000–2001.

Require that transactions between utilities and their affiliates be transparent, and it would shield consumers from the costs and risks of these transactions. It provides for FERC review of utility diversification efforts so that consumers are not victims of abusive affiliate transactions.

Require that state and federal regulators have enhanced access to books and records. It would require FERC, in consultation with state commissions, to conduct triennial audits of the books and records of holding companies. Regulators could initiate proceedings based upon their reviews and violations could be corrected earlier, minimizing the damage done to consumers. Since holding companies would be responsible for paying the cost of the audits, regulators would have adequate resources to do their job. Enhanced access to books and records is critical to avoid further Enron-like collapses.

Help ensure fair and functional markets, increasing the likelihood that energy companies will invest in new, innovative, and clean technologies such as solar and wind power.

Consumers have been grossly and unacceptably short-changed in the Senate energy bill. S.A. 3097 will begin to rectify the problems this bill creates for consumers. Federal energy legislation should increase, not decrease, consumers' economic and energy security. Please adopt this basic consumer protection package to address these serious consumer concerns.

Sincerely,

Adam J. Goldberg, Policy Analyst, Consumers Union.

Mark N. Cooper, Director of Research, Consumer Federation of America.

Alyssondra Campaigne, Legislative Director, Natural Resources Defense Council.

Kevin S. Curtis, Vice President, Government Affairs, National Environmental Trust.

Susan West Marmagas, Director, Environment and Health Programs, Physicians for Social Responsibility.

Debbie Boger, Senior Washington Representative, Sierra Club.

Anna Aurilio, Legislative Director, U.S. Public Interest Research Group.

Alden Meyer, Director of Government Relations, Union of Concerned Scientists.

Wenonah Hauter, Director, Public Citizen's Critical Mass Energy and Environment Program.

NATIONAL ALLIANCE
FOR FAIR COMPETITION,
Washington, DC, April 12, 2002.

DEAR SENATOR: The National Alliance for Fair Competition (NAFC), a coalition of national trade associations representing over 25,000 individual firms, mostly family owned and operated small businesses, is deeply concerned about the present direction of energy legislation, S. 517, in light of recent West Coast power problems and the collapse of Enron. As it now stands, the electricity portion (Title II) of this bill fails to adequately address issues of market power and abusive affiliate transactions.

NAFC is also concerned about lack of opportunity to thoroughly explore the implications and consequences of Title II through the full committee process. Had the committee process not been circumvented, there would have been ample opportunity to craft language to protect consumers and preserve true competition. Regrettably, Title II of S. 517 increases the potential for abuses in these areas—by, among other things, repealing the Public Utility Holding Company Act (PUHCA)—without providing needed offsetting protections.

Senators Cantwell, Wellstone, Dayton, Feingold and Boxer will offer a package of provisions to protect electricity consumers and ensure fair and effective oversight of electricity markets. The package will:

Require that proposed utility mergers promote the public interest in order to be approved;

Establish clear rules—and enforcement—for when market rates can be charged to prevent a repeat of soaring electricity rates when markets are not truly competitive;

Protect consumers from assuming the cost and risks of utility diversifications into non-utility businesses;

Prevent utilities from subsidizing affiliate ventures and competing unfairly with independent businesses;

Provide effective review of utility books and records.

Amendment #3097, the Dayton-Wellstone-Feingold amendment, and the second degree

offered by Sen. Cantwell and others would add crucial protections to the electricity title of the Senate energy bill, incorporating lessons learned from the Western electricity crisis and Enron's collapse.

We urge you to support these amendments when they are offered.

Respectfully,

TONY PONTICELLI,
Executive Director.

WASHINGTON PUBLIC UTILITY
DISTRICTS ASSOCIATION,
Seattle, WA, April 15, 2002.

Hon. MARIA CANTWELL,
U.S. Senate,
Washington, DC.

DEAR SENATOR CANTWELL: On behalf of the Washington Public Utility Districts Association (WPUDA), I would like to express our strong support for the amendment you are cosponsoring, the Consumer Protection Package (#3097). This amendment adds crucial consumer protections to the electricity title of the Senate energy bill, incorporating lessons learned from the Western electricity crisis and Enron's collapse.

As you correctly stated on the Senate floor on April 10th, the electricity title in S. 517 is of primary significance to the citizens of Washington, and the Northwest region—we have already suffered huge rate increases and cannot bear the consequences of another ''failed experiment.'' Because the underlying bill repeals the Public Utility Holding Company Act (PUHCA) without including adequate consumer protections, your package of amendments is essential to ensure that the consumer is not overlooked and adversely affected. For example, your amendment requires clear, upfront rules on market-based rates. In doing so, it reduces the instances in which corrective actions will be needed by the Federal Energy Regulatory Commission (FERC).

Once again, WPUDA thanks you for your leadership and supports this critical amendment that seeks to protect the public interest.

Sincerely,

STEVE JOHNSON,
Executive Director.

Ms. CANTWELL. Mr. President, my constituents and the constituents of my colleagues from the West, particularly California, Oregon, and Idaho, have seen first hand the devastation caused by the Western energy crisis: wholesales rate spikes of more than 1,000 percent; aluminum workers put of out of work because electricity costs were too high for their companies to operate; and an economic slump in California, Oregon, and Washington directly related to last year's high energy prices.

In my home state of Washington we are still paying the price for the lack of consumer protections during the energy crisis. Ratepayers in my home of Edmonds, WA are paying almost 60 percent more than they did before the crisis, with no relief in sight.

Nowhere do consumers know the importance of proper safeguards more acutely than in the West. In the wake of what happened there, why would we even consider reducing consumer protections and lowering legal standards? Why would we promote further deregulation and at the same time abandon consumer protections?

Ask anyone from California whether they want more deregulation without consumer protection. They will all tell you the same answer: After Enron and the western energy crisis we should strengthen consumer protection laws, not weaken them. They know that without adequate consumer protections, electricity markets may not work to protect consumers.

One need look no further than a February 2001 poll in which California residents were asked if they supported the legislature's decision to deregulate the electricity market. By nearly 40 percent, Californians opposed the deregulation plan.

There are many other public opinion polls across this country that show consumers are very concerned about any move toward more deregulation without sufficient consumer protection. A July 2001 survey by the Mellman Group revealed that North Carolinians opposed deregulation by a 14 percent margin and by a 40 percent margin thought that deregulation would cause rate increases. In March of this year, a different Mellman survey showed that 60 percent of Montanans thought that deregulation had caused higher electricity rates.

The public voice is clear.

I think it is important to review how we got to this point, beginning with the first major piece of legislation to protect ratepayers, passed during the first term of Franklin Delano Roosevelt's Presidency.

In the 1920s our system of utility regulation began to fail consumers. Complex corporate structures made it impossible to offer adequate consumers protections. By 1932, 45 percent of all electricity was controlled by three groups. Because of their market power and complex and misleading corporate structure, the utilities owned by these holding companies were able to charge excessive rates, which were passed directly to consumers.

In response to this situation, this body passed into law the Public Utilities Act of 1935 to help bring the system under control and offer consumers adequate safeguards. The two key titles of the Public Utilities Act—PUHCA and the Federal Power Act—put in place important consumer protection regulations. PUHCA required utilities to either largely operate within a single state, or be subject to strict federal regulation by the SEC. The Federal Power Act created a consumer protection framework for the transmission of electricity in interstate commerce and wholesale rates for electricity.

Today, we are faced with an energy bill that repeals key consumer protections from these pieces of legislation.

Albeit, I know the chairman of our committee wants those laws to be more effective, and to be more effective under FERC, while I agree there can be authorities new at FERC, I want to make sure that, while we change from the SEC to FERC, we don't repeal the legal standards or the framework for consumer protection.

Just think about the energy crises of the past. In the 1920s, when corporate structures got out of control and retail consumers suffered the consequences, we responded with the Public Utilities Act. During the 1970s energy crisis, we responded with the Public Utility Regulatory Policies Act.

But today we are faced with the prospect of responding to the Western energy crisis of 2001 with more of the same that helped cause the crisis in the first place. I believe the Western energy crisis was really precipitated by two factors: obviously, California adopted a restructuring plan without adequate thought and deliberation, and the fact that FERC, the Federal Energy Regulatory Commission, signed off on it. That is right, they signed off on the California plan. Then FERC allowed generators in the West to charge market-based rates without first ensuring that those markets were sufficient in their competition and that they were adequately monitoring those markets over time.

The definition of insanity is watching something fail and then doing it again. And that is what we are headed towards doing. It would be insane for us to enact further flawed deregulation without at least addressing the importance of providing consumer protections.

Consumers know that they are ultimately the ones who will get stuck holding the check. And they are right. It is wrong policy to deregulate without protecting consumers. And ultimately, it hurts them where it hurts most: in their pocketbooks.

This amendment addresses the need for consumer protection from deregulation by creating safeguards from potential market failures and abuses.

The amendment would prevent a repeat of soaring electricity rates in deregulated markets by directing FERC to establish rules and enforcement procedures for market monitoring to protect electricity consumers.

The market rate provisions of this amendment are actually quite simple in concept.

As I said earlier, for the first time in this legislation, the underlying authority is given to FERC instead of to the SEC. While giving this new power to FERC, we need to make sure consumers are protected by making sure they do not lower the standard.

I believe it is critical that within this legislation we not lower the legal standard by which these mergers were held in the past. FERC can have new responsibility, but we must make sure we are not lowering the legal standard by which we allow these companies to merge. FERC needs statutory guidance on just what factors it should consider before it allows market-based rates to be charged. That is, before FERC opens up the energy market, it should have to ensure that those markets are going to operate efficiently and not gouge consumers.

The bill currently does not adequately offer consumer protection, especially in view of the House of Representatives' electricity bill, which I think goes too far in giving a wish list to the big energy companies. The electricity provisions of this bill right now actually lower the overall merger standard.

This amendment would maintain current law with regard to that merger standard. It is a very important point—that current law be the standard for FERC.

In fact, there have been something like 30 major utility mergers and acquisitions over the past few years alone. That is a testament to the need for laws to protect consumers from consolidation which is happening in the utility sector.

It is also a powerful reminder that current law is in no way too prescriptive. Maintaining the legal merger standard currently on the books—I think it is important to do this—is a critical part of the amendment.

The electricity provisions in this bill also fall short, in my view, on the issue of insulating consumers from the economically devastating effects of the energy markets which have gone horribly awry.

The primary difference between the Senate energy bill as it is currently written and what we are trying to accomplish with this amendment is simple. It is the difference between preventing dysfunctional markets from happening in the first place, and post hoc investigations that are unlikely to provide better relief for consumers harmed by skyrocketing energy prices.

What I mean by that is, without these specific requirements in place, and new mergers and market-based rates happening, and without the oversight, it is very hard, once consumers are gouged, to then come back and ask for records and information that show what kind of protections should have been on the books.

I do not think many of my colleagues realize that, for the very first time, this legislation, the underlying bill, gives FERC explicit statutory authority to allow companies to charge market-based rates. So nowhere had FERC ever been given that statutory authority. They had always been cost-based rates. But this legislation will, for the first time, give FERC statutory authority to allow companies to charge market-based rates that they decided administratively to start allowing in the mid-1980s.

While the Energy Policy Act of 1992 affirmed the direction FERC was moving in regard to opening of the Nation's transmission system, it did not contain this explicit authority for FERC to grant market-based rates.

I believe this is a very important point because if we are going to move forward in saying that market-based rates should be there, then we must make sure those consumer protections are in place as well.

In sifting through the ashes of the California experiment, it is now obvious that FERC did not pause to consider the constraints—whether real or manipulated—on natural gas transportation into the State, which, in turn, drove up the price of electrical generation. FERC approved a system without assessing the market power of what became known as the big five energy companies in the California crisis, including Enron, and the impact they had.

It is also clear that FERC approved the California proposal without assurances that the State's independent system operator could effectively monitor market conditions. I have heard from numerous utilities involved in the California market that the ISO began declaring emergencies purely subjectively because its mechanisms for assessing where physical megawatts actually existed—and whether these shortages were real or imagined—were so incredibly flawed.

In addition, it has been repeatedly alleged that the ISO declared these emergencies for political reasons because utilities, as such in those States, were obligated to sell into the California market, first under a Department of Energy order, and later under an order from FERC itself, when emergencies were declared. FERC did not have the market monitoring practices in place that would have been the protections the consumers needed.

So why give them more authority now to do market-based rates without making sure the legal standards are in place and making sure that consumer protections are in place?

In summary, I want it to be clear to my colleagues that this amendment today should do its job to prevent a flawed deregulation bill and to help protect consumers.

This legislation specifically does several things: It helps maintain the competitive markets, it effectively monitors markets, it prevents the abuse of market power and manipulation, and it ensures the maintenance of just and reasonable rates.

The amendment would also require utility mergers to serve the public interest and for utility books to be fully open. It would protect consumers from absorbing the costs of utility diversifications and prevent them from being basically subject to the various tactics in which consumers are held to higher costs when the markets are consolidated or market-based rates are charged and things can actually go awry.

This amendment does not take away any of FERC's authority to allow market-based rates. It does not stop the move toward deregulation. In fact, it is consistent with the concept of deregulation. It simply says we need a roadmap for consumers. We need protections for this new market-oriented approach.

I am reminded by something that FERC Chairman Pat Wood said on March 11:

> I'm probably the world's biggest believer in markets.

But Mr. Wood also said:

> But I'm also the world's biggest believer that people will take advantage of it if they don't have a cop walking down the street.

This amendment provides the ''cop walking down the street'' for our electricity markets in protecting consumers. With all that we have read and seen of what happened during the Western energy crisis and the role that Enron and other power companies played in it, how can we even consider further deregulation without putting in place real consumer protections? It is practically malpractice for us to think about these new deregulations without thinking about how to protect consumers.

That is why we are offering this amendment today. We need to say to the people of this country, we are going to protect you from the crisis that has happened in California and in Washington and in Oregon. And we are going to make sure the markets operate in a way in which consumers are protected.

This is a critical amendment and should be adopted as a part of this bill. We need to say to the consumers that we are thinking about their needs, their protections, and the high price of electricity throughout the country.

I yield back the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Mr. President, I rise to say that I welcome the amendment by Senator CANTWELL and others that greatly strengthens the amendment that I previously brought to the floor. I compliment the Senator from Washington, who has done an extraordinary amount of work on this measure, for her leadership in bringing together Senators, consumer groups, and others who would be affected by this legislation.

I think her work has been extraordinary. I know from my own observation that her work behind the scenes over the last days and weeks has been phenomenal. She has put countless hours into bringing this coalition together, bringing these amendments together, and bringing them to the floor for our consideration today.

Again, I want the RECORD to show that the Senator from Washington has been extraordinary in her efforts to bring this to the floor.

I yield the floor.

The PRESIDING OFFICER (Mrs. CLINTON). The Senator from New Mexico.

Mr. BINGAMAN. Madam President, I rise to speak against the amendment that my colleague from Washington and the Senator from Minnesota have offered. This is an issue on which I think we need to refresh people's memory because it has been a few weeks since we had votes on this portion of the energy bill.

But let me recall for Senators and their staffs exactly with what we are dealing. This is the electricity title of

the energy bill. We have worked hard on that title, those of us who have been involved on the issue for a long time. Senator THOMAS, in particular, and myself have worked hard to come up with language which we believe ensures that consumers are protected and which ensures that mergers and acquisitions are properly reviewed before they are permitted to go forward or are turned down if they do not meet strict criteria. We have put together language we believe is very favorable to consumers.

Part of what we are proposing is that the Public Utility Holding Company Act be repealed. That is an issue that continues to be the subject of controversy. I understand that. And I understand the amendment, of course, that we are now presented with would try to eliminate the repeal of the Public Utility Holding Company Act and keep that current law.

This is a legitimate issue. In the Energy Committee, in the most recent hearing we had on energy-related issues, we had a hearing on this issue. I am trying to get the whole list of witnesses so that I can inform people about that. But we had one of the Commissioners from the Securities and Exchange Commission, the SEC, which currently has authority and responsibility to enforce the Public Utility Holding Company Act. The testimony of that Commissioner was very clear. Their testimony was that they do not support keeping that authority at the SEC. They do not support keeping the Public Utility Holding Company Act on the books. They have taken that position for the last 20 years. They continue to take that position. That was the position under the Clinton administration and that was the position under the Bush administration. And there was unanimous testimony to our committee that, in fact, we should shift this responsibility over to the Federal Energy Regulatory Commission, as we are proposing to do in this legislation.

Let me clarify that the problems the Senator from Washington refers to are very genuine problems.

I am sympathetic to those problems. I do think there were some shortcomings on the part of the Federal regulators as well as others in the way the crisis on the west coast was dealt with, but I point out that all of that happened under current law. All of that happened with PUHCA in force—with the Public Utility Holding Company Act in force—and we are proposing the repeal of that and a change in the authority so that it can be done much more effectively.

Our bill does nothing to deregulate electricity markets. It recognizes that the market depends on competition. It gives the Federal Energy Regulatory Commission the tools to be sure that competition does in fact work for consumers. We have enhanced FERC's authority over mergers and market-based rates. We have required new disclosure rules. We have required the Federal Trade Commission to issue rules to protect consumers.

We take authority away from the SEC, as I mentioned, because the SEC has never enforced this law. We take the authority away from them and give it to FERC, which does understand the industry. It is the agency with the appropriate expertise to actually look out for consumers in this regard.

The bill we have brought to the Senate floor and on which Senator THOMAS and I have worked very hard requires four things before any disposition or consolidation or acquisition of utility assets is possible.

It requires, first, that the Federal Energy Regulatory Commission determine that the proposed disposition or acquisition be consistent with the public interest. That is a pretty good indication.

A second would be that they make a determination it will not adversely affect the interests of consumers of the electricity utility. That again is an important safeguard.

Third, it requires that any acquisition, any consolidation that is approved by FERC be determined by FERC not to impair the ability of regulators to regulate the utility.

The final thing we have required FERC to determine is that any acquisition that might be approved would not lead to cross-subsidization of associated companies. We believe that is also important. If in fact we are going to permit companies to purchase utilities, to acquire utilities, to acquire utility assets, we do not want to see the ratepayers of the utility having their rates go to cross-subsidize other companies. We require that FERC make that determination.

We believe the provisions we have in the bill are not only adequate but strengthening provisions. There are requirements in the amendment proposed here that go substantially further. There is a requirement that there be a determination that the transaction enhanced competition in wholesale markets. We do not believe it is an appropriate role for us to be blocking an acquisition unless it can be proven that it enhances competition. We believe a ''do no harm'' standard is the right standard for a regulatory agency. Clearly, that is where we come out.

The one other provision which is in their amendment which we believe goes too far is it requires that the transaction produce significant gains in operational and economic efficiency. I hope very much that any time there is an acquisition of a utility asset or a merger or a consolidation of any kind, it does produce significant gains in operational and economic efficiency. That would be a wonderful thing. I don't think it is reasonable to say all acquisitions, consolidations, and mergers should be blocked unless they can demonstrate that they will in fact demonstrate or produce significant gains in operational and economic efficiency.

We believe the provisions we have in the bill are the appropriate ones. For that reason, I will have to resist the amendment and hope Senators will oppose it.

I know Senator THOMAS has worked very hard on this issue as well. I know he is anxious to speak about it at some point.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Madam President, I rise to speak on the amendment now before the Senate. As the Senator from New Mexico mentioned, he and I and others have worked very long and hard on this electricity portion of the energy bill. When the Daschle-Bingaman bill was brought to the floor, we went into it and tried to work at it to make it more workable and, indeed, more simple, to give the States more authority but continue to have the protection, of course, for consumers. So that is what we sought to do.

I believe this amendment is not necessary. Certainly it does not add to but, in fact, detracts from that goal of protecting consumers and making the system more simple.

It seems we have heard an awful lot about the California problem, and it was a difficult one. It affected the rest of the west coast States, of course. Senator BINGAMAN held two hearings to examine the California collapse and the Enron collapse and its impact on the energy markets. The result of these hearings was a clear consensus that Enron had little, if any, impact on wholesale or retail electric markets. So this continued effort to do something with FERC because of that simply doesn't connect. I hope we can deal with it as it is in reality.

I rise in strong opposition to the pending amendment. The amendment proposes a major change in the standard FERC would use to review asset sales, mergers, and acquisitions. Under the proposed standard, in order to approve an asset sale, merger, or acquisition, FERC would have to affirmatively find that the action would, at a minimum, enhance competition in the wholesale markets, produce significant gains in operational and economic efficiency, and result in a corporate and capital structure that facilitates effective regulatory oversight.

This proposed change in the review standard, when coupled with an earlier amendment adopted by the Senate, expands the type of actions FERC must review and puts industry restructuring into gridlock. We are always talking about the overamount of regulation and so on, and we have sought a balance here between States and FERC. This adds back to the problem that we sought to resolve. It will take FERC forever to go through the procedural steps necessary to allow even the most mundane asset sale.

Slowing restructuring and competition would be bad for both competition and consumers. The amendment also

establishes a full new set of rules and procedures for FERC to follow in regulating the wholesale power market. It gives FERC sweeping authority to do just about anything it wants to do—the very provisions that the bipartisan Thomas amendments adopted by the Senate struck from the underlying Daschle-Bingaman bill. That is what we voted on before. Now we are seeking to go back to what we tried to eliminate and did eliminate.

The amendment also modifies the Banking Committee PUHCA repeal provisions. For example, the pending amendment takes away the provisions dealing with State access to utility books and records. That is a part of the Banking-reported bill. The amendment also imposes a host of new transaction approval requirements under the guise of so-called transaction transparency. The transaction transparency provisions of the amendment do not just require the disclosure of information, they require FERC preapproval of all interaffiliated purchases, sales, leases, or transfer of assets, goods or services, and financial transactions.

Talk about creating a regulatory nightmare—Federal bureaucratic redtape—this is it.

Madam President, it is not clear what problems this amendment is intended to address that are not already addressed by other provisions or existing law.

It cannot be aimed at curbing market power since it makes it more difficult for utilities to sell assets, such as generation and transmission.

It cannot be aimed at protecting consumers from undue price increases because, under existing law, FERC has jurisdiction over wholesale rates and the State public utility commissions have jurisdiction over retail rates.

With or without this amendment, the retail/wholesale electric rates have been and will continue to be subject to State and Federal review. Moreover, this issue is already addressed in the bipartisan electricity amendments adopted by the Senate on March 13.

For the benefit of the Senate, let me read some of the language from the amendment adopted by the Senate.

Section 203 of the Federal Power Act, as amended by the bipartisan amendment, will read:

No public utility shall, without first having secured an order of the Commission authorizing it to do so . . . merge or consolidate, directly or indirectly . . . by any means whatsoever.

The Commission shall approve the proposed disposition, consolidation, acquisition or control, if it finds that the proposed transaction—

(A) will be consistent with the public interest;

(B) will not adversely affect the interest of consumers; and

(C) will not impair the ability of FERC or any State commission . . . to protect the interests of consumers or the public.

Exactly. It is already there. Frankly, we are wasting our time with this.

In addition, there are other consumer protection provisions already in the underlying bill.

For example, in the PUHCA title there are provisions which specifically give FERC and State public utility commission access to books and records so that they can do their job to protect consumers. In the PUHCA title there is a Federal task force to review the status of competition. In the PUHCA title there is a provision requiring a GAO study and report on competition. And in another amendment, the Senate has already adopted an office of Consumer Advocacy in the Department of Justice.

Mr. President, in today's rapidly changing electric marketplace, utilities need to be able to buy and sell generation and other assets in order to be able to respond quickly to market conditions. This amendment will tie FERC and industry restructuring up in red tape.

I ask: How does slowing industry restructuring and handicapping competition benefit consumers?

We know the answer. It doesn't.

Requiring utilities to wait months—possibly years—for FERC to review and approve even relatively routine transactions simply does not make sense. It satisfies no public purpose, and it threatens to bury an already overburdened FERC staff in a blizzard of needless paper shuffling.

In sum, the proposed amendment appears to be a heavy-handed solution in search of a non-existent problem to solve. It is an extreme amendment that is intended to overturn a bipartisan, Senate-adopted amendment. It appears to be a thinly-disguised attempt to throw sand in the gears of competition, not to improve the legislation.

The amendment should be rejected.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Ms. STABENOW. Madam President, I rise today to proudly support the Cantwell amendment which I am very pleased to be cosponsoring.

I thank the Senator from New Mexico for all of his leadership, overall, on this important energy package. He has had a thankless job. There has been a tremendous amount of work. While I respectfully disagree with his position on this amendment, I commend him for his incredible leadership in this effort.

I am very pleased to support this amendment which would add important and much-needed consumer protection to the Senate energy bill. The Senate energy bill repeals most of what is called PUHCA. Many people are not aware of what that is and how important it is in terms of protecting consumer prices as it relates to electricity. It is the Public Utility Holding Company Act. This would repeal it without putting in place any protections to ensure that consumers are in fact protected.

Now, in light of what happened with Enron, what happened on the west coast with the electricity crisis, we need to be strengthening consumer protections, not weakening them. Last spring, when the Senate Banking Committee took up PUHCA repeal, I in fact was the only member of the committee who voted against that because I believed we should not be doing that independently of a larger focus to guarantee that if the bill were repealed—the statute—we in fact would keep the consumer protections in the act which are so critical. So I voted against that bill.

I believe we should be including this in the context of a broad bill, such as the Senate energy plan, that would include consumer and competitive protections. I believe this amendment puts into place those important consumer protections and competition protections.

This amendment would ensure that utility company mergers ''advance the public interest'' in order to be approved by FERC. That is a very important principle. FERC would assess the impact on the public interest by examining such criteria as the merger's effects on competition, economic efficiency, and regulatory oversight. We need to ensure that utility mergers promote, and not undermine, competition. That is what this amendment would do.

This amendment would also establish clear rules and enforcement procedures to prevent a repeat of soaring electricity rates in deregulated markets that are not really competitive. This amendment would also protect consumers from unjustified rate hikes and help ensure fair and competitive markets.

The amendment also would provide more transparency in the utility market to protect consumers from situations like Enron. The amendment would require public disclosure of financial transactions between holding companies, utilities, and their affiliates, as well as FERC preapproval of transactions that are not publicly disclosed.

This has been a real issue for small businesses in Michigan. The amendment would protect consumers from the costs and risks of utility diversification and prevent utilities from unfairly subsidizing their affiliates that compete with small businesses, with independent businesses—those that sell the furnaces, air-conditioners, and so on. This has been an important issue in Michigan where many of my small businesses have been concerned about competing against utility companies that are able to have their prices subsidized.

Finally, the amendment would give State and Federal regulators enhanced access to books and records. If we are going to move to a truly competitive utility market, we need to reshape FERC's role in the market. We need to increase the market transparency and make certain that consumer protections are maintained.

I strongly urge my colleagues to support this amendment. I believe it is absolutely necessary as we move into this deregulated marketplace to make sure

there really is competition to lower prices, there is accountability, transparency, and in fact in the end all of our consumers, the citizens of the country, are protected.

I thank the Chair.

Mr. FEINGOLD. Madam President, I rise in support of amendment 3234 offered by my colleague from Washington, Ms. CANTWELL, and I am pleased to be a cosponsor.

I support and have been actively involved in the drafting of this amendment, which includes provisions from the sponsors of amendment 3097, Mr. WELLSTONE and Mr. DAYTON, on mergers as well as provisions from the Senator from California, Mrs. BOXER, and the Senator from Oregon, Mr. WYDEN.

These amendments would improve on the bill by making clear the actions that the Federal Energy Regulatory Commission, or FERC, must take in determining that proposed mergers in the electric power sector advance the public interest in order to secure Federal regulatory approval. Those of us who have worked on this package are deeply concerned about the effects of deregulation of the electric power sector.

The underlying bill says that FERC would have to determine that mergers be ''consistent with'' the public interest, a more typical standard used by other agencies reviewing other mergers, like the Federal Trade Commission.

My concern is that electricity is not just like other commodities. Electricity is essential to public well-being. When this bill is enacted and the Public Utility Holding Company Act is repealed, a strong incentive will exist for large utilities with the financial resources and the potential to exercise market power to get larger. Already, the electric utility industry is undergoing rapid consolidation. As my colleague from Minnesota, Mr. WELLSTONE, noted earlier in the debate on this bill, in the last past 3 years alone, there have been more than 30 major utility mergers and acquisitions, including several in my own home State and with utilities in Minnesota that serve Wisconsin. Many merchant generating companies have seen their stock prices plunge and credit ratings downgraded, and these companies are now prime buy-out targets.

I acknowledge that utility mergers are not inherently bad and should not be prevented. Such mergers can produce efficiencies, economies of scale and cost savings for electrical consumers. A merger can, however, also reduce competition, increase costs, and frustrate effective regulatory oversight.

In Wisconsin, we have been concerned about efforts to aggressively push electricity deregulation, because we are served in my state by a diverse number of local utilities: municipal utilities, electric cooperatives and investor-owned utilities. This diversity of electrical suppliers, about which my colleagues from Minnesota have eloquently spoken, are absolutely critical parts of our small rural communities.

In many cases, Wisconsin's rural coops and rural municipal utilities are the only entities interested in serving the electrical needs of the rural parts of my State. If we deregulate, we shouldn't create an environment that leaves these communities behind.

Federal electricity merger review policy should distinguish between those mergers that promote the public interest and protect our local sources of electrical power and those that don't. In proposing to amend the Federal Power Act to change FERC's merger review standard we are seeking to require merger applicants to show that the merger, which eliminates a competitor in a marketplace, provides affirmative benefits to the public that are not achievable without merger. Thus, the utility seeking the merger approval would need to show that the merger provides tangible public benefits by increasing competition or lowering prices through increased efficiency.

The amendment would improve on the language in the underlying energy bill in several ways. First, the language requires that proposed mergers promote the public interest in order to secure Federal regulatory approval. Second, the amendment spells out specific standards for assessing the impact on the public interest, including effects on competition, operational and economic efficiency, and regulatory oversight. Finally, this amendment prevents utilities from skirting Federal review by using partnerships or other corporate forms to avoid classification as a ''merger.''

I want to address concerns that some of my colleagues may have about the scope of this amendment. This amendment does not impose new regulatory requirements on proposed utility mergers. Rather, the standards contained in the amendment mirror those contained in the Public Utility Holding Company Act, or PUHCA, which the bill before us would repeal. While the standards are comparable, the amendment provides greater flexibility than exists under PUHCA. PUHCA requires that utilities be physically integrated in order to merge; the amendment waives that requirement. PUHCA also prevents the merger of multi-State electric and gas utilities; the amendment waives that requirement while providing for FERC review of such mergers.

I also want to speak in favor of language that my colleague from Oregon, Mr. WYDEN, and I developed on transactions between utility company affiliates. This amendment protects consumers from assuming the costs and risks of utility diversification into non-utility businesses and prevents utilities from subsidizing affiliate ventures and competing unfairly with independent businesses.

The language that the Senator from Oregon, Mr. WYDEN, and I worked to include in this package does three things. First, it extends to electricity suppliers the requirements we placed upon telecommunications companies when we repealed PUHCA in the telecommunications sector in 1996 in the Telecommunications Act. Second, it requires utilities to disclose all transactions with affiliates, including those that are off the books or with overseas affiliates. Finally, it establishes safeguards regarding the purchase of goods and services between the utility and their affiliates.

These provisions are needed, because we are already experiencing concerns about utilities expanding into electricity related services and out competing small businesses in my State. Small contractors can't compete against big utilities in areas like energy efficiency upgrades to private homes, when big utilities can use existing assets like personnel, equipment, and vehicles to perform those services. When PUHCA is repealed, utilities will be able to expand into other business areas, and we should make certain that we protect small businesses.

This amendment is good public policy, and it will strengthen the Senate's position in conference with the House of Representatives. I urge my colleagues concerned about ensuring a diversity of energy supply and fairness in a deregulated system to support this amendment.

Mrs. MURRAY. Madam President, I want to speak for a moment about the Consumer Protection Amendments being offered by Senator DAYTON and a number of co-sponsors, including myself. I want to thank all of my colleagues who have been working hard to improve this bill, particularly, my colleague from Washington, Senator CANTWELL, who has pushed to bring this amendment to a vote today.

This consumer protection amendment improves this bill by providing a number of much needed consumer protections for electricity customers. I have spoken a number of times expressing my concern regarding enacting broad, far-reaching electricity de-regulation in these turbulent times. California's attempts to deregulate electricity markets were disastrous. We are all still trying to figure out what happened to Enron and thousands of retirement and saving accounts. Consumers in the Pacific Northwest are still paying for some of the aftereffects of these events.

Repealing the Public Utility Holding Company Act, which was enacted in 1935, without adding strong consumer protections would be irresponsible. In this energy bill, we are also contemplating major changes to the Publicly Utility Regulatory Policies Act and the Federal Power Act.

When making these changes, it is essential that we make sure consumers do not suffer. A number of people have indicated that appropriate consumer protections are already in place in the underlying bill.

I disagree. I think that additional consumer protections are necessary.

This amendment strengthens the consumer protections by: ensuring electric holding company mergers advance the public interest; requiring FERC monitor and prevent market power abuses; ensuring market abuses are remedied; ensuring open access to utility holding company records by State Regulatory Commissions; and, requiring transparency in market transactions.

These provisions will greatly improve the electricity title of this bill and I am proud to be a co-sponsor. I encourage my colleagues to also lend their support.

Energy is very important to our quality of life, particularly in the Pacific Northwest. The electricity title of this bill continues to concern me and many in the Northwest. However, it is important that we all work together to develop an energy bill that will benefit the entire country.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Ms. CANTWELL. Madam President, I want to take an opportunity to respond to a few points my colleagues made about this amendment, which I think is necessary in protecting consumers.

It does repeal PUHCA and takes that measure off the books. What is important about that is, while we can say our current law didn't protect us from the mishaps in the California market and the Western energy crisis, it certainly means we should not be lowering the standard and taking away more consumer protections.

I applaud the chairman of the committee for trying to focus more attention in a particular area of energy expertise, to say let's look at these problems. But what we are doing by also saying let's have the energy expertise within FERC look at these problems, we are also saying, look at these problems within a framework that is less onerous on the energy companies; let's lower the legal standard by which they have to come before the Commission. And, basically, instead of saying they have to serve the public interest, they go for a lower standard by which those mergers can be completed.

It gives FERC the ability, with market-based rates, something they have never statutorily had. So instead of the consumers being able to have cost-based rates on electricity, we are saying, for the first time in statutory authority, they can charge market-based rates.

But we are saying charge market based-rates, and we are saying you don't have to consider some of the same things that ought to be considered, given that we are repealing PUHCA; and that is: What is in the public interest, and how is it advancing the public interest, how is it preventing unjust and unreasonable rates?

If we have learned anything from the California experience, it is that there has not been enough clout within a singular agency in the Federal Government to adequately protect consumers from unjust and unreasonable rates. They have not had enough protection.

That is why the AARP, the American Public Power Association, the Consumers Union, the Sierra Club, the U.S. Conference of Mayors, the Air Condition Contractors of America, the Consumer Federation of America, the Consumers for Fair Competition—all these organizations support this amendment, including the Electricity Consumers Resource Council, the National Association of State Utility Consumer Advocates, the National Environmental Trust, the National League of Cities, the National Rural Electric Co-op Association, the National Resources Defense Council, the Transmission Access Policy Study Group, the Union of Concerned Scientists, and U.S. Public Interest Research Group.

All these organizations are warning us, telling us, there are not enough consumer protections as this bill moves from having the PUHCA law on the books and having the SEC involved to FERC authority, which albeit could play a more responsible role and one with larger oversight, but we are not giving them the direction to do so in this bill. We are repealing those statutes that would give them specific standards by which to measure both these issues of market-based rates and mergers. We are giving new responsibility to an organization and taking away the consumer protections.

It does not make sense, in this time and era of an energy crisis in the West, where consumers have been gouged, where FERC has not been able to protect consumers before the incident in reviewing statistics and after the incident, to now say, Let's lessen the standard by which FERC should be involved, let's give them more authority to allow the energy companies to move more quickly, to move more aggressively without oversight on increasing electricity rates.

We cannot say to the consumers of America that we learned nothing from the Western energy crisis. We cannot say that to them. We have to adopt this amendment and say we know that, while we are repealing some laws and putting more responsibility on FERC, we are going to make sure consumers are protected.

I urge my colleagues to adopt this very needed consumer protection amendment.

The PRESIDING OFFICER. The Senator from California.

Mr. REID. Madam President, will the Senator yield for a brief announcement?

Mrs. BOXER. Yes, I will be glad to yield.

Mr. REID. Madam President, we expect a vote on this matter within the next 15 or 20 minutes. All Senators should be aware there will be an effort to vote in the near future. All Senators should be aware of that.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I thank the Chair.

Madam President, I thank my friend and colleague, Senator MARIA CANTWELL, and Senator DAYTON for bringing this amendment to the floor. I am a strong cosponsor of it.

Senator CANTWELL made a point that we need to learn what happened to those of us on the west coast who went through a terrible crisis in electricity and runaway price hikes. We all know if we do not look at history and the mistakes that were made, we are going to repeat those mistakes.

What the Senator from Washington is trying to do—and some of us are strongly behind her—is to tell the rest of our colleagues that we hope they prepare against what happened to us and make sure consumers are not forgotten.

I am stunned that there would even be objection to this amendment. All we are doing is ensuring that since PUHCA was repealed, we want to make sure the standard is not lowered. We want to make sure consumers are protected.

I can guarantee that those who vote for this bill, if this amendment goes down, are going to be back here complaining that they really did not understand what we were doing when we did not protect consumers. How do I know this? Because it is clear. What did we learn from Enron? Remember Enron? We learned that they did everything in secret. They did everything in secret. They sold the same electricity 15 times over. This is according to testimony from the people in California who suffered the consequences.

I guess, I say to my colleague, if the rest of this Senate wants to see an energy crisis happen in their States, all we can do is offer up this amendment as a way to stop it. But in the underlying bill, there is very little transparency. We need to make sure the books and records of these companies are open and they are clear so that my colleagues in their States can see why their prices are going up 100 percent, 200 percent, 300 percent. In our case, it was over a 500-percent increase in the price of electricity. By the way, demand was going down.

It is extraordinary. One year ago, April 2001, wholesale electricity was selling for $201 per megawatt. A year earlier before the crisis began, it was $32 per megawatt. It went up $32 to $201. That is a 528-percent increase.

Why did it happen? Because of deregulation. The problem is, there was no transparency. Everyone was paying more. We had rolling blackouts. We had horrible problems. Believe me when I tell you, Madam President—you know this because you have visited California often—this is a State that, if it was a nation, according to our gross domestic product, would be the fifth largest nation in the world. When I started in politics, we were ninth. It shows you how long I have been in politics, but it also shows the incredible growth of our agricultural sector and

Silicon Valley and their need to have electricity.

Mind you, it is not wasted. California now is the No. 1 State in energy efficiency per capita. During the crisis, our demand went down. No one can tell us our prices went up because demand went up, which is what the Vice President said. Our demand went down. We have been amazing at saving.

Someone has to look out for the consumer, and that is why I support what Senator CANTWELL is doing.

I, frankly, believed repealing PUHCA in the underlying bill was not the way to go. That was my opinion. But since we have taken the matter of PUHCA and transferred those responsibilities to FERC, let's at least make sure FERC has the same opportunity to learn the facts as the SEC did under PUHCA. That is why this amendment is so important.

This is what Loretta Lynch, the president of the California Public Utilities Commission, testified last week before the Commerce Committee about FERC and the weakening of its reporting requirements. Ms. Lynch testified:

> FERC has over the past few years at the urging of Enron and others diluted the reporting requirements, loosened the accounting rules and exempted large classes of energy sellers from making required disclosures.

This is not from me. This is from someone on the ground, the head of our public utilities commission. Then she goes on to say:

> FERC does not even require the same data to be filed in its quarterly reports, allowing companies like Enron to hide the true nature and extent of activities through skeletal public reporting and not be called to account by FERC.

The bottom line is, with this amendment, we are trying to restore some transparency. We need to see what these companies are doing.

As I say, it is stunning to me that we do not have support for this amendment, which is very modest in what it tries to do. The Senator from Washington has taken the critiques of this amendment and has answered one point at a time. The critiques we have heard in this debate simply are not right.

One of the claims is that we keep PUHCA on the books. How ridiculous. PUHCA is repealed. We do not bring it back. All we are saying is now that the underlying bill gives the responsibility of PUHCA to FERC, there ought to be some rules that show we care about the consumer and that the consumer will not be forgotten.

In closing, I think the Senator from Washington knows her stuff on this. She is on the Energy Committee. She gets it. She is taking the lessons of the west coast, what happened to our consumers, which was devastating, and saying to everyone: Please listen to us. We want to avoid this in the rest of the country. That is why she has the support of the AARP. Older Americans are the ones who get caught. They live on fixed incomes. When those electricity prices go up, it is not fun and games. This is real people suffering. They suffered in Oregon, they suffered in Washington, and they suffered in California.

So what are we doing in this bill? Nothing to really help them. We are ensuring this cannot happen elsewhere, and that is why we have so many others supporting this amendment, such as the Consumer Federation of America, the Consumers for Fair Competition, the Consumers Union, the Electricity Consumers Resource Council, the National Alliance for Fair Competition, the National Association of State Utility Consumer Advocates, the National Environmental Trust, the National League of Cities, the National Rural Electric Cooperatives Association, the Natural Resources Defense Council, the Physicians for Social Responsibility.

This is a health issue when people cannot turn on the air-conditioning. If we do not protect the consumers, we have problems. Public Citizens supports this amendment, the Sierra Club, the U.S. Conference of Mayors, the Union of Concerned Scientists, and the U.S. Public Interest Research Group. This is the consumer protection package.

My colleague from Washington did a good job. She took amendments from those of us who were looking at different areas where we thought the bill did not reach the level of consumer protection it should and put them into an omnibus amendment. I congratulate her.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Madam President, I appreciate the comments of the Senator from California on the amendment. I also appreciate her support for it and her articulation of the problem.

I ask the Senator from California—obviously, both of our States are being greatly impacted from this crisis. I think we have had numerous, thousands, of constituents who ask us how we got into this situation and ask us exactly how this situation occurred to this degree and why there were not more Federal protections in place.

Given the impact to both Washington and California, consumers want to know how is it this kind of deregulation went through at the State level and then certain protections were not in place at the Federal level.

Before the Senator from California leaves the Chamber, I ask if she would answer this question about her constituents' desires to see a safeguard at the Federal level to make sure that further deregulation, and the incurring investigation of high energy prices, are adequately dealt with and whether consumers believe these protections have been adequately up to date, because in my State people have said repeatedly, where is the Federal role and responsibility in making sure these consumers were not gouged?

In California, a new system was put in place. The Federal Energy Regulatory Commission was supposed to oversee that and to judge whether it was going to work as far as market-based rates, and clearly it did not work. Not only did FERC approve it, it did not monitor it after it went into place. It did not stop and say that unjust and unreasonable rates are gouging consumers in California, until the lights went out.

So why would we now say—and I am curious as to the Senator's experience in hearing from constituents about this Federal role—to them, we are going to consolidate and make it even easier; put authority under FERC and weaken the standard? Not only are we going to give them direction, but we are going to say we are going to give them less tools to play that role; we are going to give them a lower legal standard by which to review these; we are going to allow them to make market-based decisions without the criteria of respecting the consumers and protecting and advancing their interests as they look at mergers.

I am curious as to the California experience. I know the experience has been clear in my State. They wanted unjust and unreasonable rates to be looked at when they were being charged 85 percent more. They thought it was very clear that was unjust and unreasonable. In my State, these people have to live with 8- and 9-year Enron contracts.

As my California colleague said, they sold power 15 times to different people. They are literally buying power at a cheap rate and within my State selling it at an increase, double, triple the increase, to other consumers in my State. They are getting away with it, and FERC is doing nothing to make sure those rates are being investigated as unjust and unreasonable, and they are not letting my constituents out of those long-term contracts in the next maybe 8 or 9 years of 85-percent increases in energy prices.

So why would States that have been impacted want to give FERC the direction but say, here are the legal standards, they are less than they were before, so go at this business? So if my colleague from California could comment on her experience in that Federal role and what it is that safeguards constituents who have been harmed in personal situations and in economic businesses.

States' economies have been ruined over this situation, and now we are saying to them that our colleagues are going to provide less protections for them.

Mrs. BOXER. That is the key. The fact is, in our States—I will just talk to my State—the only agency we had to protect us was FERC. FERC, under the Clinton administration, found that the prices were unjust and unreasonable. Then there was a switch in administrations and they never repealed that. They admitted they were unjust

and unreasonable, but they did absolutely nothing to help us—for 1 year. We were talking about billions of dollars of costs. The long-term contracts were signed under duress by our Governor because the spot market was so impossible he tried to get some of the demand away from the spot market, went into these long-term contracts. Fortunately, he has begun to renegotiate those.

We have asked FERC to help us renegotiate most of them. It is stunning to me that this underlying bill gives so much more power to FERC when under the law as it existed they did nothing to help our people for 1 year. They finally put in place the market-based pricing and, by the way, it cured our problem.

After this administration saying for a year that it would not cure our problem, it cured our problem. Those market-based prices are set to expire in September, and already the new Chairman of FERC has hinted that he is not going to reimpose those price caps.

So I say to my colleague, the only agency—because we had deregulated in our State, and believe me there was enough blame to go around. It was a bipartisan deregulation recommended by Pete Wilson, our then-Governor, and it went through. Enron and others had absolutely no one looking over their shoulder, and the only agency that could have done anything to help us against unjust and unreasonable prices was FERC. The bottom line is: They did nothing for a year. It was a disaster.

In this underlying bill, we are giving FERC even more work by repealing PUHCA, which was administered by the SEC, and giving it over to FERC, and having very few requirements on the open books and records.

So a company such as Enron—Enron is gone. They said California would sink, but they sank. We are OK. They sank. But there is going to be Enron II and Enron III and Enron IV because, unfortunately, they showed how it could be dealt with, at least in the short term. When that happens under the underlying bill, there is very little that FERC will be able to get at in terms of the transparency of the records.

The one thing we learned was there was a lot of secrecy going on. The sale of electricity—Enron was a broker, in between the generators and the consumers, so Enron would go buy electricity from a generator at a pretty good price for the generator but then they would sell it to themselves, 14 times to subsidiaries. Each time they showed a profit on the books to make Enron look more successful, more profitable, and each time they jacked up the rates until it got to the final sale at 520 percent—sometimes higher—than it was the year before, and that became the benchmark price. All this was secret.

We have an opportunity in an energy bill to make sure this experience does not happen again. What do we do? We step back. That is why the consumer groups in this country are absolutely upset about this bill and why they have come together in an unprecedented number. I ask unanimous consent to have the list of organizations supporting this amendment printed in the RECORD.

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

SUPPORT THE CONSUMER PROTECTION PACKAGE

Amendment #3097, offered by Senators Dayton, Wellstone, Feingold, Cantwell, Boxer and Wyden, would add crucial consumer protections to the electricity title of the Senate energy bill, incorporating lessons learned from the Western electricity crisis and Enron's collapse.

AARP.
Air Conditioning Contractors of America.
Alliance for Affordable Energy.
American Public Power Association.
Consumers Federation of America.
Consumers for Fair Competition.
Consumers Union.
Electricity Consumers Resource Council.
National Alliance for Fair Competition.
National Association of State Utility Consumer Advocates.
National Environmental Trust.
National League of Cities.
National Rural Electric Cooperatives Association.
Natural Resources Defense Council.
Physicians for Social Responsibility.
Public Citizen.
Sierra Club.
Transmission Access Policy Study Group.
U.S. Conference of Mayors.
Union of Concerned Scientists.
US Public Interest Research Group.
Vote ''Yes'' on the Consumer Protection Package.

Mrs. BOXER. They have come together behind Senators CANTWELL and DAYTON to say: Please, fix this bill. Do not do what California did.

Just because something is changing does not mean it is changing in a right way. We have to be very careful. Did we learn anything in California, Washington, and Oregon? The word ''deregulation'' is a beautiful word. I love it. I wish we didn't need regulations, and I wish everyone did everything right. However, in a society where you must have your heat and you must have your air because you must run a business, you must make sure an elderly person in summer does not suffer from the dangers of heat exhaustion, you have to have a way to make sure this important need is not forgone.

I thank my friend. The California experience is forever seared in my mind and heart. I don't want other States to go through the same thing. This amendment will help in that regard. I hope the Senator wins this amendment. The way things are going, we may not make it. But we are on the right side. We are not going to give up. Just as we learned in California, we can vote a lot of things in, but when the people say, What are you doing, we come back here pretty darn quick. From my experience in California, this is not the way to go. This underlying bill is not the way to go. My friend has pinpointed the need for consumer protections.

I thank the Senator.

Ms. CANTWELL. I thank my colleague from California for her articulate rendering of what has happened in the California market and the complexity of this issue. She is right, the consumers have asked, Where have the Federal role and responsibility been? People in our States did not think FERC responded quickly enough and do not believe FERC has all the tools now necessary to protect other States from this same thing happening again or to conduct the investigation that needs to take place to make sure consumers are not gouged after September when the expiration of this current FERC order occurs.

We are saying: If you are going to give FERC the responsibilities and repeal PUHCA, and also change from SEC to FERC authority, we are giving FERC real responsibility with no statutory guidance. But then we are essentially saying—wink, wink—we are not giving you any of the tools to enforce these authorities; we want you to just be part of the equation but not have any statutory authority to make the investigations. Let's say instead: You can proceed with market-based rates instead of cost-based rates. But if you are going to proceed with market-based rates, you must make sure there are competitive markets. You must make sure you effectively monitor those markets. You must make sure you prevent the abuse of those market powers. You must make sure you are protecting the consumer interests, and you must ensure that there are just and reasonable rates. That seems to me to be very fair, that these consumer issues are protected in legislation. That is all we are asking.

If we are going to give responsibility to FERC, let's make sure we tell them to protect the consumer interests, not the big business interests that have caused so much economic devastation in the West.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. I will speak briefly in response to some of the comments made, and then I will move to table the amendment.

We have had a good debate about it. I will speak about three aspects: First, the argument, the allegation, that we are, in the underlying bill before the Senate, agreed to on a bipartisan basis, lowering the legal standard. That is one of the arguments that has been made. It is simply wrong. We are not lowering the legal standard. The legal standard is, and always has been, that determinations be consistent with the public interest; that acquisitions, mergers, consolidations, be consistent with the public interest.

What we are doing is saying that, for mergers, we have enhanced the authority and responsibility of the Federal Energy Regulatory Commission by saying that not only must they determine

it is consistent with the public interest, which has been the standard in the past, we are requiring them to determine that consumers will not be harmed—that is, consumers, ratepayers of existing utilities, will not be harmed. We are requiring them to make a determination that regulation, either Federal or State regulation, will not in any way be impaired. And we are requiring FERC to make a determination that there will be no cross-subsidy to any other company than the company being acquired or merged.

What we are doing is increasing the responsibilities we are imposing on FERC. A lot of criticism has been leveled against FERC in the way they responded on the west coast. I agree with much of that. I think they were very slow to respond to the spike in prices in California and the Northwest. I was critical at the time, and I continue to be critical that they were slow to respond. We are putting an affirmative duty on FERC to step in anytime there is evidence that a market-based rate is not just and reasonable. It is FERC's responsibility under the language we have to withdraw those market-based rates and to require just and reasonable rates.

That is a new responsibility we are imposing. It is an appropriate responsibility. The argument that, because they did not move quickly enough under current law, we should now go ahead and change the law to give them this new responsibility does not make sense to me.

With regard to the provisions the Senator from California was raising about the transparency of books and records, I agree entirely that the books and records of any and all of these companies that are subject to regulation should be open for inspection. The provisions we have in the bill require each of these companies to maintain and make available to FERC the books, accounts, the memoranda, the records, that the Commission deems relevant to the costs that are incurred by that public utility. Each affiliate company is also required to do the same.

There is a provision saying that the right of States to request books, records, accounts, memoranda, and other records they identify in writing as needed by the State commissioner—that right for them to obtain those is also protected.

We have in this underlying bill the protections that are required for consumers. I am persuaded that the enactment of this legislation, this title 2, this electricity provision, will cure many of the problems the Senators from Washington and California have been concerned with—and very rightly concerned with this last year.

I think the argument that we are not dealing with these issues is wrong. I urge my colleagues to join us in tabling this amendment which would undermine the bipartisan agreement we made on this provision some weeks ago.

I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion to table the amendment No. 3234. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from South Dakota (Mr. DASCHLE) and the Senator from South Dakota (Mr. JOHNSON) are necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

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

The result was announced—yeas 58, nays 39, as follows:

[Rollcall Vote No. 80 Leg.]

YEAS—58

Akaka	Ensign	Miller
Allard	Enzi	Murkowski
Allen	Fitzgerald	Nelson (NE)
Bayh	Frist	Nickles
Bennett	Gramm	Roberts
Biden	Grassley	Rockefeller
Bingaman	Gregg	Santorum
Bond	Hagel	Sessions
Breaux	Hatch	Shelby
Brownback	Hutchinson	Smith (NH)
Bunning	Hutchison	Specter
Burns	Inhofe	Stevens
Campbell	Kyl	Thomas
Carper	Landrieu	Thompson
Cleland	Lincoln	Thurmond
Cochran	Lott	Torricelli
Craig	Lugar	Voinovich
Crapo	McCain	Warner
DeWine	McConnell	
Domenici	Mikulski	

NAYS—39

Baucus	Durbin	Levin
Boxer	Edwards	Lieberman
Byrd	Feingold	Murray
Cantwell	Feinstein	Nelson (FL)
Carnahan	Graham	Reed
Chafee	Harkin	Reid
Clinton	Hollings	Sarbanes
Collins	Inouye	Schumer
Conrad	Jeffords	Smith (OR)
Corzine	Kennedy	Snowe
Dayton	Kerry	Stabenow
Dodd	Kohl	Wellstone
Dorgan	Leahy	Wyden

NOT VOTING—3

Daschle	Helms	Johnson

The motion was agreed to.

Mr. BINGAMAN. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Madam President, I believe the clerk was going to report the amendment by the Senator from Nebraska.

AMENDMENT NO. 3140 TO AMENDMENT NO. 2917

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nebraska [Mr. NELSON], for himself, Mr. SMITH of Oregon, and Mr. CRAIG, proposes an amendment numbered 3140 to amendment No. 2917.

Mr. NELSON of Nebraska. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. BINGAMAN. Mr. President, I call up amendment No. 3316 and ask for its immediate consideration.

The PRESIDING OFFICER. Is the Senator objecting to terminating the reading?

Mr. BINGAMAN. I do not object to terminating the reading. I do call up amendment No. 3316 and ask for its immediate consideration.

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

The amendment is as follows:

Strike Title III and insert the following:

SEC. 301. ALTERNATIVE CONDITIONS AND FISHWAYS.

(a) ALTERNATIVE MANDATORY CONDITIONS.—Section 4 of the Federal Power Act (16 U.S.C. 797) is amended by adding at the end the following:

''(h)(1) Whenever any person applies for a license for any project works within any reservation of the United States under subsection (e), and the Secretary of the department under whose supervision such reservation falls (in this subsection referred to as the Secretary) shall deem a condition to such license to be necessary under the first proviso of such section, the license applicant may propose an alternative condition.

''(2) Notwithstanding the first proviso of subsection (e), the Secretary of the department under whose supervision the reservation falls shall accept the proposed alternative condition referred to in paragraph (1), and the Commission shall include in the license such alternative condition, if the Secretary of the appropriate department determines, based on substantial evidence provided by the license applicant, that the alternative condition—

''(A) provides for the adequate protection and utilization of the reservation, and

''(B) will either—

''(i) cost less to implement or

''(ii) result in improved operation of the project works for electricity production as compared to the condition initially deemed necessary by the Secretary.

''(3) The Secretary shall submit into the public record of the Commission proceeding with any condition under subsection (e) or alternative condition it accepts under this subsection a written statement explaining the basis for such condition, and reason for not accepting any alternative condition under this subsection, including the efforts of the condition accepted and alternative not accepted on energy supply, distribution, cost, and use, air quality, flood control, navigation and drinking, irrigation, and recreation water supply, based on such information as may be available to the Secretary, including information voluntarily provided in a timely manner by the applicant and others.

''(4) Nothing in this subsection shall prohibit other interested parties from proposing alternative conditions.

''(b) ALTERNATIVE FISHWAYS.—Section 18 of the Federal Power Act (16 U.S.C. 811) is amended by—

''(1) inserting ''(a)'' before the first sentence; and

''(2) adding at the end the following:

''(b)(1) Whenever the Secretary of the Interior or the Secretary of Commerce prescribes a fishway under this section, the license applicant or the licensee may propose an alternative to such prescription to construct, maintain, or operate a fishway.

''(2) Notwithstanding subsection (a), the Secretary of the Interior or the Secretary of

Commerce, as appropriate, shall accept and prescribe, and the Commission shall require the proposed alternative referred to in paragraph (1), if the Secretary of the appropriate department determines, based on substantial evidence provided by the license, that the alternative—

''(A) will be no less protective of the fishery than the fishway initially prescribed by the Secretary; and.

''(B) will either—

''(i) cost less to implement, or

''(ii) result in improved operation of the project works for electricity production as compared to the fishway initially prescribed by the Secretary.

''(3) The Secretary shall submit into the public record of the Commission proceeding with any prescription under subsection (a) or alternative prescription it accepts under this subsection a written statement explaining the basis for such prescription, and reason for not accepting any alternative prescription under this subsection, including the effects of the prescription accepted or alternative not accepted on energy supply, distribution, cost, and use, air quality, flood control, navigation, and drinking, irrigation, and recreation water supply, based on such information as may be available to the Secretary, including information voluntarily provided in a timely manner by the applicant and others.

''(4) Nothing in this subsection shall prohibit other interested parties from proposing alternative prescriptions. ''

AMENDMENT NO. 3316 TO AMENDMENT NO. 3140

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment numbered 3316 to amendment No. 3140.

Mr. BINGAMAN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following:

TITLE III—HYDROELECTRIC ENERGY

SEC. 301. ALTERNATIVE MANDATORY CONDITIONS.

(a) REVIEW OF ALTERNATIVE MANDATORY CONDITIONS.—The Federal Energy Regulatory Commission, the Secretary of the Interior, the Secretary of Commerce, and the Secretary of Agriculture, in consultation with the affected states and tribes, shall undertake a review of: (1) options for a process whereby license applicants and third parties to a relicensing proceeding being undertaken pursuant to Part I of the Federal Power Act could propose alternative mandatory conditions and alternative mandatory fishway prescriptions to be included in the license in lieu of conditions and prescriptions initially deemed necessary or required pursuant to section 4(e) and section 18, respectively, of the Federal Power Act; (2) the standards which should be applicable in evaluating and accepting such conditions and prescriptions; (3) the nature of participation of parties other than the license applicants in such a process; (4) the advantages and disadvantages of providing for such a process, including the impact of such a process on the length of time needed to complete the relicensing proceedings and the potential economic and operational improvement benefits of providing for such a process; and (5) the level of interest among parties to relicensing proceedings in proposing such alternative conditions and prescriptions and participating in such a process.

(b) REPORT.—Within twelve months after the date of enactment of this Act, the Federal Energy Regulatory Commission and the Secretaries of the Interior, Commerce, and Agriculture, shall jointly submit a report to the Committee on Energy and Natural Resources of the Senate and the appropriate committees of the House of Representatives addressing the issues specified in subsection (a) of this section. The report shall contain any legislative or administrative recommendations relating to implementation of the process described in subsection (a).

SEC. 302. STREAMLINING HYDROELECTRIC RELICENSING PROCEDURES.

(a) REVIEW OF LICENSING PROCESS.—The Federal Energy Regulatory Commission, the Secretary of the Interior, the Secretary of Commerce, and the Secretary of Agriculture, in consultation with the affected states and tribes, shall undertake a review of the process for issuance of a license under Part I of the Federal Power Act in order to: (1) improve coordination of their respective responsibilities; (2) coordinate the schedule for all major actions by the applicant, the Commission, affected Federal and State agencies, Indian Tribes, and other affected parties; (3) ensure resolution at an early stage of the process of the scope and type of reasonable and necessary information, studies, data, and analysis to be provided by the license applicant; (4) facilitate coordination between the Commission and the resource agencies of analysis under the National Environmental Policy Act; and (5) provide for streamlined procedures.

(b) REPORT.—Within twelve months after the date of enactment of this Act, the Federal Energy Regulatory Commission and the Secretaries of the Interior, Commerce, and Agriculture, shall jointly submit a report to the Committee on Energy and Natural Resources of the Senate and the appropriate committees of the House of Representatives addressing the issues specified in subsection (a) of this section and reviewing the responsibilities and procedures of each agency involved in the licensing process. The report shall contain any legislative or administrative recommendations relating to improve coordination and streamline procedures for the issuance of licenses under Part I of the Federal Power Act. The Commission and each Secretary shall set forth a plan and schedule to implement any administrative recommendations contained in the report, which shall also be contained in the report.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Madam President, was the amendment offered by the Senator from New Mexico in the spirit of a second degree to the Nelson amendment?

The PRESIDING OFFICER. The amendment is drafted as a substitute for the first-degree amendment.

Mr. CRAIG. I thank the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Madam President, this issue, of course, relates to hydroelectric power. This is a subject on which we have been working for several months with interested Members, with the Senator from Idaho, the Senator from Oregon, the Senator from Nebraska, and their staffs, in an effort to achieve consensus on a very difficult issue. I very much thank them for all the work they have put into this effort and their efforts to come to agreement as to how we should proceed. Unfortunately, we have not been able to resolve the issues.

I know hydropower plays a very significant role in providing needed energy to the entire Nation and particularly to the Northwest. It is a very important energy source in other parts of the country as well, particularly New England.

There are now five first-degree amendments and three second-degree amendments that have been filed to this bill with regard to the topic of hydroelectric relicensing. So the proliferation of amendments reflects the fact that, in spite of a lot of good work that has been done, there is no consensus about how to proceed. Unfortunately, I cannot support the amendment the Senators from Nebraska and Idaho are offering today. In my view, it does not reflect a consensus.

At this juncture, given the procedural posture of the bill, I believe the best course is to adopt the amendment I have offered which provides that there be a review undertaken by the relevant agencies with respect to two aspects of the hydroelectric relicensing process. Let me recount what those are.

First, whether provisions for alternative mandatory conditions such as those included in the Nelson-Craig amendment would work to improve the process and, secondly, methods that should be adopted to streamline the process.

The hydroelectric relicensing process has come under criticism. Much of that criticism is justified due to its complexity and the length of time it takes to issue a renewal license. These delays are not good for government, and they are of great concern to my colleagues and to me as well.

There are interagency efforts in place to try to improve that process. We need to encourage those efforts. We need to try to let those efforts play out.

My amendment would do this by requiring all the involved agencies—that includes the Secretary of the Interior, Federal Energy Regulatory Commission, the Secretary of Commerce, Secretary of Agriculture—to report on whether the alternative would require all the agencies to work together to make recommendations to the Congress on how we can improve the process.

The second thing the amendment does is require the agencies to report on whether the alternative mandatory conditioning authority provisions included in the underlying amendment would work. My amendment would require recommendations as to what standard should apply with respect to alternative mandatory conditions and the nature of participation of interested parties.

In addition, the amendment I have offered would require an assessment of whether this new authority would delay an already complex and slow process, which is a very real concern I have.

The Nelson-Craig amendment would adopt alternative mandatory conditioning authority while doing nothing to streamline the process. I am concerned that the amendment, rather than improving the process, will inadvertently add complexity and delay to an already overly complex and slow relicensing process.

I am also concerned that the Craig amendment undermines protections for Federal lands and resources provided for in the Federal Power Act. Under that act, mandatory conditions and prescriptions are developed by the Federal land management or resource agency for inclusion in the license to protect wildlife refuges, national parks, other Federal lands, and Indian reservations. This conditioning authority and these standards have been in place for over 80 years.

The Senate energy bill provides new flexibility relating to this conditioning authority by including alternative mandatory conditioning authority. But the bill does this in a way that we believe is environmentally protective in an appropriate way.

The amendment by the Senators from Nebraska and Idaho would change this alternative mandatory conditioning authority to make it less protective of Federal lands and resources by modifying the standard for alternative mandatory conditions from that included in the bill.

Finally, the Craig amendment would give greater weight to the views of the license applicants over the views of States and tribes and the public. This is another change we believe is inappropriate and causes me to propose the amendment I have called up for consideration.

I acknowledge these are difficult issues. Consensus has been difficult to achieve. Rather than proceeding with either the Craig amendment or the language in the Senate bill, the one before the Senate now, I believe the sound approach is to learn more about the implications of these provisions and seek expert input from the agencies involved, and that is what the amendment I have called up would do.

I urge my colleagues to support the amendment I offer as an alternative to the Nelson-Craig amendment.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. Madam President, I commend my colleague from New Mexico for his very able work on bringing forth an energy bill. It is with some sadness I find myself opposing his substitute amendment.

The substitute amendment is essentially requesting a study in an area where we already know the results. I support studies when we don't know what the study will tell us and we don't know the results and we need to find out what the situation is. But in this case, we know what the situation is.

We have a system that suffers from dispersed decisionmaking authority and an inability to balance competing values and a system that is certainly jeopardizing the relicensing of many of our hydropower facilities across the Nation.

Nearly every State will have one or more and as much as 99.9 percent of its hydroelectric power facilities come up for the licensing review within the next 15 years. If they have the experience I have had in Nebraska, they won't have to have a study. They can simply look to see what has happened in Nebraska to tell them what the future holds for them.

The future of Nebraska is dimmed because of the past experience we have had with the relicensing process.

We spent $40 million for one hydroelectric powerplant in 14 years to realize this project—a project built in the 1930s. That experience can tell you that the system is lengthy, expensive, and it doesn't require any of that $40 million that was spent to go into the environment, habitat, wildlife retainment, or anything of that sort. It was money spent on application fees, filing of papers, lawyer's fees—$40 million to realize this one project in the State of Nebraska, taking 14 years.

That was when we had both Senators from Nebraska, the congressional Representatives, and I, as Governor, supporting the effort to get it done in an expeditious fashion. That is expedition in reverse.

The truth is, this system is not expedited; it is expensive, costly, and slow. We even had in our situation, nearly at the end of the process, after we had gone through the process with as many alphabet agencies in the Federal Government that I thought we would ever find, another agency that came in and said: All the work you have done is for naught, and we have a requirement we would like to impose at the tail end of the process.

They could have done it at the beginning of the process. This will help alleviate and obviate that need. In the State of Washington alone, you are going to be facing the relicensing of 80 percent of your hydroelectric power in the next 15 years—21 projects. If you multiply that times $40 million, you can see what the cost really is. Multiply that times the number of staff years, in terms of what it is going to take, and you will see what the internal cost truly is to your power authorities.

I would ordinarily support a study. But in this case, we don't need one. We have had the study, and the study is experience which tells us that we need to make this kind of correction, and we need to make it now, not wait until the study tells us what we already know.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. SMITH of Oregon. Madam President, I rise in opposition to the second-degree amendment being offered by Senator BINGAMAN. Truly, another study of this issue will do nothing more than run out the clock on license holders who must get 53 percent of the nonfederal hydropower capacity in this Nation relicensed within the next 15 years.

To give you an example of just how grave a situation this is, there are 307 projects under the category, including 49 projects in California, 21 projects in Washington, 23 projects in Wisconsin, 30 projects in New York, 23 projects in Maine, 14 projects in Oregon, and 14 projects in Michigan. This amounts to over 29,000 megawatts of capacity. To put this into context, it takes 1,000 megawatts daily to run the City of Seattle. So when you figure that 29,000 megawatts are at stake, and you figure what it takes to run Seattle, you can imagine how much economic difficulty will ensue if we do not figure out a more reasonable way to bring on hydropower relicensing.

There have been extensive hearings already during the last two Congresses, in the Senate Energy Committee, on the need for hydro relicensing reform. I have attended them all, and there has been a committee that was chartered under the Federal Advisory Committee Act. That committee has concluded that legislative reforms are absolutely critical if we are to make progress and meet the deadlines that are looming over the energy capacity of this country.

There have been administrative attempts to reform the process already. Having the same agencies that have, so far, been able to institute meaningful reforms further study this issue will provide us with no benefit at all. I urge my colleagues from all parts of this country, who have hydroelectric power, to please support the Nelson amendment. It provides modest reforms of a narrow portion of the relicensing process.

The time for study is done. The time to ensure that hydropower remains an important part of our electricity mix is now. Madam President, no one knows better than you and I, from the Pacific Northwest, how critical an issue this is for our neck of the woods. I also say that, while all energy production has an environmental tradeoff, truly, hydropower puts out no global warming and provides our people with the most renewable, inexpensive, and reliable sources of electricity there are, frankly, on the Earth.

I believe if we are serious about reemploying our people, getting our economy moving, we have to be serious about hydro relicensing reform.

Madam President, I know a number of environmental groups have opposed the Nelson amendment. I want to also say we have, for those who are concerned about the environmental issue, as we all are, that there is a second degree that I will be offering that does enjoy the support of many environmental groups, such as Trout Unlimited. I quote their news release today:

Senator Smith's amendment improves the Craig-Nelson amendment by reducing the loss in fishery protection from SA 3140.

While we support Senator Smith's amendment, we still urge opposing an amended SA 3140.

The point I am trying to make is we have improved the underlying amendment, and we have given the environmental community something that will significantly help them in their advocacy. To demonstrate what we are trying to do with the second degree, should the Bingaman study be defeated, this amendment does two important things. While it substantially, like Senator NELSON's, makes the changes I think provide value to all of the stakeholders who follow the relicensing process, the first would substitute the words ''fish resources'' for ''fishery'' in the underlying text. We want to make it clear that we are trying to protect all fish resources, not just those fish species that are harvested either commercially already or with sport fishery.

Secondly, the amendment would begin this process in 2008. It would require license applicants to file their applications for a new license with the Federal Energy Regulatory Commission 3 years before the current license has expired. During the hearings before the Energy Committee, it was clear to me that there was frustration with the current statutory requirement to file only 2 years before the expiration of the current licenses. In most instances, this is insufficient time for FERC to review the adequacy of the application and to determine any additional studies that might be needed. The result is a string of annual licenses which do not provide certainty for consumers or the utility and results in delays in environmental mitigation and enhancement.

Licensed applicants are reluctant to spend such funds until they know what will, in fact, be required of them under any new license. So I say to those who care about the environment, the Nelson-Craig amendment will be improved with the second degree that will follow. Truly, what we need, last of all, is another study on a problem that we know only too well through experience.

If you want a study, the study is Senator NELSON, who was Governor Nelson. His experience is all the study we need that we have a broken system and we need to repair it. I remind my colleagues that none of us has a job in any industry unless electricity is produced first. Hydropower is crucial in the mix of America's energy. It is absolutely the backbone of the Pacific Northwest. This is needed, and then we have a way to protect the environment and a way to improve this process.

I yield the floor.

Ms. CANTWELL. Mr. President, over the last 6 weeks, while we have debated essential elements of the energy bill, from ANWR and CAFE to electricity deregulation and ethanol, I have joined the sponsors of this amendment, the chairman and ranking member of the Energy Committee and others in trying to forge a consensus on how best to reform the hydroelectric relicensing process.

Let me state at the outset, that I share the sponsor's deep sense of frustration and concern with how the existing hydro relicensing process works for all participants.

With more than 9,300 megawatts of nonfederal hydropower capacity, Washington State is the single most hydro dependent state in the Nation. The power of the great rivers of the Pacific Northwest has contributed to our economy, created industries and even helped to win the Second World War. There is no area of the country where hydropower generation has greater importance.

At the same time, Washington State also relies on the natural abundance of these spectacular rivers. Washington's rivers provide year-round recreation opportunities, including fishing and boating, these features contribute enormously to our economy as well as our environment. Our rivers are also home to salmon and steelhead runs, the cultural soul of the Pacific Northwest.

The rivers serve as an important economic and cultural resource to several Northwest Indian tribes that entered into treaties with the U.S. based on the promise to protect and honor their rights and resources.

Our reliance on hydropower and on the recreational and environmental benefits of our rivers requires us to employ a balanced approach to their use. Utility operators have shared with me horror stories about how the rising costs, loss of operational flexibility, and lost generation due to new operating constraints imposed during relicensing are impacting their ability to bring power to Washington's consumers. At the same time, 12 runs of Washington State salmon are now included on the endangered species list.

We can and must find the right balance to ensure continued survival of these species while maintaining hydropower production.

Many hydropower projects, including some in the Northwest, were built without adequate consideration of impacts on the environment. Most were built prior to the enactment of essential environmental laws like the Clean Water Act and Endangered Species Act. Relicensing offers a unique opportunity to reassess the licenses of these hydropower dams, bring them up to modern standards, and ensure the long-term health of our rivers.

The current process for licensing hydropower projects has had mixed results. On the one hand, we have examples of great successes. The Cowlitz was once home to some of the most bountiful salmon and steelhead runs in the Pacific Northwest. In August 2000, a landmark relicensing settlement was signed that will open up more than 200 miles of renewed habitat. The settlement is supported by Federal and State agencies, conservation groups, and the hydro utility. On the other hand, the Cushman project has been operating under annual licenses due to disputes over appropriate environmental measures. While Tacoma Power has continued operating the project for over 20 years, there remain a number of serious environmental challenges.

And on all sides we have parties pointing the finger at one another claiming that the other is always to blame. I do not believe that any of the parties to relicensing, Federal resources agencies, FERC, tribes, States, the industry or advocacy groups, are to blame for problems in relicensing. In fact, I believe most parties are good actors caught up in an outdated, bureaucratic process desperately in need of reform.

There is no question that the existing licensing process can be improved. We can make it faster and cheaper without sacrificing environmental quality. Quicker licensing would improve the efficiency of these projects and improve the environment. This is a goal that I would strongly support, if we were debating such measures today.

Unfortunately, that is not what the amendment before us today accomplishes. Instead, the amendment creates a new appeals process, another step, to this flawed process without requiring FERC and the resource agencies to address the fundamental problems contributing to the delays and skyrocketing costs.

I agree with the supporters of this amendment that one part of the solution is to allow participants to propose creative solutions in balancing energy and environmental priorities. While I can't fully agree with the approach taken in this amendment, I do agree that parties should be rewarded for coming together and proposing innovative new solutions. But more importantly, there will be no real improvement until Congress requires or FERC and the resource agencies agree to significant structural reform. This amendment falls far short.

Section 306 of the underlying bill provides an opportunity to streamline the licensing process by requiring agencies to work together with FERC in a more cooperative manner. It also requires the coordination of environmental reviews and places a number of requirements on FERC to maintain a better, more transparent schedule for relicensing proceedings.

But the amendment before us today deletes section 306, the only hope for real fundamental reform of an obviously flawed process.

It is important for the people of Washington State to get this right, and soon. We will have to relicense 19 hydropower projects over the next several years. The resulting licenses will set the terms for hydro projects to operate on our rivers for another 30 years. We need a process that will issue licenses promptly, with full environmental protection, bringing these projects into compliance with modern laws. It is disappointing that this amendment will not do the job.

I reluctantly oppose the Craig amendment because I believe we are missing an opportunity to accomplish real reform. But regardless where the votes are on this amendment, this is not the end of the discussion about hydropower licensing reform, but rather a beginning. I look forward to working with my colleagues in the Senate and those in industry, the environmental community, tribes, States, and other interests in order to maintain the tremendous hydropower assets of our State while protecting and restoring our environmental future.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. NELSON of Nebraska. Madam President, I want to say that a study should ordinarily tell us something we don't know, bring us to conclusions that we have not yet reached, or provide facts that are not otherwise evidence.

But there are no facts that are absent here. There are no conclusions that we cannot draw on the basis of what we know, and there certainly isn't an experience yet to be determined. So a study is unnecessary. It is very clear, though, action is necessary.

Respectfully, I move to table the substitute second-degree amendment offered by the Senator from New Mexico.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I thought the Senator from Nebraska asked for the yeas and nays.

The PRESIDING OFFICER. The motion to table has been made.

Mr. NELSON of Nebraska. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The Chair reminds Senators that the motion to table is not debatable. It will take unanimous consent at this time for further debate.

The question is on agreeing to the motion to table amendment No. 3316. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from South Dakota (Mr. DASCHLE) and the Senator from South Dakota (Mr. JOHNSON) are necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

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

The result was announced—yeas 54, nays 43, as follows:

[Rollcall Vote No. 81 Leg.]

YEAS—54

Allard	Burns	Craig
Allen	Campbell	Crapo
Bennett	Carper	DeWine
Bond	Cleland	Dodd
Breaux	Cochran	Domenici
Brownback	Collins	Ensign
Bunning	Conrad	Enzi
Fitzgerald	Landrieu	Santorum
Frist	Lincoln	Sessions
Gramm	Lott	Shelby
Grassley	Lugar	Smith (NH)
Hagel	McCain	Smith (OR)
Hatch	McConnell	Stevens
Hollings	Miller	Thomas
Hutchinson	Murkowski	Thompson
Hutchison	Nelson (NE)	Thurmond
Inhofe	Nickles	Voinovich
Kyl	Roberts	Warner

NAYS—43

Akaka	Edwards	Murray
Baucus	Feingold	Nelson (FL)
Bayh	Feinstein	Reed
Biden	Graham	Reid
Bingaman	Gregg	Rockefeller
Boxer	Harkin	Sarbanes
Byrd	Inouye	Schumer
Cantwell	Jeffords	Snowe
Carnahan	Kennedy	Specter
Chafee	Kerry	Stabenow
Clinton	Kohl	Torricelli
Corzine	Leahy	Wellstone
Dayton	Levin	Wyden
Dorgan	Lieberman	
Durbin	Mikulski	

NOT VOTING—3

Daschle	Helms	Johnson

The motion was agreed to.

Mr. CRAIG. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

ORDER FOR RECESS

Mr. REID. Mr. President, for the information of all Members, I have checked with the minority, and I ask unanimous consent that between the hours of 3 and 4 o'clock this afternoon, the Senate be in recess to listen to Secretary Powell in S–407. I ask that that time count against the postcloture hours under this measure now before the Senate.

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

AMENDMENT NO. 3306 TO AMENDMENT NO. 3140

Mr. SMITH of Oregon. Mr. President, I call up amendment No. 3306, the Smith second-degree amendment to the Nelson of Nebraska amendment No. 3140, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The senior assistant bill clerk read as follows:

The Senator from Oregon [Mr. SMITH] proposes an amendment numbered 3306 to amendment No. 3140.

Mr. SMITH of Oregon. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To clarify the definition of renewable energy)

Strike Title III and insert the following:

"SEC. 301. ALTERNATIVE CONDITIONS AND FISHWAYS.

''(a) ALTERNATIVE MANDATORY CONDITIONS.—Section 4 of the Federal Power Act (16 U.S.C. 797) is amended by adding at the end the following:

'(h)(1) Whenever any person applied for a license for any project works within any reservation of the United States under subsection (e), and the Secretary of the department under whose supervision such reservation falls (in this subsection referred to as the 'Secretary') shall deem a condition to such license to be necessary under the first proviso of such section, the license applicant may propose an alternative condition.

'(2) Notwithstanding the first proviso of subsection (e), the Secretary of the department under whose supervision the reservation falls shall accept the proposed alternative condition referred to in paragraph (1), and the Commission shall include in the license such alternative condition, if the Secretary of the appropriate department determines, based on substantial evidence provided by the license applicant, that the alternative condition—

'(A) provides for the adequate protection and utilization of the reservation; and

'(B) will either—

'(i) cost less to implement, or

''(ii) result in improved operation of the project works for electricity production as compared to the condition initially deemed necessary by the Secretary.

'(3) The Secretary shall submit into the public record of the Commission proceeding with any condition under subsection (e) or alternative condition it accepts under this subsection a written statement explaining the basis for such condition, and reason for not accepting any alternative condition under this subsection, including the effects of the condition accepted and alternatives not accepted on energy supply, distribution, cost, and use, air quality, flood control, navigation, and drinking, irrigation, and recreation water supply, based on such information as may be available to the Secretary, including information voluntarily provided in a timely manner by the applicant and others.

'(4) Nothing in this subsection shall prohibit other interested parties from proposing alternative conditions.'

''(b) ALTERNATIVE FISHWAYS.—Section 18 of the Federal Power Act (16 U.S.C. 811) is amended by—

''(1) inserting ''(a)'' before the first sentence; and

''(2) adding at the end the following:

'(b)(1) Whenever the Secretary of the Interior or the Secretary of Commerce prescribes a fishway under this section, the license applicant or the licensee may propose an alternative to such prescription to construct, maintain, or operate a fishway.

'(2) Notwithstanding subsection (a), the Secretary of the Interior or the Secretary of Commerce, as appropriate, shall accept and prescribe, and the Commission shall require, the proposed alternative referred to in paragraph (1), if the Secretary of the appropriate department determines, based on substantial evidence provided by the licensee, that the alternative—

'(A) will be no less protective of the fish resources than the fishway initially prescribed by the Secretary; and

'(B) will either—

'(i) cost less to implement, or

'(ii) result in improved operation of the project works for electricity production as compared to the fishway initially prescribed by the Secretary.

(3) The Secretary shall submit into the public record of the Commission proceeding with any prescription under subsection (a) or alternative prescription it accepts under this subsection a written statement explaining the basis for such prescription, and reason for not accepting any alternative prescription under this subsection, including the effects of the prescription accepted or alternative not accepted on energy supply, distribution, cost, and use, air quality, flood control, navigation, and drinking, irrigation, and recreation water supply, based on such

information as may be available to the Secretary, including information voluntarily provided in a timely manner by the applicant and others.

'(4) Nothing in this subsection shall prohibit other interested parties from proposing alternative prescriptions.' ''

''(c) TIME OF FILING APPLICATION.—Section 15(c)(1) of the Federal Power Act (16 U.S.C. 808(c)(1)) is amended by striking the first sentence and inserting the following:

'(1) Each application for a new license pursuant to this section shall be filed with the Commission—

'(A) at least 24 months before the expiration of the term of the existing license in the case of licenses that expire prior to 2008; and

'(B) at least 36 months before the expiration of the term of the existing license in the case of licenses that expire in 2008 or any year thereafter.' ''

Mr. SMITH of Oregon. Mr. President, I yield my time for commentary to the Senator from Idaho.

The PRESIDING OFFICER. The Senator has no such right. The Senator from Idaho can seek recognition at any time.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, we just took a very critical and, I believe, important vote in the Senate pertaining to the Nelson-Craig amendment, and now second-degreed by the Senator from Oregon. While I know the Senator from New Mexico and I have worked long and hard on the issue of hydro relicensing, I think the will of the Senate has spoken as it relates to moving this issue to the forefront and making a legislative determination on what the public policy ought to be as it relates to the relicensing of hydro facilities around this country.

We have now for well over a decade and a half spent a great deal of time looking at the hydro relicensing process. Many of the licensees have spent millions and millions of dollars trying to shape it and determine it. Study after study—and here are about 7 of them, some 1,400 pages of studies over the last decade—have said there is a problem that can only be determined by a legislative fix. That is exactly what the Nelson-Craig amendment, now second-degreed by the Senator from Oregon, does. It maintains the amendment, and the second degree maintains the current standard in section 4(e).

The Secretary of the Interior can determine whether an alternative condition offered by the licensee ensures the adequate protection and utilization of the ''Federal reservation.''

''Federal reservation'' is a term of art in the Federal licensing of projects as it relates to protecting the resources, protecting the land.

The reason this amendment is important is when we go to conference with this bill, the House has said something very different. The House said, in their version of the hydroelectric relicense reform, that they would change the standard in 4(e), requiring the Secretary of the Interior to ensure an alternative condition provides no less protection for the reservation than provided by the conditions deemed initially necessary by a midlevel staff person at the Interior. That is a higher threshold than is currently required under licensing.

What is so important is that we take the right language to the conference to make sure if we advance or change the relicensing projects of hydro—and the Senator from Nebraska has spoken eloquently about the problems of Nebraska, the Senator from Oregon has talked about the multitude of projects to be relicensed over the next decade; we know that hydro is about 19 to 20 percent of the electrical base of this country—while we want to modernize these facilities, bring them into compliance under better environmental standards, what we cannot have is a multi-multimillion-dollar process that doesn't get us anywhere and, in the end, actually reduces the ability of these facilities to produce power.

The Senator from Nebraska spoke of a process in his State that cost $40 million to relicense a hydro project. My guess is that the project, when it was initially built some 30 years prior, cost a fourth of that amount—$8 million, $10 million. And now just to relicense it, just to go through the legal hoops and hurdles and timelines involved it costs $40 million? That doesn't talk about the retrofits. That doesn't talk about new concrete poured or concrete taken away or fish ladders or rescheduling and reprogramming the flows of waters to accommodate fish and habitat downstream. None of that was spoken to—nor the loss of generating capacity. Just the process costs that amount of money.

That is why these studies have shown, time and time again, this is a problem that has to get fixed legislatively. Yes, we have had working groups inside the departments of our Federal Government over the last number of years.

When I first began to examine the hydro relicensing problem 5 years ago, to the Clinton administration's credit, they began to get all their agencies together to try to streamline the process. That is in the eye of the beholder, and they did work. But there was nothing in the law that required it. What we were hoping to do is to do that.

What we have done instead as an alternative is provide, when the licensee comes up with an approach, and a stakeholder comes up with an different approach, that the licensee can say: We can arrive at the standards and meet the needs of the stakeholder for less money in a different approach, and the Secretary of the Interior, in this instance, can arbitrate that and make those determinations they can now not make.

It ensures a balance and accountability to Federal resource agencies that I think is critically important. Isn't it fascinating that a third level bureaucrat can make a demand that even the Secretary cannot act on, that may cost millions and millions of dollars? It may even take down a hydro facility because it can no longer operate in an economically effective way and the licensee would simply walk away and the facility would come down and it would be no longer productive because someone downline in an agency determined they needed something that could not in any way be arbitrated, that could not in any way be accommodated by different approaches, or an alternative review.

That is what we offer in the Nelson amendment. That is why it is critical. The Smith amendment, then, gives a little flexibility in time that we think is important. Trout Unlimited has said it is important.

We are certainly willing to accommodate this. This in no way is an anti-environmental vote. The process itself is still intact. All of the players get to the table. All of the players' viewpoints are heard.

We said, when the licensee comes forward and says I can meet those new standards for less money in a different way, that is a consideration which becomes part of the process that does not now exist. We think that is right. We think it is reasonable. That is the way government ought to work.

If we lose our hydro base in this country—and we could—how do we replace it? Coal-fired plants? A new nuclear plant? It can never be made up by wind and solar because it can never produce that amount of power. It would have to be replaced. It is replaced, at least in volume, by the current alternatives I have mentioned. In most instances, and in most States, those alternatives today are somewhat unacceptable.

That is why it is so critically important that the Nelson-Craig-Smith amendment move forward as a part of this energy bill and into the conference where we can work out our differences and hopefully resolve a problem that has plagued this process now since it was created nearly two decades ago.

I thank my colleagues and yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending question is the Smith of Oregon substitute to the Nelson first-degree amendment.

Mr. BINGAMAN. Mr. President, I do not object to going a ahead with the vote. I don't believe a rollcall is required at this point.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the substitute.

The amendment (No. 3306) was agreed to.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, that vote was on the Nelson-Craig amendment in the second degree by the Senator from Oregon?

The PRESIDING OFFICER. The Nelson-Craig amendment is now pending, as amended.

Is there further debate on that amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 3140), as amended, is agreed to.

Mr. BINGAMAN. Mr. President, I move to reconsider the vote.

Mr. SMITH of Oregon. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that the leader time which I am going to take be counted against the 30 hours on this bill.

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

REAL REPUBLICAN SLOGANS

Mr. REID. Mr. President, this morning my counterpart in the House, the Republican whip, TOM DELAY, led a press conference. In that press conference, he talked about the fact that he thought the Democrats have stolen the theme of the Republicans. I do not know anything about that, but I do have some suggestions that I would like to give my friend, my counterpart in the House, Representative DELAY, for a theme. That would be Securing America's Future, the Republican Way.

We came up with what we think is a very apt way to describe what we are trying to do by securing America's future for all our families. I would like to suggest this to Representative DELAY: The Real List of Republican Slogans.

One would be securing a $254 million tax break for Enron; and securing secret Caribbean tax havens for billionaires.

Another that should go on the list would be securing skyrocketing prices and huge profit margins for large pharmaceutical companies.

The list wouldn't be complete unless we recognize that the prescription drug benefit being talked about is for 6 percent of American seniors leaving out 94 percent of American seniors.

Also on the list we have securing limited well drilling rights in wildlife refuges and national parks.

Also on the list we have securing crowded classrooms and crumbling schools, and leaving those the way they are.

Part of the list also, I suggest to my friend, Representative DELAY, is securing higher levels of arsenic in drinking water, and, of course, securing permanent tax breaks for the wealthy paid for by raiding Social Security, and also having deep Social Security benefit cuts.

Also on that list would have to be the Vice President's records of giveaways to big energy companies.

Also, we could have on the list securing a future with 100,000 shipments of deadly radioactive waste crossing America's highways, railways, and waterways.

Finally, I would make a suggestion—I have some others, but I know time is short—that we have on that list securing the rights of toxic polluters to pass cleanup costs on to the taxpayers.

I ask that Representative DELAY and others in that press conference with him to go back and look at his own list of slogans and add to that some of these which I have noted.

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

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

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001—Continued

Mr. CARPER. Mr. President, I ask unanimous consent the pending amendment be laid aside.

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

AMENDMENT NO. 3197 TO AMENDMENT NO. 2917

Mr. CARPER. Mr. President, amendment No. 3197 is at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. CARPER], for himself, Ms. COLLINS, Mr. LEVIN, Ms. LANDRIEU, Ms. STABENOW, and Mr. JEFFORDS, proposes an amendment numbered 3197 to amendment No. 2917.

Mr. CARPER. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To encourage the efficient generation of electricity through combined heat and power and to modify the provision relating to termination of mandatory purchase and sale requirements under PURPA)

Beginning on page 47, strike line 23 and all that follows through page 48, line 20, and insert the following:

''(m) TERMINATION OF MANDATORY PURCHASE AND SALE REQUIREMENTS.—

''(1) OBLIGATION TO PURCHASE.— After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to purchase electric energy from a qualifying cogeneration facility or a qualifying small power production facility under this section if the Commission finds that the qualifying cogeneration facility or qualifying small power production facility has access to independently administered, auction-based day ahead and real time wholesale markets for the sale of electric energy.

''(2) OBLIGATION TO SELL.—After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to sell electric energy to a qualifying cogeneration facility or a qualifying small power production facility under this section if competing retail electric suppliers are able to provide electric energy to the qualifying cogeneration facility or qualifying small power production facility.

''(3) NO EFFECT ON EXISTING RIGHTS AND REMEDIES.—Nothing in this subsection affects the rights or remedies of any party under any contract or obligation, in effect on the date of enactment of this subsection, to purchase electric energy or capacity from or to sell electric energy or capacity to a facility under this Act (including the right to recover costs of purchasing electric energy or capacity).

Mr. CARPER. Mr. President, I ask unanimous consent that Senator SNOWE be added as a cosponsor.

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

Mr. CARPER. Senator COLLINS of Maine joins me in offering this amendment.

Mr. President, the issue that is before us involves cogenerating facilities which create both heat and power. They are highly efficient and environmentally attractive. They exist in almost all of our States. Unfortunately, section 244 of the Senate energy bill before us would eliminate the provisions in current law which support both existing combined heat and power generating systems and new ones that are being developed. I believe that until competitive conditions in electricity markets make these existing requirements unnecessary, the changes that are incorporated in this bill are premature.

Today, combined heat and power plants, which typically produce electricity and deliver steam used for manufacturing purposes, produce about 7 percent of our Nation's electricity. Combined heat and power facilities are, on average, twice as fuel efficient as conventional utility plants and thus produce about half the emissions of conventional utility plants.

The U.S. Department of Energy and our Environmental Protection Agency have set the goal of doubling the Nation's capacity from combined heat and power facilities by 2010. Section 244 of the Senate energy bill runs counter to this goal by repealing, perhaps inadvertently, statutory support for existing and new combined heat and power generating facilities.

Under existing law, section 210 of PURPA, the Public Utility Regulatory Policies Act, has, since 1978, required electric utilities to purchase electricity generated by so-called qualifying facilities—which includes cogenerators and renewable energy facilities—at the utility's ''avoided cost.'' ''Avoided cost'' is the cost the utility would have paid to generate the same electricity itself or to purchase it elsewhere. PURPA also requires electric utilities to sell qualifying facilities backup power at just and reasonable rates and without discrimination.

So under current law, under PURPA, these qualifying facilities, cogenerating facilities, are permitted to sell

the power that they create at a price that is agreed to at the utility's avoided cost. Also, they have the ability to purchase electricity power as it is needed at a reasonable rate and without discrimination. That is current law. They would lose that ability under the language of the bill that is before us. We do not want them to lose that ability.

Section 244 of the bill would terminate the obligation of electric utilities, under PURPA, to enter into new contracts to either purchase electric energy from these qualifying facilities or to sell electricity to new qualifying facilities.

Some would argue that these PURPA requirements are no longer needed because electricity markets are competitive. In many cases, however, electricity markets are not competitive. I realize in a number of markets they are. Delaware is among them. But in a number of other markets, electricity is not competitive, and these qualifying facilities do not have access to competitive options for buying or selling electricity.

The existing PURPA protections should not be lifted, in my judgment, and that of Senator COLLINS' and our other cosponsors' judgment, until competitive electricity markets are found to render these protections no longer necessary.

The amendment that Senator COLLINS and I offer today would modify section 244 of the bill before us by conditioning the termination of the PURPA obligation for utilities to buy electricity from these qualifying facilities on a finding by the Federal Energy Regulatory Commission, FERC, that the qualifying facility has access to an independent, competitive, wholesale market for the sale of electricity. A FERC finding of a competitive wholesale market assures that there will be real opportunities for a qualifying facility to sell its electrical output, including intermittent power, at a competitive price.

This amendment would also modify section 244 in this bill to clarify that the termination of a utility's obligation to sell backup power to a qualifying facility under PURPA is conditioned on the qualifying facility having the ability to purchase backup power from competing retail electricity suppliers. Until a cogenerator can shop for backup power from competing suppliers, it is critical to maintain the current PURPA obligation for the local utility to sell backup power at just and reasonable rates and without discrimination.

Let me say, in conclusion, I support reform of PURPA, but I do not think we should do it in a way that runs contrary to our other goals of generating efficient electricity and developing competitive markets. This amendment does just that. I urge my colleagues to join us in support of the amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I am pleased to join with my distinguished colleague from Delaware, Senator CARPER, in offering an amendment to the energy bill that would keep in place, for a limited time, incentives for the generation of clean, efficient energy using a technology known as combined heat and power, or cogeneration.

Such cogeneration plants use a variety of fuels, from biomass to natural gas, to produce both electricity and steam. Combined heat and power currently produces about 9 percent of our Nation's electricity. According to the U.S. Energy Information Administration, there are more than 1,000 facilities operating combined heat and power units in the United States, including hospitals, universities, and industries. There are 95 cogeneration facilities in my home State of Maine alone.

By capturing the heat that would be rejected by traditional power generators, combined heat and power is extremely efficient. While a typical coal-fired powerplant only achieves about 34 percent efficiency, cogeneration facilities achieve 70 to 85 percent efficiency. On average, combined heat and power facilities are twice as fuel efficient as conventional utility plants.

By keeping in place incentives for using combined heat and power, the Carper-Collins amendment adds to the competitiveness of our domestic manufacturing. Because cogeneration is so efficient, it reduces cost. The President's national energy policy makes clear that combined heat and power offers energy efficiency and cost savings important to many manufacturers that compete in the international marketplace.

Our amendment also increases energy security and electric reliability. Dispersing power generation at manufacturing sites is an important tool to reduce the risk to the electricity supply. Generating electricity close to where it will be used reduces the load on existing transmission infrastructure. It reduces the amount of energy lost in transmission while eliminating the need to construct expensive power lines to transmit power from large central station powerplants.

In addition, cogeneration reduces the U.S. dependency on foreign sources of energy by encouraging energy efficiency and fuel diversity in electric power generation.

Also, our amendment is good for the environment. Because combined heat and power facilities are twice as efficient as conventional plants, they have fewer emissions. They reduce emissions of the chemicals that cause smog and acid rain and cut greenhouse gas emissions in half. For this reason, cogeneration is an important component of any plan to reduce greenhouse gas emissions and is included in the President's climate initiative.

The U.S. Department of Energy and the EPA have set the goal of doubling U.S. cogeneration capacity by 2010. At industrial facilities alone, cogeneration could reduce annual greenhouse gas emissions by 44 million metric tons. They could also reduce emissions of smog-forming nitrogen oxides by 614,000 tons per year.

Let me now add to the comments made by Senator CARPER on why this amendment is necessary. The Public Utility Regulatory Policy Act, known as PURPA, requires utilities to sell backup power to qualifying nonutility power facilities at just and reasonable rates. It also obligates utilities to purchase excess power from cogeneration facilities at prices equal to that utility's own cost of production, known as the avoided cost. The Senate energy bill, however, repeals PURPA. Repealing PURPA would be a good idea if competitive electricity markets existed all across this Nation. Unfortunately, the legislation before us repeals PURPA even if competitive markets are not achieved.

Our amendment would keep certain PURPA provisions in place until competitive electricity markets were established. For a limited time our amendment would keep in place the PURPA provisions requiring utilities to provide backup power and buy electricity from qualifying cogeneration facilities. As soon as competitive electricity markets were established, these requirements would be repealed.

Without competition, there is no incentive for utilities to provide backup power or purchase electricity from combined heat and power facilities even though that electricity is cleaner and more efficient than most other electricity generation. Until a combined cogeneration facility can shop for backup power from competing suppliers and sell power at a competitive price, PURPA should not be unconditionally repealed.

The amendment Senator CARPER and I are offering today will keep in place incentives that continue to operate combined heat and power facilities until true competition exists in electricity markets.

This amendment is good for the economy, good for the environment, good for our energy policy, and good for the competitiveness of American manufacturing.

I thank my colleague from Delaware for involving me in this amendment. I urge our colleagues to support our proposal.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I know the Senator from Alaska is planning to come to the floor to speak against the amendment. At this point, unless the proponents of the amendment would like to do initial debate, 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. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

The Senator from Nevada is recognized.

Mr. REID. For Members of the Senate, within the next 15 minutes there will be a rollcall vote, so everybody who is off the Hill should start heading back. The vote will occur probably around 1:05.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President, the amendment pending, as I understand it, would extend PURPA's mandatory purchase obligation until such time as FERC determined that a PURPA ''qualifying facility'' had access to ''independently administered, auction-based day ahead and real time wholesale markets for sale of electric energy.''

The amendment would also require purchasing utilities to continue to sell backup power to qualified facilities unless competing retail electric suppliers were able to provide electric energy to the qualified facility.

This basically means that FERC is in charge of certain retail sales of electricity—preempting State public utility commissioners on backup retail sales, at least for the foreseeable future. As a consequence, with all due respect, I believe the amendment is flawed. It would continue PURPA's mandatory purchase obligation indefinitely into the future by conditioning repeal on an affirmative FERC finding on a powerplant-by-powerplant basis that the statutory test is met.

There are no requirements in the amendment regarding the process or timing for FERC action. Satisfying this test could take virtually forever, including numerous court challenges. Nor is there any guidance as to how FERC is to define the existence of an ''independently administered, auction-based day ahead and real time wholesale market'' for electricity.

I guess the question is, Who knows really what it means? It is not a term of art in the Federal Power Act. Moreover, many areas of the country likely do not now meet—and may never meet—this test.

So I suggest that we not be fooled by claims that the only thing the qualifying facilities want is access to the transmission grid. They have that now under FERC order No. 888. It is the law of the land, and it has been upheld by the Supreme Court.

What do the supporters of this amendment really want? In my opinion, they really want to continue PURPA's mandatory purchases at above-market rates. Who pays the cost above market rates? Obviously, the consumer—to have their power purchased at the ''avoided cost'' rate, even if that rate is far above the market rate.

Well, I think this is wrong policy. The language in the underlying Daschle-Bingaman bill leaves existing contracts in place; but there should be no new PURPA contracts. I think most Members agree with that. Since its enactment—and we have had this debate previously on the bill—in 1978, PURPA has forced customers to pay lots of money. It is estimated that they have paid tens of billions of dollars more for electricity than would have been the case had it not been enacted.

PURPA is incompatible with competitive wholesale markets. It has been used by the qualifying facilities that are cogenerators—producing both power and steam for industrial uses—in name only.

Further, the last three administrations have proposed the repeal of PURPA's mandatory purchase obligation, and almost every comprehensive electric bill introduced over the past two Congresses has contained nearly identical language to the bipartisan consensus PURPA language contained in the Daschle-Bingaman amendment.

Keeping PURPA is contrary to protecting consumers. Thus, in my opinion, the amendment should be rejected. I propose that we table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

At this time, there is not a sufficient second.

Mr. MURKOWSKI. 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. MURKOWSKI. 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. MURKOWSKI. Mr. President, I have no objection if Senator CARPER wants to speak, even though the motion was made. I would certainly defer to my friend.

The PRESIDING OFFICER (Mr. KOHL). The Senator from Delaware is recognized.

Mr. CARPER. Mr. President, I thank the Senator.

With the combined heat and power facilities, we have the ability to generate energy almost twice as efficiently as we generate it from traditional utilities, traditional generating plants. With combined heat and power facilities, we see emissions that are roughly half those of traditional powerplants.

The administration's national energy plan envisions a doubling and relies on combined heat and power facilities in this country because they are so energy efficient and also environmentally friendly.

The downside, unfortunately, is that, inadvertently, the language of this bill before us takes away the ability for FERC to help ensure that these combined heat and power facilities have the opportunity to sell power at reasonable prices into the grid and to buy power, if and when they need to buy it, at reasonable prices.

I think all of us would agree that to have the ability to create more facilities that are twice as energy efficient as traditional generating facilities and produce half the emissions is a good thing. That is why the administration has offered doubling these facilities in their plan.

Unfortunately, if we leave the language as it is in the bill, we are going to find that the potential that is embodied in the generating capability of the combined heat and power facilities will not be realized. Nobody is interested in utilities having to sell electricity at rates that are above market. We want to simply make sure that a combined heat and power facility, which is twice as energy efficient, and twice as environmentally friendly, has the opportunity to expand. That is what we seek to do here.

With that in mind, I ask our colleagues to oppose the motion to table.

Again, I express my thanks to the Senator from Maine, Ms. COLLINS, for joining me and a number of colleagues in offering this amendment today.

I yield the floor.

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

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

The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I move to table the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion to table amendment No. 3197. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from South Dakota (Mr. DASCHLE) and the Senator from South Dakota (Mr. JOHNSON) are necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

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

The result was announced—yeas 37, nays 60, as follows:

[Rollcall Vote No. 82 Leg.]

YEAS—37

Allard	Ensign	Lugar
Allen	Enzi	McCain
Bennett	Graham	McConnell
Bingaman	Gramm	Miller
Bunning	Grassley	Murkowski
Burns	Hagel	Murray
Cantwell	Hatch	Nelson (FL)
Cochran	Hutchison	Nickles
Craig	Inhofe	Roberts
Crapo	Kyl	
Domenici	Lott	

Sessions	Stevens	Thurmond
Shelby	Thomas	Warner

NAYS—60

Akaka	Dodd	Lieberman
Baucus	Dorgan	Lincoln
Bayh	Durbin	Mikulski
Biden	Edwards	Nelson (NE)
Bond	Feingold	Reed
Boxer	Feinstein	Reid
Breaux	Fitzgerald	Rockefeller
Brownback	Frist	Santorum
Byrd	Gregg	Sarbanes
Campbell	Harkin	Schumer
Carnahan	Hollings	Smith (NH)
Carper	Hutchinson	Smith (OR)
Chafee	Inouye	Snowe
Cleland	Jeffords	Specter
Clinton	Kennedy	Stabenow
Collins	Kerry	Thompson
Conrad	Kohl	Torricelli
Corzine	Landrieu	Voinovich
Dayton	Leahy	Wellstone
DeWine	Levin	Wyden

NOT VOTING—3

Daschle	Helms	Johnson

The motion was rejected.

Mr. REID. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Is there further debate on the amendment?

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3197.

The amendment (No. 3197) was agreed to.

Mr. REID. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, I ask unanimous consent that the Senator from Georgia, Mr. CLELAND, be recognized for up to 15 minutes to speak as in morning business, and the time be counted against the postcloture 30 hours.

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

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

Mr. BROWNBACK. Mr. President, I have an amendment I would like to send forward, modify, and set aside.

The PRESIDING OFFICER. The Senator from Kansas.

MODIFICATION OF SUBMITTED AMENDMENTS NOS. 3239 AND 3146

Mr. BROWNBACK. I call up amendment No. 3239 and ask for its immediate consideration, and I ask unanimous consent to modify amendment No. 3239.

Mr. REID. Mr. President, reserving the right to object, I do not think we have had a chance to see that modification. I have spoken to the Senator from Kansas in the Chamber this morning. I spoke also with Senator HAGEL. We have to do both at the same time. We cannot do them separately.

Mr. BROWNBACK. I spoke with Senator HAGEL and told him I would send it forward, then ask for the modification, and then set it aside. If we want to do those at the same time, that is fine. I just wanted to get the amendment and its modifications forward. It is not to get ahead of anybody. If they want to do the modifications at the same time, I will yield to the distinguished floor leader from Nevada.

Mr. REID. Mr. President, I withdraw my reservation.

The PRESIDING OFFICER. The clerk will report the amendment.

Mr. BROWNBACK. Mr. President, to remove the confusion, I withdraw my request at this time.

The PRESIDING OFFICER. The request is withdrawn.

Mr. REID. Mr. President, I say to my friend, it is my understanding what he wants to do is modify his amendment.

Mr. BROWNBACK. That is correct.

Mr. REID. I also want to modify Senator HAGEL's amendment.

I ask unanimous consent, notwithstanding rule XXII, that it be in order to modify amendments Nos. 3239 and 3146. I think that accomplishes what we want to accomplish.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Submitted amendments Nos. 3239 and 3146, as modified, are as follows:

SUBMITTED AMENDMENT NO. 3239, AS MODIFIED

Strike all after the title heading and insert the following:

SEC. 1101. PURPOSE.

The purpose of this title is to establish a greenhouse gas inventory, reductions registry, and information system that—

(1) are complete, consistent, transparent, and accurate;

(2) will create reliable and accurate data that can be used by public and private entities to design efficient and effective greenhouse gas emission reduction strategies; and

(3) will acknowledge and encourage greenhouse gas emission reductions.

SEC. 1102. DEFINITIONS.

In this title:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) BASELINE.—The term ''baseline'' means the historic greenhouse gas emission levels of an entity, as adjusted upward by the designated agency to reflect actual reductions that are verified in accordance with—

(A) regulations promulgated under section 1104(c)(1); and

(B) relevant standards and methods developed under this title.

(3) DATABASE.—The term ''database'' means the National Greenhouse Gas Database established under section 1104.

(4) DESIGNATED AGENCY.—The term ''designated agency'' means a department or agency to which responsibility for a function or program is assigned under the memorandum of agreement entered into under section 1103(a).

(5) DIRECT EMISSIONS.—The term ''direct emissions'' means greenhouse gas emissions by an entity from a facility that is owned or controlled by that entity.

(6) ENTITY.—The term ''entity'' means—

(A) a person located in the United States; or

(B) a public or private entity, to the extent that the entity operates in the United States.

(7) FACILITY.—The term ''facility'' means—

(A) all buildings, structures, or installations located on any 1 or more contiguous or adjacent properties of an entity in the United States; and

(B) a fleet of 20 or more motor vehicles under the common control of an entity.

(8) GREENHOUSE GAS.—The term ''greenhouse gas'' means—

(A) carbon dioxide;

(B) methane;

(C) nitrous oxide;

(D) hydrofluorocarbons;

(E) perfluorocarbons;

(F) sulfur hexafluoride; and

(G) any other anthropogenic climate-forcing emissions with significant ascertainable global warming potential, as—

(i) recommended by the National Academy of Sciences under section 1107(b)(3); and

(ii) determined in regulations promulgated under section 1104(c)(1) (or revisions to the regulations) to be appropriate and practicable for coverage under this title.

(9) INDIRECT EMISSIONS.—The term ''indirect emissions'' means greenhouse gas emissions that—

(A) are a result of the activities of an entity; but

(B)(i) are emitted from a facility owned or controlled by another entity; and

(ii) are not reported as direct emissions by the entity the activities of which resulted in the emissions.

(10) REGISTRY.—The term ''registry'' means the registry of greenhouse gas emission reductions established as a component of the database under section 1104(b)(2).

(11) SEQUESTRATION.—

(A) IN GENERAL.—The term ''sequestration'' means the capture, long-term separation, isolation, or removal of greenhouse gases from the atmosphere.

(B) INCLUSIONS.—The term ''sequestration'' includes—

(i) soil carbon sequestration;

(ii) agricultural and conservation practices;

(iii) reforestation;

(iv) forest preservation;

(v) maintenance of an underground reservoir; and

(vi) any other appropriate biological or geological method of capture, isolation, or removal of greenhouse gases from the atmosphere, as determined by the Administrator.

SEC. 1103. ESTABLISHMENT OF MEMORANDUM OF AGREEMENT.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the President, acting through the Director of the Office of National Climate Change Policy, shall direct the Secretary of Energy, the Secretary of Commerce, the Secretary of Agriculture, the Secretary of Transportation, and the Administrator to enter into a memorandum of agreement under which those heads of Federal agencies will—

(1) recognize and maintain statutory and regulatory authorities, functions, and programs that—

(A) are established as of the date of enactment of this Act under other law;

(B) provide for the collection of data relating to greenhouse gas emissions and effects; and

(C) are necessary for the operation of the database;

(2)(A) distribute additional responsibilities and activities identified under this title to Federal departments or agencies in accordance with the missions and expertise of those departments and agencies; and

(B) maximize the use of available resources of those departments and agencies; and

(3) provide for the comprehensive collection and analysis of data on greenhouse gas emissions relating to product use (including the use of fossil fuels and energy-consuming appliances and vehicles).

(b) MINIMUM REQUIREMENTS.—The memorandum of agreement entered into under subsection (a) shall, at a minimum, retain the

following functions for the designated agencies:

(1) DEPARTMENT OF ENERGY.—The Secretary of Energy shall be primarily responsible for developing, maintaining, and verifying the registry and the emission reductions reported under section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b)).

(2) DEPARTMENT OF COMMERCE.—The Secretary of Commerce shall be primarily responsible for the development of—

(A) measurement standards for the monitoring of emissions; and

(B) verification technologies and methods to ensure the maintenance of a consistent and technically accurate record of emissions, emission reductions, and atmospheric concentrations of greenhouse gases for the database.

(3) ENVIRONMENTAL PROTECTION AGENCY.—The Administrator shall be primarily responsible for—

(A) emissions monitoring, measurement, verification, and data collection under this title and title IV (relating to acid deposition control) and title VIII of the Clean Air Act (42 U.S.C. 7651 et seq.), including mobile source emissions information from implementation of the corporate average fuel economy program under chapter 329 of title 49, United States Code; and

(B) responsibilities of the Environmental Protection Agency relating to completion of the national inventory for compliance with the United Nations Framework Convention on Climate Change, done at New York on May 9, 1992.

(4) DEPARTMENT OF AGRICULTURE.—The Secretary of Agriculture shall be primarily responsible for—

(A) developing measurement techniques for—

(i) soil carbon sequestration; and

(ii) forest preservation and reforestation activities; and

(B) providing technical advice relating to biological carbon sequestration measurement and verification standards for measuring greenhouse gas emission reductions or offsets.

(c) DRAFT MEMORANDUM OF AGREEMENT.—Not later than 15 months after the date of enactment of this Act, the President, acting through the Director of the Office of National Climate Change Policy, shall publish in the Federal Register, and solicit comments on, a draft version of the memorandum of agreement described in subsection (a).

(d) NO JUDICIAL REVIEW.—The final version of the memorandum of agreement shall not be subject to judicial review.

SEC. 1104. NATIONAL GREENHOUSE GAS DATABASE.

(a) ESTABLISHMENT.—As soon as practicable after the date of enactment of this Act, the designated agencies, in consultation with the private sector and nongovernmental organizations, shall jointly establish, operate, and maintain a database, to be known as the ''National Greenhouse Gas Database'', to collect, verify, and analyze information on greenhouse gas emissions by entities.

(b) NATIONAL GREENHOUSE GAS DATABASE COMPONENTS.—The database shall consist of—

(1) an inventory of greenhouse gas emissions; and

(2) a registry of greenhouse gas emission reductions.

(c) COMPREHENSIVE SYSTEM.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the designated agencies shall jointly promulgate regulations to implement a comprehensive system for greenhouse gas emissions reporting, inventorying, and reductions registration.

(2) REQUIREMENTS.—The designated agencies shall ensure, to the maximum extent practicable, that—

(A) the comprehensive system described in paragraph (1) is designed to—

(i) maximize completeness, transparency, and accuracy of information reported; and

(ii) minimize costs incurred by entities in measuring and reporting greenhouse gas emissions; and

(B) the regulations promulgated under paragraph (1) establish procedures and protocols necessary—

(i) to prevent the reporting of some or all of the same greenhouse gas emissions or emission reductions by more than 1 reporting entity;

(ii) to provide for corrections to errors in data submitted to the database;

(iii) to provide for adjustment to data by reporting entities that have had a significant organizational change (including mergers, acquisitions, and divestiture), in order to maintain comparability among data in the database over time;

(iv) to provide for adjustments to reflect new technologies or methods for measuring or calculating greenhouse gas emissions; and

(v) to account for changes in registration of ownership of emission reductions resulting from a voluntary private transaction between reporting entities.

(3) BASELINE IDENTIFICATION AND PROTECTION.—Through regulations promulgated under paragraph (1), the designated agencies shall develop and implement a system that provides—

(A) for the provision of unique serial numbers to identify the verified emission reductions made by an entity relative to the baseline of the entity;

(B) for the tracking of the reductions associated with the serial numbers; and

(C) that the reductions may be applied, as determined to be appropriate by any Act of Congress enacted after the date of enactment of this Act, toward a Federal requirement under such an Act that is imposed on the entity for the purpose of reducing greenhouse gas emissions.

SEC. 1105. GREENHOUSE GAS REDUCTION REPORTING.

(a) IN GENERAL.—An entity that participates in the registry shall meet the requirements described in subsection (b).

(b) REQUIREMENTS.—

(1) IN GENERAL.—The requirements referred to in subsection (a) are that an entity (other than an entity described in paragraph (2)) shall—

(A) establish a baseline (including all of the entity's greenhouse gas emissions on an entity-wide basis); and

(B) submit the report described in subsection (c)(1).

(2) REQUIREMENTS APPLICABLE TO ENTITIES ENTERING INTO CERTAIN AGREEMENTS.—An entity that enters into an agreement with a participant in the registry for the purpose of a carbon sequestration project shall not be required to comply with the requirements specified in paragraph (1) unless that entity is required to comply with the requirements by reason of an activity other than the agreement.

(c) REPORTS.—

(1) REQUIRED REPORT.—Not later than April 1 of the third calendar year that begins after the date of enactment of this Act, and not later than April 1 of each calendar year thereafter, subject to paragraph (3), an entity described in subsection (a) shall submit to each appropriate designated agency a report that describes, for the preceding calendar year, the entity-wide greenhouse gas emissions (as reported at the facility level), including—

(A) the total quantity of each greenhouse gas emitted, expressed in terms of mass and in terms of the quantity of carbon dioxide equivalent;

(B) an estimate of the greenhouse gas emissions from fossil fuel combusted by products manufactured and sold by the entity in the previous calendar year, determined over the average lifetime of those products; and

(C) such other categories of emissions as the designated agency determines in the regulations promulgated under section 1104(c)(1) may be practicable and useful for the purposes of this title, such as—

(i) direct emissions from stationary sources;

(ii) indirect emissions from imported electricity, heat, and steam;

(iii) process and fugitive emissions; and

(iv) production or importation of greenhouse gases.

(2) VOLUNTARY REPORTING.—An entity described in subsection (a) may (along with establishing a baseline and reporting reductions under this section)—

(A) submit a report described in paragraph (1) before the date specified in that paragraph for the purposes of achieving and commoditizing greenhouse gas reductions through use of the registry; and

(B) submit to any designated agency, for inclusion in the registry, information that has been verified in accordance with regulations promulgated under section 1104(c)(1) and that relates to—

(i) with respect to the calendar year preceding the calendar year in which the information is submitted, and with respect to any greenhouse gas emitted by the entity—

(I) project reductions from facilities owned or controlled by the reporting entity in the United States;

(II) transfers of project reductions to and from any other entity;

(III) project reductions and transfers of project reductions outside the United States;

(IV) other indirect emissions that are not required to be reported under paragraph (1); and

(V) product use phase emissions;

(ii) with respect to greenhouse gas emission reductions activities of the entity that have been carried out during or after 1990, verified in accordance with regulations promulgated under section 1104(c)(1), and submitted to 1 or more designated agencies before the date that is 4 years after the date of enactment of this Act, any greenhouse gas emission reductions that have been reported or submitted by an entity under—

(I) section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b)); or

(II) any other Federal or State voluntary greenhouse gas reduction program; and

(iii) any project or activity for the reduction of greenhouse gas emissions or sequestration of a greenhouse gas that is carried out by the entity, including a project or activity relating to—

(I) fuel switching;

(II) energy efficiency improvements;

(III) use of renewable energy;

(IV) use of combined heat and power systems;

(V) management of cropland, grassland, or grazing land;

(VI) a forestry activity that increases forest carbon stocks or reduces forest carbon emissions;

(VII) carbon capture and storage;

(VIII) methane recovery;

(IX) greenhouse gas offset investment; and

(X) any other practice for achieving greenhouse gas reductions as recognized by 1 or more designated agencies.

(3) EXEMPTIONS FROM REPORTING.—

(A) IN GENERAL.—If the Director of the Office of National Climate Change Policy determines under section 1108(b) that the reporting requirements under paragraph (1) shall apply to all entities (other than entities exempted by this paragraph), regardless of participation or nonparticipation in the registry, an entity shall be required to submit reports under paragraph (1) only if, in any calendar year after the date of enactment of this Act—

(i) the total greenhouse gas emissions of at least 1 facility owned by the entity exceeds 10,000 metric tons of carbon dioxide equivalent (or such greater quantity as may be established by a designated agency by regulation); or

(ii)(I) the total quantity of greenhouse gases produced, distributed, or imported by the entity exceeds 10,000 metric tons of carbon dioxide equivalent (or such greater quantity as may be established by a designated agency by regulation); and

(II) the entity is not a feedlot or other farming operation (as defined in section 101 of title 11, United States Code).

(B) ENTITIES ALREADY REPORTING.—

(i) IN GENERAL.—An entity that, as of the date of enactment of this Act, is required to report carbon dioxide emissions data to a Federal agency shall not be required to re-report that data for the purposes of this title.

(ii) REVIEW OF PARTICIPATION.—For the purpose of section 1108, emissions reported under clause (i) shall be considered to be reported by the entity to the registry.

(4) PROVISION OF VERIFICATION INFORMATION BY REPORTING ENTITIES.—Each entity that submits a report under this subsection shall provide information sufficient for each designated agency to which the report is submitted to verify, in accordance with measurement and verification methods and standards developed under section 1106, that the greenhouse gas report of the reporting entity—

(A) has been accurately reported; and

(B) in the case of each voluntary report under paragraph (2), represents—

(i) actual reductions in direct greenhouse gas emissions—

(I) relative to historic emission levels of the entity; and

(II) net of any increases in—

(aa) direct emissions; and

(bb) indirect emissions described in paragraph (1)(C)(ii); or

(ii) actual increases in net sequestration.

(5) FAILURE TO SUBMIT REPORT.—An entity that participates or has participated in the registry and that fails to submit a report required under this subsection shall be prohibited from including emission reductions reported to the registry in the calculation of the baseline of the entity in future years.

(6) INDEPENDENT THIRD-PARTY VERIFICATION.—To meet the requirements of this section and section 1106, a entity that is required to submit a report under this section may—

(A) obtain independent third-party verification; and

(B) present the results of the third-party verification to each appropriate designated agency.

(7) AVAILABILITY OF DATA.—

(A) IN GENERAL.—The designated agencies shall ensure, to the maximum extent practicable, that information in the database is—

(i) published;

(ii) accessible to the public; and

(iii) made available in electronic format on the Internet.

(B) EXCEPTION.—Subparagraph (A) shall not apply in any case in which the designated agencies determine that publishing or otherwise making available information described in that subparagraph poses a risk to national security.

(8) DATA INFRASTRUCTURE.—The designated agencies shall ensure, to the maximum extent practicable, that the database uses, and is integrated with, Federal, State, and regional greenhouse gas data collection and reporting systems in effect as of the date of enactment of this Act.

(9) ADDITIONAL ISSUES TO BE CONSIDERED.—In promulgating the regulations under section 1104(c)(1) and implementing the database, the designated agencies shall take into consideration a broad range of issues involved in establishing an effective database, including—

(A) the appropriate units for reporting each greenhouse gas;

(B) the data and information systems and measures necessary to identify, track, and verify greenhouse gas emission reductions in a manner that will encourage the development of private sector trading and exchanges;

(C) the greenhouse gas reduction and sequestration methods and standards applied in other countries, as applicable or relevant;

(D) the extent to which available fossil fuels, greenhouse gas emissions, and greenhouse gas production and importation data are adequate to implement the database;

(E) the differences in, and potential uniqueness of, the facilities, operations, and business and other relevant practices of persons and entities in the private and public sectors that may be expected to participate in the registry; and

(F) the need of the registry to maintain valid and reliable information on baselines of entities so that, in the event of any future action by Congress to require entities, individually or collectively, to reduce greenhouse gas emissions, Congress will be able—

(i) to take into account that information; and

(ii) to avoid enacting legislation that penalizes entities for achieving and reporting reductions.

(d) ANNUAL REPORT.—The designated agencies shall jointly publish an annual report that—

(1) describes the total greenhouse gas emissions and emission reductions reported to the database during the year covered by the report;

(2) provides entity-by-entity and sector-by-sector analyses of the emissions and emission reductions reported;

(3) describes the atmospheric concentrations of greenhouse gases; and

(4) provides a comparison of current and past atmospheric concentrations of greenhouse gases.

SEC. 1106. MEASUREMENT AND VERIFICATION.

(a) STANDARDS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the designated agencies shall jointly develop comprehensive measurement and verification methods and standards to ensure a consistent and technically accurate record of greenhouse gas emissions, emission reductions, sequestration, and atmospheric concentrations for use in the registry.

(2) REQUIREMENTS.—The methods and standards developed under paragraph (1) shall address the need for—

(A) standardized measurement and verification practices for reports made by all entities participating in the registry, taking into account—

(i) protocols and standards in use by entities desiring to participate in the registry as of the date of development of the methods and standards under paragraph (1);

(ii) boundary issues, such as leakage and shifted use;

(iii) avoidance of double counting of greenhouse gas emissions and emission reductions; and

(iv) such other factors as the designated agencies determine to be appropriate;

(B) measurement and verification of actions taken to reduce, avoid, or sequester greenhouse gas emissions;

(C) in coordination with the Secretary of Agriculture, measurement of the results of the use of carbon sequestration and carbon recapture technologies, including—

(i) organic soil carbon sequestration practices; and

(ii) forest preservation and reforestation activities that adequately address the issues of permanence, leakage, and verification;

(D) such other measurement and verification standards as the Secretary of Commerce, the Secretary of Agriculture, the Administrator, and the Secretary of Energy determine to be appropriate; and

(E) other factors that, as determined by the designated agencies, will allow entities to adequately establish a fair and reliable measurement and reporting system.

(b) REVIEW AND REVISION.—The designated agencies shall periodically review, and revise as necessary, the methods and standards developed under subsection (a).

(c) PUBLIC PARTICIPATION.—The Secretary of Commerce shall—

(1) make available to the public for comment, in draft form and for a period of at least 90 days, the methods and standards developed under subsection (a); and

(2) after the 90-day period referred to in paragraph (1), in coordination with the Secretary of Energy, the Secretary of Agriculture, and the Administrator, adopt the methods and standards developed under subsection (a) for use in implementing the database.

(d) EXPERTS AND CONSULTANTS.—

(1) IN GENERAL.—The designated agencies may obtain the services of experts and consultants in the private and nonprofit sectors in accordance with section 3109 of title 5, United States Code, in the areas of greenhouse gas measurement, certification, and emission trading.

(2) AVAILABLE ARRANGEMENTS.—In obtaining any service described in paragraph (1), the designated agencies may use any available grant, contract, cooperative agreement, or other arrangement authorized by law.

SEC. 1107. INDEPENDENT REVIEWS.

(a) IN GENERAL.—Not later than 5 years after the date of enactment of this Act, and every 3 years thereafter, the Comptroller General of the United States shall submit to Congress a report that—

(1) describes the efficacy of the implementation and operation of the database; and

(2) includes any recommendations for improvements to this title and programs carried out under this title—

(A) to achieve a consistent and technically accurate record of greenhouse gas emissions, emission reductions, and atmospheric concentrations; and

(B) to achieve the purposes of this title.

(b) REVIEW OF SCIENTIFIC METHODS.—The designated agencies shall enter into an agreement with the National Academy of Sciences under which the National Academy of Sciences shall—

(1) review the scientific methods, assumptions, and standards used by the designated agencies in implementing this title;

(2) not later than 4 years after the date of enactment of this Act, submit to Congress a report that describes any recommendations for improving—

(A) those methods and standards; and

(B) related elements of the programs, and structure of the database, established by this title; and

(3) regularly review and update as appropriate the list of anthropogenic climate-forcing emissions with significant global warming potential described in section 1102(8)(G).

SEC. 1108. REVIEW OF PARTICIPATION.

(a) IN GENERAL.—Not later than 5 years after the date of enactment of this Act, the Director of the Office of National Climate Change Policy shall determine whether the reports submitted to the registry under section 1105(c)(1) represent less than 60 percent of the national aggregate anthropogenic greenhouse gas emissions.

(b) INCREASED APPLICABILITY OF REQUIREMENTS.—If the Director of the Office of National Climate Change Policy determines under subsection (a) that less than 60 percent of the aggregate national anthropogenic greenhouse gas emissions are being reported to the registry—

(1) the reporting requirements under section 1105(c)(1) shall apply to all entities (except entities exempted under section 1105(c)(3)), regardless of any participation or nonparticipation by the entities in the registry; and

(2) each entity shall submit a report described in section 1105(c)(1)—

(A) not later than the earlier of—

(i) April 30 of the calendar year immediately following the year in which the Director of the Office of National Climate Change Policy makes the determination under subsection (a); or

(ii) the date that is 1 year after the date on which the Director of the Office of National Climate Change Policy makes the determination under subsection (a); and

(B) annually thereafter.

(c) RESOLUTION OF DISAPPROVAL.—For the purposes of this section, the determination of the Director of the Office of National Climate Change Policy under subsection (a) shall be considered to be a major rule (as defined in section 804(2) of title 5, United States Code) subject to the congressional disapproval procedure under section 802 of title 5, United States Code.

SEC. 1109. ENFORCEMENT.

If an entity that is required to report greenhouse gas emissions under section 1105(c)(1) or 1108 fails to comply with that requirement, the Attorney General may, at the request of the designated agencies, bring a civil action in United States district court against the entity to impose on the entity a civil penalty of not more than $25,000 for each day for which the entity fails to comply with that requirement.

SEC. 1110. REPORT ON STATUTORY CHANGES AND HARMONIZATION.

Not later than 3 years after the date of enactment of this Act, the President shall submit to Congress a report that describes any modifications to this title or any other provision of law that are necessary to improve the accuracy or operation of the database and related programs under this title.

SEC. 1111. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.

SUBMITTED AMENDMENT NO. 3146

(Purpose: To establish a national registry for accurate and reliable reports of greenhouse gas emissions, and to further encourage voluntary reductions in such emissions)

Strike Title XI and insert the following:

TITLE XI—NATIONAL GREENHOUSE GAS REGISTRY

SEC. 1101. SHORT TITLE.

This amendment may be cited as the ''National Climate Registry Initiative.''

SEC. 1102. PURPOSE.

The purpose of this title is to establish a new national greenhouse gas registry—

(1) to further encourage voluntary efforts, by persons and entities conducting business and other operations in the United States, to implement actions, projects and measures that reduce greenhouse gas emissions;

(2) to encourage such persons and entities to monitor and voluntarily report greenhouse gas emissions, direct or indirect, from their facilities, and to the extent practicable, from other types of sources;

(3) to adopt a procedure and uniform format for such persons and entities to establish and report voluntarily greenhouse gas emission baselines in connection with, and furtherance of, such reductions;

(4) to provide verification mechanisms to ensure for participants and the public a high level of confidence in accuracy and verifiability of reports made to the national registry;

(5) to encourage persons and entities, through voluntary agreement with the Secretary, to report annually greenhouse gas emissions from their facilities;

(6) to provide to persons or entities that engage in such voluntary agreements and reduce their emissions transferable credits which, inter alia, shall be available for use by such persons or entities for any incentive, market-based, or regulatory programs determined by the Congress in a future enactment to be necessary and feasible to reduce the risk of climate change and its impacts; and

(7) to provide for the registration, transfer and tracking of the ownership or holding of such credits for purposes of facilitating voluntary trading among persons and entities.

SEC. 1103. DEFINITIONS.

In this title—

(1) ''person'' means an individual, corporation, association, joint venture, cooperative, or partnership;

(2) ''entity'' means a public person, a Federal, interstate, State, or local governmental agency, department, corporation, or other publicly owned organization;

(3) ''facility'' means those buildings, structures, installations, or plants (including units thereof) that are on contiguous or adjacent land, are under common control of the same person or entity and are a source of emissions of greenhouse gases in excess for emission purposes of a threshold as recognized by the guidelines issued under this title;

(4) ''reductions'' means actions, projects or measures taken, whether in the United States or internationally, by a person or entity to reduce, avoid or sequester, directly or indirectly, emissions of one or more greenhouse gases;

(5) ''greenhouse gas'' means—

(A) an anthropogenic gaseous constituent of the atmosphere (including carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride) that absorbs and re-emits infrared radiation and influences climate; and

(B) an anthropogenic aerosol (such as black soot) that absorbs solar radiation and influences climate;

(6) ''Secretary'' means the Secretary of Energy;

(7) ''Administrator'' means the Administrator of the Energy Information Administration; and

(8) ''Interagency Task Force'' means the Interagency Task Force established under title X of this Act.

SEC. 1104. ESTABLISHMENT.

(a) IN GENERAL.—Not later than 1 year after the enactment of this title, the President shall, in consultation with the Interagency Task Force, establish a National Greenhouse Gas Registry to be administered by the Secretary through the Administrator in accordance with the applicable provisions of this title, section 205 of the Department of Energy Act (42 U.S.C. 7135) and other applicable provisions of that Act (42 U.S.C. 7101, et seq.).

(b) DESIGNATION.—Upon establishment of the registry and issuance of the guidelines pursuant to this title, such registry shall thereafter be the depository for the United States of data on greenhouse gas emissions and emissions reductions collected from and reported by persons or entities with facilities or operations in the United States, pursuant to the guidelines issued under this title.

(c) PARTICIPATION.—Any person or entity conducting business or activities in the United States may, in accordance with the guidelines established pursuant to this title, voluntarily report its total emissions levels and register its certified emissions reductions with such registry, provided that such reports—

(1) represent a complete and accurate inventory of emissions from facilities and operations within the United States and any domestic or international reduction activities; and

(2) have been verified as accurate by an independent person certified pursuant to guidelines developed pursuant to this title, or other means.

SEC. 1105. IMPLEMENTATION.

(a) GUIDELINES.—Not later than 1 year after the date of establishment of the registry pursuant to this title, the Secretary shall, in consultation with the Interagency Task Force, issue guidelines establishing procedures for the administration of the national registry. Such guidelines shall include—

(1) means and methods for persons or entities to determine, quantify, and report by appropriate and credible means their baseline emissions levels on an annual basis, taking into consideration any reports made by such participants under past Federal programs;

(2) procedures for the use of an independent third-party or other effective verification process for reports on emissions levels and emissions reductions, using the authorities available to the Secretary under this and other provisions of law and taking into account, to the extent possible, costs, risks, the voluntary nature of the registry, and other relevant factors;

(3) a range of reference cases for reporting of project-based reductions in various sectors, and the inclusion of benchmark and default methodologies and practices for use as reference cases for eligible projects;

(4) safeguards to prevent and address reporting, inadvertently or otherwise, of some or all of the same greenhouse gas emissions or reductions by more than one reporting person or entity and to make corrections and adjustments in data where necessary;

(5) procedures and criteria for the review and registration of ownership or holding of all or part of any reported and independently verified emission reduction projects, actions and measures relative to such reported baseline emissions level;

(6) measures or a process for providing to such persons or entities transferable credits with unique serial numbers for such verified emissions reductions; and

(7) accounting provisions needed to allow for changes in registration and transfer of ownership of such credits resulting from a voluntary private transaction between persons or entities, provided that the Secretary is notified of any such transfer within 30 days of the transfer having been effected either by private contract or market mechanism.

(b) CONSIDERATION.—In developing such guidelines, the Secretary shall take into consideration—

(1) the existing guidelines for voluntary emissions reporting issued under section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b)), experience in applying such guidelines, and any revisions thereof initiated by the Secretary pursuant to direction of the President issued prior to the enactment of this title;

(2) protocols and guidelines developed under any Federal, State, local, or private voluntary greenhouse gas emissions reporting or reduction programs;

(3) the various differences and potential uniqueness of the facilities, operations and business and other relevant practices of persons and entities in the private and public sectors that may be expected to participate in the registry;

(4) issues, such as comparability, that are associated with the reporting of both emissions baselines and reductions from activities and projects; and

(5) the appropriate level or threshold emissions applicable to a facility or activity of a person or entity that may be reasonably and cost effectively identified, measured and reported voluntarily, taking into consideration different types of facilities and activities and the de minimis nature of some emissions and their sources; and

(6) any other consideration the Secretary may deem appropriate.

(c) EXPERTS AND CONSULTANTS.—The Secretary, and any member of the Interagency Task Force, may secure the services of experts and consultants in the private and nonprofit sectors in accordance with the provisions of section 3109 of title 5, United Sates Code, in the areas of greenhouse gas measurement, certification, and emissions trading. In securing such services, any grant, contract, cooperative agreement, or other arrangement authorized by law and already available to the Secretary or the member of the Interagency Task Force securing such services may be used.

(d) TRANSFERABILITY OF PRIOR REPORTS.—Emissions reports and reductions that have been made by a person or entity pursuant to section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b)) or under other Federal or State voluntary greenhouse gas reduction programs may be independently verified and registered with the registry using the same guidelines developed by the Secretary pursuant to this section.

(e) PUBLIC COMMENT.—The Secretary shall make such guidelines available in draft form for public notice and opportunity for comment for a period of at least 90 days, and thereafter shall adopt them for use in implementation of the registry established pursuant to this title.

(f) REVIEW AND REVISION.—The Secretary, through the Interagency Task Force, shall periodically thereafter review the guidelines and, as needed, revise them in the same manner as provided for in this section.

SEC. 1106. VOLUNTARY AGREEMENTS.

(a) IN GENERAL.—In furtherance of the purposes of this title, any person or entity, and the Secretary, may voluntarily enter into an agreement to provide that—

(1) such person or entity (and successors thereto) shall report annually to the registry on emissions and sources of greenhouse gases from applicable facilities and operations which generate net emissions above any de minimis thresholds specified in the guidelines issued by the Secretary pursuant to this title;

(2) such person or entity (and successors thereto) shall commit to report and participate in the registry for a period of at least 5 calendar years, provided that such agreements may be renewed by mutual consent;

(3) for purposes of measuring performance under the agreement, such person or entity (and successors thereto) shall determine, by mutual agreement with the Secretary—

(A) pursuant to the guidelines issued under this title, a baseline emissions level for a representative period preceding the effective date of the agreement; and

(B) emissions reduction goals, taking into consideration the baseline emissions level determined under subparagraph (A) and any relevant economic and operational factors that may affect such baseline emissions level over the duration of the agreement; and

(4) for certified emissions reductions made relative to the baseline emissions level, the Secretary shall provide, at the request of the person or entity, transferable credits (with unique assigned serial numbers) to the person or entity which, inter alia—

(A) can be used by such person or entity towards meeting emissions reductions goals set forth under the agreement;

(B) can be transferred to other parties or entities through a voluntary private transaction between persons or entities; or

(C) shall be applicable towards any incentive, market-based, or regulatory programs determined by the Congress in a future enactment to be necessary and feasible to reduce the risk of climate change and its impacts.

(b) PUBLIC NOTICE AND COMMENT.—At least 30 days before any agreement is final, the Secretary shall give notice thereof in the Federal Register and provide an opportunity for public written comment. After reviewing such comments, the Secretary may withdraw the agreement or the parties thereto may mutually agree to revise it to finalize it without substantive change. Such agreement shall be retained in the national registry and be available to the public.

(c) EMISSIONS IN EXCESS.—In the event that a person or entity fails to certify that emissions from applicable facilities are less than the emissions reduction goals contained in the agreement, such person or entity shall take actions as necessary to reduce such excess emissions, including—

(1) redemption of transferable credits acquired in previous years if owned by the person or entity;

(2) acquisition of transferable credits from other persons or entities participating in the registry through their own agreements; or

(3) the undertaking of additional emissions reductions activities in subsequent years as may be determined by agreement with the Secretary.

(d) NO NEW AUTHORITY.—This section shall not be construed as providing any regulatory or mandate authority regarding reporting of such emissions or reductions.

SEC. 1107. MEASUREMENT AND VERIFICATION.

(a) IN GENERAL.—The Secretary of Commerce, through the National Institute of Standards and Technology and in consultation with the Secretary of Energy, shall develop and propose standards and practices for accurate measurement and verification of greenhouse gas emissions and emissions reductions. Such standards and best practices shall address the need for—

(1) standardized measurement and verification practices for reports made by all persons or entities participating in the registry, taking into account—

(A) existing protocols and standards already in use by persons or entities desiring to participate in the registry;

(B) boundary issues such as leakage and shifted utilization;

(C) avoidance of double-counting of greenhouse gas emissions and emissions reductions; and

(D) such other factors as the panel determines to be appropriate;

(2) measurement and verification of actions taken to reduce, avoid or sequester greenhouse gas emissions;

(3) in coordination with the Secretary of Agriculture, measurement of the results of the use of carbon sequestration and carbon recapture technologies, including—

(A) organic soil carbon sequestration practices;

(B) forest preservation and re-forestration activities which adequately address the issues of permanence, leakage and verification; and

(4) such other measurement and verification standards as the Secretary of Commerce, the Secretary of Agriculture, and the Secretary of Energy shall determine to be appropriate.

(b) PUBLIC COMMENT.—The Secretary of Commerce shall make such standards and practices available in draft form for public notice and opportunity for comment for a period of at least 90 days, and thereafter shall adopt them, in coordination with the Secretary of Energy, for use in the guidelines for implementation of the registry as issued pursuant to this title.

SEC. 1108. CERTIFIED INDEPENDENT THIRD PARTIES.

(a) CERTIFICATION.—The Secretary of Commerce shall, through the Director of the National Institute of Standards and Technology and the Administrator, develop standards for certification of independent persons to act as certified parties to be employed in verifying the accuracy and reliability of reports made under this title, including standards that—

(1) prohibit a certified party from themselves participating in the registry through the ownership or transaction of transferable credits recorded in the registry;

(2) prohibit the receipt by a certified party of compensation in the form of a commission where such party receives payment based on the amount of emissions reductions verified; and

(3) authorize such certified parties to enter into agreements with persons engaged in trading of transferable credits recorded in the registry.

(b) LIST OF CERTIFIED PARTIES.—The Secretary shall maintain and make available to persons or entities making reports under this title and to the public upon request a list of such certified parties and their clients making reports under this title.

SEC. 1109. REPORT TO CONGRESS.

Not later than 1 year after guidelines are issued for the registry pursuant to this title, and biennially thereafter, the President, through the Interagency Task Force, shall report to the Congress on the status of the registry established by this title. The report shall include—

(a) an assessment of the level of participation in the registry (both by sector and in terms of national emissions represented);

(b) effectiveness of voluntary reporting agreements in enhancing participation in the registry;

(c) use of the registry for emissions trading and other purposes;

(d) assessment of progress towards individual and national emissions reduction goals; and

(e) an inventory of administrative actions taken or planned to improve the national registry or the guidelines, or both, and such recommendations for legislative changes to this title or section 1605 of the Energy Policy Act of 1992 (42 U.S.C. 13385) as the President believes necessary to better carry out the purposes of this title.

SEC. 1110. REVIEW OF PARTICIPATION.

(a) IN GENERAL.—Not later than 5 years after the date of enactment of this title, the Director of the Office of National Climate Change Policy shall determine whether the reports submitted to the registry represent less than 60 percent of the national aggregate greenhouse gas emissions as inventoried

in the official U.S. Inventory of Greenhouse Gas Emissions and Sinks published by the Environmental Protection Agency for the previous calendar year.

(b) MANDATORY REPORTING.—If the Director of the Office of National Climate Change Policy determines under subsection (a) that less than 60 percent of such aggregate greenhouse gas emissions are being reported to the registry—

(1) all persons or entities, regardless of their participation in the registry, shall submit to the Secretary a report that describes, for the preceding calendar year, a complete inventory of greenhouse gas emissions (as reported at the facility level), including—

(A) the total quantity of each greenhouse gas emitted by such person or entity, expressed in terms of mass and in terms of the quantity of carbon dioxide equivalent;

(B) an estimate of the emissions from products manufactured and sold by such person or entity in the previous calendar year, determined over the average lifetime of those products; and

(C) such other categories of emissions as the Secretary determines by regulation to be practicable and useful for the purposes of this title, such as—

(i) direct emissions from stationary sources;

(ii) indirect emissions from imported electricity, heat, and steam;

(iii) process and fugitive emissions; and

(iv) production or importation of greenhouse gases; and

(2) each person or entity shall submit a report described in this section—

(A) not later than the earlier of—

(i) April 30 of the calendar year immediately following the year in which the Director of the Office of National Climate Change Policy makes the determination under subsection (a); or

(ii) the date that is 1 year after the date on which the Director of the Office of National Climate Change Policy makes the determination under subsection (a); and

(B) annually thereafter.

(c) EXEMPTIONS FROM REPORTING.—

(1) IN GENERAL.—A person or entity shall be required to submit reports under subsection (b) only if, in any calendar year after the date of enactment of this title—

(A) the total greenhouse gas emissions of at least 1 facility owned by the person or entity exceeds 10,000 metric tons of carbon dioxide equivalent greenhouse gas (or such greater quantity as may be established by a designated agency by regulation);

(B) the total quantity of greenhouse gas produced, distributed, or imported by the person or entity exceeds 10,000 metric tons of carbon dioxide equivalent greenhouse gas (or such greater quantity as may be established by a designated agency by regulation); or

(C) the person or entity is not a feedlot or other farming operation (as defined in section 101 of title 11, United States Code).

(2) ENTITIES ALREADY REPORTING.—A person or entity that, as of the date of enactment of this title, is required to report carbon dioxide emissions data to a Federal agency shall not be required to report that data again for the purposes of this title. Such emissions data shall be considered to be reported by the entity to the registry for the purpose of this title and included in the determination of the Director of the Office of National Climate Change Policy made under subsection (a).

(d) ENFORCEMENT.—If a person or entity that is required to report greenhouse gas emissions under this section fails to comply with that requirement, the Attorney General may, at the request of the Secretary, bring a civil action in United States district court against the person or entity to impose on the person or entity a civil penalty of not more than $25,000 for each day for which the entity fails to comply with that requirement.

(e) RESOLUTION OF DISAPPROVAL.—If made, the determination of the Director of the Office of National Climate Change Policy made under subsection (a) shall be considered to be a major rule (as defined in section 804(2) of title 5, United States Code) subject to the congressional disapproval procedure under section 802 of title 5, United States Code.

SEC. 1111. NATIONAL ACADEMY REVIEW.

Not later than 1 year after guidelines are issued for the registry pursuant to this title, the Secretary, in consultation with the Interagency Task Force, shall enter into an agreement with the National Academy of Sciences to review the scientific and technological methods, assumptions, and standards used by the Secretary and the Secretary of Commerce for such guidelines and report to the President and the Congress on the results of that review, together with such recommendations as may be appropriate, within 6 months after the effective date of that agreement.

Mr. REID. Mr. President, 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. DAYTON. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. DAYTON. Mr. President, I ask unanimous consent that I may be permitted to speak as in morning business for a period of up to 5 minutes.

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

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

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

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent the time that was used by the Senator from Minnesota be counted against the 30 hours.

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

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

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

AMENDMENT NO. 3256 TO AMENDMENT NO. 2917

Mr. NICKLES. Mr. President, I ask that amendment No. 3256 be considered.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES], for himself, Mr. BREAUX, and Mr. MILLER, proposes an amendment numbered 3256.

Mr. NICKLES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in Title II, insert the following:

SEC. . Not withstanding any other provision in this Act, ''3 cents'' shall be considered by law to be ''1.5 cents'' in any place ''3 cents'' appears in Title II of this Act.

Mr. NICKLES. The amendment I called up, sponsored by Senator BREAUX, Senator MILLER, Senator VOINOVICH, and myself, will reduce the penalty if a utility doesn't achieve the renewable standard that is set in the legislation.

The legislation says that 10 percent of the electricity produced has to be from renewable sources. Renewable sources are defined as wind and solar, biomass—interestingly enough, not hydro. That is a very difficult standard to achieve. I am not sure any State can achieve it now or any State will be able to achieve it in the future. We will have to see.

Varying States have different renewable standards. I am all in favor of that, whatever States want to decide. We are getting ready to have a Federal mandate that says: 10 percent of your power has to be from renewable sources. Most people think renewables is nonfossil fuel, but that is not the case here. We are talking about primarily wind, solar, and biomass. Nuclear fuel is not included. Hydro, or at least old hydro, is not included. But if you don't achieve that 10 percent standard, there is a penalty.

How do you get to the 10 percent? Let's say you do everything you can, but primarily most of the production in your State is fossil fuel. You run off coal or natural gas generators. And if you are short of the 10 percent, what do you do? Under the bill, you can buy it from other utilities, if they have surplus credits, or you can pay the Federal Government. You can pay the Government for the credits. You could call them credits. You could call them a tax. You could call them a penalty. But you have to pay, if you don't meet this 10 percent standard. Actually, the standard starts at 1 percent and it is phased up to 10 percent in the year 2019.

If you don't make the standard, you have to pay something. It is a tax. Your utility has to write a check to the Federal Government, a large check. In many cases, it could be hundreds of millions of dollars. In many cases, the cost to the utilities—and I will enter into the RECORD some statements from different utilities—could be billions of dollars, because they have to pay 3 cents per kilowatt hour for whatever they are short of this target we are getting ready to mandate.

How much is 3 cents per kilowatt hour? Most of us don't know. When we pay our utility bill, we don't know how much utilities really cost. The wholesale price of electricity right now, nationwide, is about 3 cents. If you don't meet the target, basically you have to

pay 100 percent of whatever you are short on renewables in electricity cost. That is a lot, for 10 percent of your power.

If you produce no electricity from the renewables, this bill is the equivalent of a 5-percent surcharge because you are paying in effect a 100-percent increase for that last 10 percent. If you average that over your entire cost, it is about a 5-percent increase in your utility bill.

I will tell you, few if any utilities will meet this standard in this bill, even those utilities that are very progressive and aggressive in trying to meet renewable standards and have renewable energy sources such as wind, solar, and biomass. Few are able to meet this standard that is in this bill. So you are going to have to buy these credits and pay a lot of money.

The essence of this amendment is, let's reduce that 3-cent penalty to a penny and a half. You might say, where did you get the penny and a half? It happens to be half of what is in the underlying bill, and it also happens to be half of what the Clinton administration proposed.

President Clinton, in 1999, proposed that we have a renewable standard. Incidentally, he didn't go up to 10 percent; he only went to 7.5 percent of your electricity would have to be renewable. He also said: If you don't meet that objective, the penalty will be a penny and a half. That is the cost of the credits.

Secretary Bill Richardson—many of us got to know him over the years and enjoyed working with him in Congress—when he was Secretary of Energy, that was the penalty, a penny and a half, not 3 cents.

So the amendment Senator BREAUX, Senator MILLER, Senator VOINOVICH, and I have is to reduce the penalty from 3 cents to a penny and a half. That sounds as if we are talking about pennies. We are talking about billions of dollars, because we are talking about, 10 percent of all the electricity that is produced in the United States must come from renewables, and if you don't make it, you have to pay this 3 cents per kilowatt hour.

What does that mean? I will cite a couple of letters. I have them from different companies and different States.

I will start with my State. Oklahoma Gas and Electric said the penalty under the bill, as written right now—their estimate is it would cost $794 million through the year 2020. We would cut that in half. We have almost every utility in the country supporting of this amendment. This is a rather large utility called Southern Company. I mentioned the largest one in my State, Oklahoma Gas and Electric. Southern Company, which is in several Southern States, said it would cost them from $676 million to $1.014 billion annually by the year 2020.

I hope my colleagues understand this. I have a letter I will also have printed in the RECORD from the president of Southern Company, one of the largest utilities in America that says the total cost across several states could be over a billion dollars—from $676 million up to over a billion dollars a year—if the 3-cent penalty stays in the bill. We would cut that in half under our amendment.

I could go on and on. Is it going to cost the utilities ultimately? Probably not. They are going to pass it, if they can; and I expect that they can. Residential consumers and industrial consumers will pay for it. Frankly, if industrial consumers are paying for it, they are going to pass that on, too.

If you want to set about an inflationary spiral, we are doing that. We are increasing utility costs if we allow the Daschle-Bingaman 3-cent penalty per kilowatt hour to stay in the bill. I think it should be zero. Senator KYL had an amendment to strike out the renewable section, but I am coming up with half a loaf. I am saying cut it in half. I am a legislator. If we can pass a bill half as damaging, I am willing to do it. If we can reduce the numbers by half, I think we will have made a big step in the right direction. Why in the world would we have a cap or a penalty higher than the Clinton administration proposed?

Incidentally, it didn't pass. Some people said we should not pass it because it costs too much.

Look at some of the other States that are involved. Kansas City Power and Light said it would cost over $300 million, and that is the current cap. We would cut that in half.

Different companies have used different ways of stating the costs. Pinnacle West in Arizona talks about it costing billions of dollars to comply. They even said it may have a residential rate increase of 28 percent.

In Pennsylvania, PP&L, which has facilities in Pennsylvania and Montana, estimates penalties at $178 million per year in 2006, growing to $260 million by 2020. The reason they start out low is the renewable section starts out low, at 1 percent, but it grows every year, up to the very expensive 10 percent by 2019.

Let me mention a couple letters, which I will enter into the RECORD, so that this won't just be little excerpts from my floor speech. This is a note from Allegany Energy. It says:

> The rates under the restructuring initiative to lower consumer costs may restrict Allegany Energy, a conservative—1 percent requirement would cost $13 million annually, and a 10 percent requirement would cost $135 million annually, assuming no growth in customer electricity consumption.

I think most people would assume the consumption would go up over that period of time. That is a very conservative estimate.

Exelon: I will read various segments of this:

> Meeting the Bingaman RPS amendment will cost our customers between $2.3 billion and $4.6 billion more than they would otherwise pay for electricity between 2005 and 2020.

I hope my colleagues have a chance to absorb some of these numbers. This is a very large utility, and they are primarily in Illinois and Pennsylvania. They said it could cost $4.6 billion if we don't change the Bingaman amendment. Our amendment says we will cut it in half. I hope the Senators from Pennsylvania, the Senators from Illinois, and others will stop and say, wait a minute, who pays for that? Are we really passing something where we know what we are doing? Are we going to mandate those cost increases on consumers?

Wait a minute, we are giving people a chance to cut it in half. That is what this amendment does. Listen to this comment made from Bill Richardson before a House committee in June 17 of 1999:

> To hold program costs down, the administration's proposal would allow electricity sellers to purchase credits from the Department of Energy at a cost of 1.5 cents per kilowatt hour. As a result, sellers would not be forced to pay excessive amounts for credits that are sold by other electricity providers that exceed the 7.5 percent RPS requirement.

This bill has a 10-percent requirement, and if you don't meet it, it says you have to pay 3 cents per kilowatt hour. As I have mentioned by a few examples, the cost is absolutely enormous.

I want to mention a couple others. This is a the Public Service Commission for the State of Florida:

> However, in order to mitigate the ''tax impact'' of this poorly conceived national program, we support the Nickles amendment to lower the amount of penalty from 3 cents to 1.5 cents per KWH. This would reduce the potential cost of this federal mandate on Florida ratepayers.

That is a copy of a letter to Senator GRAMM.

This is a note from American Electric Power. It says:

> AEP is joining in this effort with Allegany Energy, Console Energy, Peabody Energy, and the U.S. Mineworkers of America. AEP and Allegany are the two largest utilities in West Virginia and are responsible for all the electricity distributed in the State.

I will enter into the RECORD a letter from Southern Company. This is signed by Allen Franklin, chairman and president and CEO:

> The cumulative cost of the RPS mandate to Southern Company through the year 2020 will be from $3 billion to $6.5 billion. This does not include substantial transmission and interconnection costs for remote wind turbines located in the upper Midwest. . . .

I will enter this into the RECORD. That is a major company, covering several States, saying this will cost billions of dollars over the next 15 years. I just tell my colleagues that when we talk about a penalty of a penny and a half and 3 cents per kilowatt, that doesn't sound like much. When you multiply it times all the electricity and mandate that 10 percent of the electricity meet the standard and, if it doesn't, they have to pay this 3 cents—basically a 100-percent tax on electricity, equal to the value of 100 percent of wholesale cost of electricity—

you are talking about an enormous utility increase. We have a chance to mitigate that; we have a chance to reduce it by basically agreeing to the same standard that was proposed by the Clinton administration in 1999. I urge my colleagues to do so.

I ask unanimous consent to have the letters to which I referred printed in the RECORD.

There being no objection, the letters were ordered to be printed in the Record, as follows:

SOUTHERN COMPANY,
Atlanta, Georgia, April 16, 2002.

Hon. DON NICKLES,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR NICKLES: As the Senate continues its consideration of S. 517, the Daschle/Bingaman energy bill, I wanted to thank you for your continued efforts to improve the Renewable Portfolio Standard (RPS) mandate in the bill. This ill-advised policy will mandate the use of un-economic generation and is not practical in several regions of the nation.

In many parts of the country, the RPS mandate can not be achieved due to the lack of wind resources and the intermittent nature of solar energy. The requirement to purchase penalty credits under such circumstances equates to a tax on consumers in those regions with no resulting benefit for those same consumers. The cumulative cost of the RPS mandate to Southern Company through the year 2020 will be from 3 billion dollars to 6.5 billion dollars. This does NOT include substantial transmission and interconnection costs for remote wind turbines located in the upper Midwest, which is the likely location for such an option. Obviously these dramatic costs would increase the price of electricity to our customers and threaten their lifestyles and the economic health of their communities.

One way to reduce these costs would be to lower the 3-cents per kilowatt-hour penalty contained in the Bingaman RPS language. This penalty is double the 1.5-cents per kilowatt-hour renewable credit cost in a renewable portfolio standard proposed by the Clinton Administration. I understand you intend to offer an amendment to lower the RPS penalty to 1.5-cents per kilowatt-hour, and we will support you in that regard. This will not remove the negative impacts on our customers of an ill-advised RPS mandate, but it will at least lessen those costs significantly.

We appreciate your continued efforts to improve energy legislation as it moves through Congress.

Sincerely,

ALLEN FRANKLIN

OGE ENERGY CORP.,
Oklahoma City, OK, April 16, 2002.

Hon. BLANCHE L. LINCOLN,
Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR LINCOLN: On behalf of Oklahoma Gas & Electric (OG&E) I strongly urge your support of an amendment to be offered by Senator Don Nickles to reduce by half the cost to Arkansas consumers of the mandatory Renewable Portfolio Standard provision in the pending energy bill, S. 517. The Nickles amendment would reduce the cost of the renewable energy credit from 3 cents per kilowatt-hour to 1.5 cents per kw/hour.

Based on the year 2001 actual total retail sales and full implementation of the 10% RPS requirement, we calculate that it would cost our customers an additional $73 million per year, suggesting an increase of 5% in our retail rates. OG&E opposes such federal mandate on investor-owned utilities since it will skew the competitive playing field toward cooperatives and public power that have been unfairly exempted from the federal RPS mandate. The exemption of the coops and public power utilities is equivalent to a 5% penalty for our Company and a 5% windfall for coops and public power. Although we are opposed to renewable mandates, OG&E is willing to purchase power generated by renewable sources if customers desire to purchase it. But thus far, our customers in Arkansas and Oklahoma have not evidenced a willingness to purchase higher priced renewable power to justify our investment in these sources. Instead, our customers clearly prefer the highly reliable and much less expensive range of generation options that we currently offer. The RPS provision in the energy bill will force our Arkansas customers to pay more for a renewable product they do not yet want enough to pay for. In so doing, the RPS will raise costs to residential and business customers without countervailing benefit either to them or to the Fort Smith regional economy.

Senator Nickles' amendment would at least reduce the economic impact of the RPS provision by half. It makes real sense to me. I hope you will support Senator Nickles' effort. If you have any questions, please let me know.

Sincerely,

STEVEN E. MOORE,
Chairman, President and Chief Executive Officer.

PROGRESS ENERGY SERVICE COMPANY, LLC,
Raleigh, NC, April 22, 2002.

Senator DON NICKLES,
Senate Hart Building, U.S. Senate, Washington, DC.

DEAR SENATOR NICKLES: As the Senate continues debate on the energy bill (S. 517), I must share with you my company's strong conviction that this legislation is poor energy policy for our customers and the country. The bill represents an enormous policy reversal that gives important state jurisdiction directly to the federal government.

Progress Energy was formed in 2000 when Carolina Power & Light merged with Florida Progress. Through two subsidiaries, the company provides electricity to nearly three [2.8] million customers in the Carolinas and Florida by employing a diverse generation portfolio of more than 20,000 megawatts. Our service territory has enjoyed substantial growth based, in part, on our ability to produce reliable low-cost energy. We use the market to select the best fuel mix for energy production, a process that is grossly jeopardized by the mandated renewable portfolio standards (RPS).

Under the RPS cap of 3 c/kWh, between 2005 and 2020, Progress Energy's customers would be forced to absorb $3.5 billion in extra costs. This RPS mandate would eventually sidetrack economic growth. Additionally, the RPS could limit the benefits of emissions-free energy our customers currently enjoy since we use a large percentage of electricity generated with nuclear and hydropower.

Thank you for your interest and concern regarding the RPS amendment and please know that we would be very supportive of any relief you could give on this mandate.

Sincerely,

DAVID G. ROBERTS,
Director Federal Affairs.

STATE OF FLORIDA,
PUBLIC SERVICE COMMISSION,
Tallahassee, FL, April 22, 2002.

RE: S. 517, the Energy Bill

Hon. BOB GRAHAM,
U.S. Senator, Hart Senate Office Building, Washington, DC.

DEAR SENATOR GRAHAM: The Florida Public Service Commission (FPSC) appreciates the opportunity to provide comments on three areas of amendments to S. 517, the energy bill. These areas are: (1) The Renewable Portfolio Standards; (2) the Landrieu amendment on participant-funded transmission expansion; and (3) the amendments referred to as the consumer protection package.

(1) NICKLES AMENDMENT TO THE RENEWABLE PORTFOLIO STANDARDS SECTION

The FPSC continues to oppose the Federal Renewable Portfolio Standards. Florida utilities will have difficulty meeting the federal standards. We believe that state legislatures are best suited to set policies on renewable standards for their state. In fact, during the current legislative session, the Florida legislature directed the FPSC to complete a study on renewables by February 2003. A strict one-size-fits-all standard could put companies in the position of having to purchase credits from elsewhere or of being in noncompliance. The impact will ultimately be on the retail ratepayer. Again, we oppose the Federal Renewable Portfolio Standard. However, in order to mitigate the ''tax impact'' of this poorly-conceived national program, we support the Nickles amendment to lower the amount of the penalty from 3 cents to 1.5 cents per KWH. This would reduce the potential cost of this federal mandate on Florida ratepayers.

(2) LANDRIEU AMENDMENT ON ''PARTICIPANT-FUNDED TRANSMISSION EXPANSION''

We believe this amendment to place the costs of transmission expansion on the cost causer has merit, but we do have some concerns about the provisions included in the amendment. For example, there is a provision on market monitoring that possibly could be interpreted to view the Regional Transmission Organization as the primary market monitor. Surely, that is not the intention of the amendment. Moreover, the FPSC has initiated its own RTO proceeding to address a Florida-specific RTO. That proceeding may also address the entity appropriate to cover market monitoring. The language within that provision is positive regarding the RTO publicizing: (1) Projects that increase capacity or transfer capability of the transmission system, and (2) the tradeable transmission rights and costs associated with the project. Thus, perhaps the section could be revised to address only the ''RTO Publication of Information'' instead of ''Market Monitoring,'' or the section could be deleted. Thus, we believe the amendment has merit, but should be revised.

(3) CONSUMER PROTECTION PACKAGE

In general, the amendments, referred to as ''the Consumer Protection Package'' look superior to the language in S. 517, as amended by Senator Thomas. They create a standard on proposed mergers that they must ''advance the public interest'' which is a higher standard than ''consistent with the public interest.'' Also, the package expands the list of factors to be considered by FERC in reviewing mergers.

In addition, the amendments require public disclosure of transactions, and establish clear standards on affiliate transactions. Also, there would be access to utility holding company books and records. We see benefit to these provisions, and they are consistent with this Commission's Bedrock Principles on National Energy Policy.

We do want to raise a concern, however, that States not be preempted. In particular, there is the provision on market based rates which directs FERC to remedy market flaws

and abuses. To the extent that one of those remedies might be to require divestiture of a utility's assets, we believe the FERC should be required to consult with those state commissions that have statutory authority prior to ordering such a remedy. Thus, in general we commend the ''consumer protection'' package of amendments, but urge that any potentially preemptive language be closely scrutinized.

We appreciate your staff staying in close contact with FPSC staff, and hope this information is useful.

Sincerely,

LILA A. JABER,
Chairman.

GREAT PLAINS ENERGY,
Kansas City, MO, April 17, 2001.

Hon. DON NICKLES,
U.S. Senate, Washington, DC.

DEAR SENATOR NICKLES: On behalf of the employees of Great Plains Energy, including our regulated subsidiary Kansas City Power & Light, I am writing to express my appreciation for your leadership and support on an issue of great concern.

During the Senate's recent consideration of S. 517, the energy bill, you spoke about the adverse effect a renewable portfolio standard (RPS) would have on utilities and cited information from the Energy Information Administration (EIA) that the cost of purchasing credits in lieu of complying with a renewable mandate would cost KCPL $16 million—in your words, ''a pretty good hit.''

Unfortunately, EIA grossly understated the costs of a 10 percent mandate to KCPL, and ''the hit'' is much worse than that. We project the total costs of purchasing the credit to be more than $300 million over the 15-year period between 2005 and 2020, when the RPS would ramp up to the full 10 percent. For a company of our size, these costs are intolerable.

While we appreciate the need to diversify our energy mix, doing so by imposing a federal mandate that ignores the availability and cost-effectiveness of renewable resources is not sound public policy. In our area, wind energy, for example, certainly would not be competitive with fuels such as coal, oil, natural gas, or nuclear. That is why we strongly support your efforts to amend the RPS by reducing the credit cost from $0.03 per kWh to $0.015 per kWh. Even with the credit cut in half, we would still be saddled with extraordinary costs.

We pride ourselves on providing reliable and affordable electric service, yet the hidden tax imposed by the RPS may be felt by many who can ill afford higher electricity prices.

We appreciate your efforts to reduce the burden of the renewable energy mandate, and offer our assistance to enact a more reasonable approach.

Sincerely,

BERNIE BEAUDOIN.

AMERICAN CORN GROWERS ASSOCIATION,
Washington, DC, April 16, 2002.

Hon. JOHN B. BREAUX,
U.S. Senate, Washington, DC.

DEAR SENATOR BREAUX: I am writing to urge your support for the amendment that Senator Nickles plans to offer to the renewable portfolio standard of the energy bill, S. 517. Wind energy is fast becoming a major new ''crop'' for the farming and ranching community in many areas of the nation. The American Corn Growers Association (ACGA), has developed its Wealth From the Wind Program for farmers, and has strongly supported wind energy tax credits in the Energy Bill as well as other favorable legislative initiatives in the Energy Title of the Farm Bill. ACGA also supports a fair and equitable renewable portfolio standard (RPS) requiring a portion of the nation's energy to come from renewable sources. However, while we want to do everything we can to promote renewable production by farmers we must oppose undue mandates that will impose additional fuel costs on all rural consumers.

Senator Nickles' amendment will significantly reduce the cost of complying with the standard, and in turn protect rural America from excessive price increases for electricity, by cutting the energy credits from 3 cents per kilowatt-hour to 1.5 cents per kilowatt-hour.

As you know fuel prices have fluctuated wildly over the last two years and some regions have seen shortages of electricity. With the price of gasoline and diesel rising steadily now is not the time to add to these uncertainties.

We urge you to support the amendment offered by Senator Nickles.

Sincerely,

LARRY MITCHELL,
Chief Executive Officer.

MIDAMERICAN ENERGY HOLDINGS COMPANY,
Omaha Nebraska, April 11, 2002.

Hon. DON NICKLES,
Assistant Republican Leader, The Capitol, Washington, DC.

DEAR SENATOR NICKLES: Thank you for your continued support of the inclusion of electricity modernization provisions in the Senate energy bill. The bipartisan vote yesterday by the Senate to maintain the bill's electricity title was a great step forward.

With regard to your concerns about the renewable portfolio standard (RPS) in the Daschle/Bingaman energy bill, MidAmerican Energy Company has analyzed this proposal and developed estimates of the increase in costs that will result from enactment of the RPS. According to our preliminary calculations, implementing the RPS in S. 517 will begin increasing electricity costs for MidAmerican's regulated and competitive customers in 2007 by almost $600,000, with costs rising to more than $40 million in 2019.

Because of the comparatively high availability of affordable renewables in the region served by MidAmerican, we based our calculations on an estimated additional cost of 1.5 cents/kilowatt hour for qualifying sources. As a major developer of renewable electricity through our CE Generation subsidiary, MidAmerican believes that renewables can and should play an increasing role in the nation's electric generation mix, and the Company has expressed its support for Senator Bingaman's overall efforts to promote increased use of these resources. At the same time, MidAmerican has long believed that applying a reasonable cap on the cost of renewable credits would ensure that consumer costs do not escalate beyond those anticipated by RPS proponents.

I understand that you are holding ongoing discussions with Chairman Bingaman about the possibility of adjusting the cost cap in the underlying legislation to address some of your concerns about the RPS. We have contacted Chairman Bingaman's staff to express our hope that a mutually acceptable compromise can be reached on this issue. Thanks again for your inquiry and continued support for PUHCA repeal and other important industry modernizations.

Sincerely,

DAVID L. SOKL,
Chairman and Chief Executive Officer.

ELECTRIC CONSUMERS' ALLIANCE,
Indianapolis, IN, April 16, 2002.

Re: Consumer support for Sen. Nickles' Amendment to S. 517 regarding Renewable Portfolio Standards

DEAR SENATOR: On behalf of Electric Consumers' Alliance, its more than 300 member organizations representing all 50 states, and its tens of millions of residential and small business constituents, I am writing to indicate our strong support for Senator Nickles' proposed amendment to S. 517, the pending energy bill. Simply put, Sen. Nickles seeks to implement the mandatory Renewable Portfolio Standard in a way that is more equitable and cost effective for consumers across the nation by reducing the renewable energy credit from 3 cents to 1.5 cents per kilowatt-hour.

Renewable energy resources can and will play an important role in America's future energy infrastructure. As such, ECA supports their development, including the creation of subsidies to accelerate their deployment. At the same time, however, we are cognizant that our members will continue to expect a reliable, affordable supply of electricity over the next decade, and this will come predominantly from traditional resources. It is important to encourage the development of new resources, but this must be tempered against the more important goals of maintaining service that is reliable and affordable. There is a danger in transferring too much of the cost burden for development of these resources to consumers, rather than encouraging the market to work.

The mandated RPS requirement will not necessarily lessen the need for or reliance on traditional generation in the short-term. This is because of the intermittent nature of renewable resources. Consumers won't wait for the sun to shine or wind to blow to turn on appliances or flip the lights. The renewable credits that are to be paid under S. 517 will likely be an adder to the cost of electricity for consumers. As a result, these credits—while well-intentioned—will almost certainly have a direct impact on raising the price of electricity for many Americas (assuming reliability is not compromised, which we certainly do not advocate).

The Nickles proposal is a reasonable attempt to mitigate the impact of the almost certain consumer price hike that will be caused by mandated RPS. At a time when energy affordability is an issue for a growing number of residential and small business consumers, it is an appropriate balancing of the interests at stake. If consumers are to shoulder the burden for development of renewable resources through credits, which S. 517 requires, then that cost burden should be mitigated to more reasonable levels. Sen. Nickles' proposal to reduce this impact by reducing the credit from 3 cents to 1.5 cents per kilowatt hour is a reasonable compromise. It deserves your support.

Thank you for your kind consideration.

ROBERT K. JOHNSON,
Executive Director.

April 18, 2002.

Hon. DON NICKLES,
Hon. JOHN B. BREAUX,
U.S. Senate, Washington, DC.

DEAR SENATOR NICKLES AND SENATOR BREAUX: The undersigned associations thank you for your leadership in offering your amendment to reduce the costs of the renewable portfolio standard (RPS) contained in the pending Daschle/Bingaman amendment to the Energy Policy Act of 2002 (S. 517).

Your amendment would make a modest, but economically critical, change to the cost cap aspect of the RPS program. The current RPS provisions mandate that an increasing

percentage of electricity sold be generated from renewable resources. The RPS program further provides that those electricity generators that cannot economically achieve the required level of generation using renewable energy sources can purchase ''credits'' from the Department of Energy to meet their shortfall. The bill price for these credits is three cents per kilowatt hour. This credit price is intended to act as a cap on the cost increases that will result as demand for renewable power increases in response to the RPS requirement.

Unfortunately, this three-cent credit price is simply set too high. Current wholesale electricity prices are only slightly above three cents per kilowatt hour in most areas of the country. With a three-cent credit, the result will be that in most areas of the country the cost of electricity mandated by the RPS provision could be almost double the current wholesale cost of electricity. These higher costs will be passed on to businesses and homeowners across the country.

Your amendment would halve the credit price to one and one-half cents per kilowatt hour. This is the same price set by the Clinton Administration in its RPS proposals made in 1999. Consumers will still pay more for electricity, but the cost to consumers will be only half as much as it would be with a three cent cost cap. Thus, the Nickles/Breaux amendment would reduce the overall cost of the RPS provision.

Your amendment will ensure that businesses and homeowners alike will have more affordable electricity supplies in the future; reduce the economic costs of the federal renewable portfolio standard program in the energy bill; and to promote economic growth and prosperity for all Americans.

Sincerely,

Alliance for Competitive Electricity, American Chemistry Council, American Gas Association, American Iron and Steel Institute, American Petroleum Institute.

American Portland Cement Association, Associated Petroleum Industries of Pennsylvania, Association of American Railroads, Carpet and Rug Institute, Coalition for Affordable and Reliable Energy.

Edison Electric Institute, Electric Consumers Alliance, Electricity Consumers Resource Council, Greater Raleigh [NC] Chamber of Commerce, Indian River [FL] Chamber of Commerce.

International Association of Drilling Contractors, Manhattan [NY] Chamber of Commerce, Massachusetts Petroleum Council, Metropolitan Evansville [IN] Chamber of Commerce, Missouri Oil Council.

Naperville [IL] Chamber of Commerce, National Association of Manufacturers, National Electrical Manufacturers Association, National Federation of Independent Business, National Lime Association.

National Mining Association, National Ocean Industries Association, Natural Gas Supply Association, Nebraska Restaurant Association, Nevada Hotel & Lodging Association.

Nevada Restaurant Association, Nuclear Energy Institute, Oklahoma State Chamber of Commerce & Industry, Stowe [VT] Area Association, Tacoma-Pierce County [WA] Chamber of Commerce, U.S. Chamber of Commerce.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. Mr. President, I did not want to speak if the chairman wanted to speak at this time, but in the absence of his desire to speak at this particular moment, I will make a few comments on the Nickles-Breaux amendment.

I have joined the Senator from Oklahoma in cosponsoring this amendment. This is a good amendment. It is good for consumers, certainly, it is good for the renewable energy industry in this country, and it is also good for the traditional suppliers of energy in this country.

Let me state at the very beginning that I support the so-called renewable portfolio standard. If I were in Louisiana, I would try to explain it by saying it is a requirement of the Federal Government that power companies have to look for renewable sources of energy in producing energy in this country.

What do we mean by that? Windmill power, for instance, biomass power, renewable alternative forms of energy that should be encouraged in this country. I am for that. I am from a traditional oil-and-gas-producing State, but I found out that we also have one of the largest manufacturers of windmills in Louisiana for the production of energy through wind power. That makes sense. It is not going to solve all of our problems, but it can contribute to a proper mix of renewable energy, as well as traditional forms of energy.

We have a substantial number of tax credits in this energy bill coming from our Finance Committee to encourage these alternative sources of energy. As an example, there is already in the legislation a 1.7 cent production tax credit to be received by wind and biomass producers. Mr. President, 1.7 cents per kilowatt is a lot when one considers that the wholesale price of energy is about 3 cents a kilowatt. When we are giving people who produce alternative sources of energy a 1.7 cent per kilowatt subsidy, that is significant. The person who produces those windmills in Louisiana are going to say: Wow, look, if I get a 1.7 cent per kilowatt tax credit, this is a good deal. People are going to want to buy power from windmill producers if it means 1.7 cents less per kilowatt than the ordinary regular 3 cent per kilowatt wholesale price of energy in this country. The legislation, as it is, encourages these alternative sources of energy through the Tax Code.

This is the second issue we are talking about right now. The legislation also requires energy producers to reach a certain standard, a percentage, required by Congress using these alternative sources of energy by the year 2019. The legislation currently says 10 percent of a power company's production in the year 2019 shall come from these alternative sources of energy. Some people wanted it at 20 percent. It is down to 10 percent. I support that. That is an achievable goal that power companies can reach, especially if we give them a 1.7 cent per kilowatt subsidy to encourage them to do it. That is good public policy.

The concern is there is an additional subsidy that is proposed in the legislation, and this is what the Nickles-Breaux amendment addresses. The legislation says, if you do not reach that 10-percent goal of using alternative sources of renewable energy, we are going to, in essence, penalize you 3 cents per kilowatt; that you are going to have to make up that 10-percent goal by purchasing power from other producers that have met that goal or purchasing power from the Department of Energy through tax credits, and you are going to have to pay up to 3 cents per kilowatt for that extra energy you will be required to buy from other companies that have met that standard.

What does that mean in the real world, to the person in their home who turns on the light switch every day and is concerned about the cost of electricity? What it means is if you add the 3 cents plus the 1.7 cent tax credit, you are talking about a huge subsidy which I think is far more than it needs to be.

The problem is that if they are required to purchase that tax credit from the Department of Energy at 1.5 cents per kilowatt hour, they could be looking at doubling the cost of electricity per kilowatt hour.

The concern I have is, who is going to pay for this? It is not going to be the power companies. If they have to purchase additional electric tax credits at 3 cents a kilowatt, they are just going to pass the cost on to the consumer, back to the person in the house who flicks the switch. That person is going to pay not 3 cents but double that price per kilowatt for the electricity they use.

Power companies are going to pass it through, and in a deregulated market they are going to add it to their bill at the end of the month. In a regulated market, they are going to go to the public service commission and say: Look, we are having to pay 3 cents more per kilowatt and we want it to be passed on to our rate base; we are just going to charge you 3 cents a kilowatt more than you are paying now. You are already paying 3 cents, so we are going to pay 3 cents more.

That is too much. We do not need more incentives than are necessary.

The tax credit of 1.7 cents per kilowatt hour and the Nickles-Breaux amendment with a penalty, in essence, of another 1.5 cents is a substantial incentive to encourage the development of what we call the renewable portfolio standard on the use of alternative sources of energy.

It is interesting. I have a letter from the Electric Consumers' Alliance which says:

On behalf of Electric Consumers' Alliance, its more than 300 member organizations representing all 50 states, and its tens of millions of residential and small business constituents, I am writing to indicate our strong support for Senator NICKLES' proposed amendment to S. 517, the pending energy bill.

The only disagreement now is the Nickles-Breaux amendment. But the support from consumers is clear. Support from people who provide electricity is very clear. They support it.

The simple fact is that, when put together, the credit price of 1.5 cents, coupled with the tax credit of 1.7 cents, means consumers and taxpayers will be providing a subsidy to wind power and to these biomass producers at a level of 3.2 cents. That is currently above the wholesale cost of power. That is a huge subsidy and incentive to developing sources of power.

With the Nickles-Breaux amendment, we will still have a substantial subsidy, but it will be at a less cost to taxpayers and consumers of electric power. Bear in mind, every time we add 1 cent or half a cent, it is going to be passed on to the consumers of electricity in this country.

The Nickles-Breaux amendment is a good approach and one that should be supported.

I ask unanimous consent to have printed in the RECORD the letter from the Electric Consumers' Alliance, to which I referred.

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

ELECTRIC CONSUMERS' ALLIANCE,
Indianapolis, IN, April 16, 2002.

Re Consumer support for Sen. Nickles' Amendment to S. 517 regarding Renewable Portfolio Standards.

DEAR SENATOR: On behalf of Electric Consumers' Alliance, its more than 300 member organizations representing all 50 states, and its tens of millions of residential and small business constituents, I am writing to indicate our strong support for Senator Nickles' proposed amendment to S. 517, the pending energy bill. Simply put, Sen. Nickles seeks to implement the mandatory Renewable Portfolio Standard in a way that is more equitable and cost effective for consumers across the Nation by reducing the renewable energy credit from 3 cents to 1.l5 cents per kilowatt-hour.

Renewable energy resources can and will play an important role in America's future energy infrastructure. As such, ECA supports their development, including the creation of subsidies to accelerate their deployment. At the same time, however, we are cognizant that our members will continue to expect a reliable, affordable supply of electricity over the next decade, and this will come predominantly from traditional resources. It is important to encourage the development of new resources, but this must be tempered against the more important goals of maintaining service that is reliable and affordable. There is a danger in transferring too much of the cost burden for development of these resources to consumers, rather than encouraging the market to work.

The mandated RPS requirement will not necessarily lessen the need for or reliance on traditional generation in the short-term. This is because of the intermittent nature of renewable resources. Consumers won't wait for the sun to shine or wind to blow to turn on appliances or flip on lights. The renewable credits that are to be paid under S. 517 will likely be an adder to the cost of electricity for consumers. As a result, these credits—while well-intentioned—will almost certainly have a direct impact on raising the price of electricity for many Americans (assuming reliability is not compromised, which we certainly do not advocate).

The Nickles proposal is a reasonable attempt to mitigate the impact of the almost certain consumer price hike that will be caused by mandated RPS. At a time when energy affordability is an issue for a growing number of residential and small business consumers, it is an appropriate balancing of the interests at stake. If consumers are to shoulder the burden for development of renewable resources through credits, which S. 517 requires, then that cost burden should be mitigated to more reasonable levels. Sen. Nickles' proposal to reduce this impact by reducing the credit from 3 cents to 1.5 cents per kilowatt hour is a reasonable compromise. It deserves your support.

Thank you for your kind consideration.

ROBERT K. JOHNSON,
Executive Director.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I will be very brief. I wish to recognize the effort by Senator NICKLES to remind us all of the obligation we have with regard to the cost of renewables. We have had an extended debate previously. This amendment obviously would change the fee and the renewable portfolio standard from 3 cents to 1.5 cents.

We have already seen the estimate by the Energy Information Administration, from the Department of Energy, relative to the calculation of what a 3-cent renewable would cost the economy and the consequence to the ratepayers, $88 billion over the next 20 years. Changing the credit from 3 cents to 1.5 cents will save about $44 billion through the year 2020.

I urge my colleagues to support the amendment.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I will take a few minutes to respond to the comments that have been made and to oppose the amendment that my colleague from Oklahoma has offered.

First, to put this in perspective for Senators, this is the fourth amendment we have seen that is designed to either eliminate or dramatically weaken the renewable portfolio standard we have in the bill. There were three others we voted on earlier that were not successful. A majority of Senators did not favor weakening the standard, and accordingly those amendments were not successful.

I think the structure we have in the bill is important if we are going to actually accomplish the purpose of bringing renewable technologies into use in this country, and that is the purpose of the renewable portfolio standard. What we are saying in the renewable portfolio standard is each utility is directed to begin, starting in the year 2005, to produce or obtain some of the power that it sells from renewable sources. They do not have to produce it from those sources, but they have to obtain it from those sources.

We are saying you do not have to do anything this year, you do not have to do anything next year, you do not have to do anything the next year, but in the year 2005 you have to achieve 1 percent. One percent of the power you sell must come from renewable sources.

There are obvious ways that one can go about this. First, one can add some renewable power generation capability to the mix of sources for generating power. That is one option. That is, of course, what we are intending to facilitate and to incentivize with this provision.

A second thing that can be done is if one does not want to add it themselves, they can contract with someone who has that power or who is willing to provide that power from renewable sources. That is a second option.

A third option, under the bill, the way we have it drafted, is one can buy a credit from somebody who does have more than the 1 percent—and there are a lot of utilities today that are in a position, beginning in the year 2005, to try to sell their credits. That is good. We are providing for that. We are saying, OK, if a particular utility does not want to either produce the power from renewable sources or buy the power, someone who is producing it from renewable sources can then go buy a credit.

The provision we have in the bill is patterned after the provision in the Texas renewable portfolio standard legislation that President Bush signed into law, and that has been acclaimed by all as a model kind of a bill. It has had great success in Texas in encouraging more use of renewables and diversifying the supplies of energy upon which they depend.

What that Texas provision said was we would not charge 3 cents per credit. What we charge in Texas is 5 cents per credit. That is what President Bush signed into law, in Texas, when he was Governor of Texas. It would either be 5 cents per credit or 200 percent of the average price of traded credits, whichever is less, so that if one could not go ahead and buy the credit from someone who is producing power, who has an extra credit, then as sort of a last option, they could go to the State of Texas and say, OK, I will pay 5 cents per credit or I will pay 200 percent of the tradable price of credits at this time.

What has the tradable price of credits turned out to be in Texas? It is five-tenths of 1 cent. Half of a cent is the tradable price of credits today in Texas.

So essentially what the Texas provision says is that one would have to pay 200 percent of the trading price for credits, which would be a full cent, so 200 percent of the half cent would be a full cent, and that would be the price that would have to be paid to the State of Texas to get a credit; not the 5 cents but the 1 cent. That is under their provision.

Mr. NICKLES. Will the Senator yield?

Mr. BINGAMAN. Let me finish my comments and then I will be glad to yield for a question.

We took that provision and we said, let's do the same thing at the Federal level and try to say we do not need to have a 5-cent credit; let us have a 3-cent credit, but let us also put that

provision in 3 cents or 200 percent of the average price of traded credit, whichever is less.

So if, in fact, the same thing happens nationally that has happened in Texas, which I think it likely would—credits would be trading for substantially less than the 3 cents—then it is very likely the credits that would be purchased from the Government, if a utility decided to go that step and purchase credits from the Government, would be substantially cheaper.

All of this, to some extent, is estimating where we think things will be once this legislation becomes law, if it does become law. I am glad to join with my colleague from Oklahoma or any other Senator in urging the Energy Information Agency to update their models, update their studies, and give us good information about what the right amount of credit ought to be. I am not certain 3 cents is the right amount, but it seems like the right amount based on what we know today.

Based on the review of the numbers of different economic analyses, we have determined that 5 cents is too much. We have also determined that the 1.5 cents is probably too little. So our estimate is the 3 cents is about where it ought to be.

The reason we think it ought to be at 3 cents is because we believe all of the different types of renewable energy ought to be encouraged to be developed under this proposal.

We have a chart, which I would like to put up, to make the point. The renewable portfolio standard requirement can be met; renewable energy can be generated from any of a variety of sources. The main ones we think about are biomass and biofuels resources, solar insulation resources, geothermal resources, and wind resources. Those are the four logical areas.

The concern is that if we lower the cost of this credit too much, the price of this credit too much, that this will skew away from the use of several of these and wind up favoring one over the others. In that regard, let me cite a letter to my colleagues. This is a letter directed to all Senators, I believe. This was dated April 18 and it is from a large group of organizations. It is from the Alliance for Affordable Energy, Louisiana; American Bioenergy Association; Citizen Action Coalition of Indiana; Citizen Action/Illinois; Dakota Resource Council; Hoosier Environmental Council, Iowa Citizen Action Network; Iowa SEED Coalition; I-Renew, Iowa; Michigan Environmental Council; Minnesotans for an Energy-Efficient Economy; North Dakota SEED. There are a whole range of organizations that have signed on to this letter.

Their letter says:

The undersigned environmental, consumer, and industry groups urge you to oppose an amendment that would be offered by Senator NICKLES to further weaken the renewable portfolio standard contained in Senate bill S. 517. The Nickels amendment is the latest in a sustained attempt by power companies to undermine efforts to diversify America's energy supply with clean renewable energy.

Then they go on to say further down in the letter:

Under a lower priced cap—

And that is what Senator NICKLES is recommending here, 1.5 cents—

only the very lowest-cost renewable energy technologies can benefit from the RPS—primarily wind power at the very best sites. Biomass, geothermal, and solar would be at a significant disadvantage to meet this standard.

That is three of the four on this chart.

They say biomass would be a substantial disadvantage; solar, geothermal. The Nickles amendment would reduce benefits to Western States with good geothermal resources, to the Midwest, Southeast, and Northeast that have good biomass resources, and reduce benefits to all other States with good solar resources.

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

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

APRIL 18, 2002.

DEAR SENATOR: The undersigned environmental, consumer, and industry groups urge you to oppose an amendment that may be offered by Senator Don Nickles to further weaken the renewable portfolio standard (RPS) contained in Senate Energy Bill (S. 517).

The Nickles amendment is the latest in a sustained attempt by power companies to undermine efforts to diversify America's energy supply with clean renewable energy. The Nickles amendment would reduce the cost cap for procuring renewable energy credits under the RPS from 3 cents per kilowatt-hour to 1.5 cents per kilowatt-hour. This provision would:

Reduce the number of technologies and states that would benefit from the RPS—states with biomass, geothermal and solar resources would be especially disadvantaged;

Reduce the amount of renewable energy developed by encouraging companies to pay a penalty rather than developing or procuring more renewable energy; and

Undermine the RPS competitive mechanism and potentially even increase costs to consumers.

The Nickles amendment would reduce diversity of technologies and states that benefit from the RPS.—Under a lower price cap, only the very lowest-cost renewable energy technologies can benefit from the RPS—primarily wind power at the very best sites. Biomass, geothermal and solar would be at a significant disadvantage to meet the standard. The Nickles amendment would therefore reduce benefits to Western states with good geothermal resources; reduce benefits to the Midwest, Southeast and Northeast states which have good biomass resources, and reduce benefits to all other states with good solar resources.

The Nickles amendment would reduce the amount of renewable energy developed.—An Energy Information Administration (EIA) study of a 1.5-cent price cap (in a stronger RPS than the Bingaman proposal) found that it could reduce the amount of new renewable energy generated by the RPS by 84%. (AEO 2000)

As Governor of Texas, President Bush signed a RPS law that included a 5-cent per kWh price cap for renewable energy credits. That law is working well and is one of the most successful examples of a state RPS in existence today. The Bingaman 3-cent price cap represents a reasonable compromise between the 1.5 cent price cap proposed in the 1999 Clinton RPS and the 5 cent price cap signed by President Bush as Governor of Texas.

The Nickles amendment would undermine the RPS competitive mechanism and potentially even increase costs to consumers.—The RPS is designed to create competition among many renewable energy technologies to reduce their costs. EIA also found that it would create new competition for fossil fuels—reducing fossil fuel prices for electricity generators and consumers. According to the most recent EIA analysis, these reduced prices will save energy consumers over $13 billion through 2020.

By setting the price cap too low, the Nickles amendment would reduce competition among many types of renewable energy. It would reduce the total amount of renewable energy developed, undermining the potential of renewable energy to restrain fossil fuel price increases. Electric companies would have to buy credits from DOE for 1.5 cents, but without new renewables necessarily being developed. Therefore, the Nickles amendment could actually increase electricity prices.

Please don't believe the industry's claim that the RPS will cost too much. The Bush Administration's EIA found that a 10% RPS would save consumers money. Please reject the Nickles amendment and any other weakening amendments, and preserve the diversity, environmental and consumer benefits of the Daschle/Bingaman RPS.

Sincerely,

Alliance for Affordable Energy, Louisiana.
American Bioenergy Association.
Citizen Action Coalition of Indiana.
Citizen Action/Illinois.
Dakota Resource Council.
Environmental & Energy Study Institute.
Environmental Law & Policy Center of the Midwest.
Hoosier Environmental Council.
Iowa Citizen Action Network.
Iowa SEED Coalition.
I-Renew, Iowa.
Michigan Environmental Council.
Minnesota Project.
Minnesotans for an Energy-Efficient Economy.
National Environmental Trust.
Natural Resources Defense Council.
North Dakota SEED.
Renewable Northwest Project.
Sierra Club.
Solar Energy Industry Association.
Southern Alliance for Clean Energy.
Union of Concerned Scientists.
U.S. Public Interest Research Group.

Mr. NICKLES. Will the Senator yield?

Mr. BINGAMAN. I am happy to yield.

Mr. NICKLES. Did we have a hearing on any proposal to have this penalty?

Mr. BINGAMAN. I don't believe there was a specific hearing on it, and that is why I have suggested we request the Energy Information Agency to update their studies and recommend whether they think this is the appropriate level or not. We certainly would have time to do that between now and any conference with the House of Representatives on this bill. If there is a need to make an adjustment to come in line with what the Energy Information Agency recommends, I would be glad to work with my colleagues to try to do that in the conference.

Mr. NICKLES. Will the Senator yield?

Mr. BINGAMAN. I am happy to yield.

Mr. NICKLES. Did we have a hearing on the renewable portfolio standards as proposed by the Senator in this bill, period?

Mr. BINGAMAN. Mr. President, we have had a hearing on the subject of renewable energy and renewable portfolio standards, not on the specific language in the bill.

Mr. NICKLES. In the last 2 years, did we have a hearing on a mandate of 10 percent and a cost of 3 cents?

Mr. BINGAMAN. Mr. President, I don't know that we had a hearing on a specific level of required mandate or specific level of cost of credit. I don't believe we did.

Mr. NICKLES. I know the House had a hearing in 1999. The Clinton administration proposed a 1.5-cent credit penalty per kilowatt hour. Why did the chairman come up with a 3-cent penalty, double what the Clinton administration proposed a couple of years ago?

Mr. BINGAMAN. What we did, in response to my friend's question, we modeled our proposal on the successful program legislated into effect in Texas. That is the basis upon which we came up with our estimate. It was very different from the Clinton administration recommendation, not just with the credits but in various other aspects. We did not follow the Clinton administration proposal with regard to renewable portfolio standards in fashioning ours.

Mr. NICKLES. Correct me if I am wrong; Texas has a requirement that has a goal of 2,000 megawatts of new renewable energy by the year 2009. That represents 2.6 percent of their present generating capacity. Also correct me if I am wrong, but Texas has their whole basis on capacity, not on electricity produced. So that Texas mandate is a whole lot less than the 10 percent mandate as proposed by the Senator from New Mexico.

Mr. BINGAMAN. Mr. President, my understanding is that is inaccurate; that, in fact, although the Texas language does talk about capacity, the calculation as put in place by their utility commission was on the basis of actual power produced. My information is that through the period that is covered by the Texas law, the percentage requirement for renewable energy is higher than the one we require.

Mr. NICKLES. If the Senator will require the Texas utility code section 39.904, goals for renewable energy is 2,000 megawatts of generating capacity. I mention this because capacity is one thing, to generate electricity is another. For wind, you need three times the facilities to actually generate because they don't operate 24 hours a day. The wind does not always blow. Capacity is less intrusive and less expensive. And factually, the amount of megawatts produced equals right now 2.6 percent of the Texas generating capacity and less than 2 percent anticipated by the year 2009.

I heard my colleague say this is modeled after Texas. But it is not modeled after Texas. It did not follow Texas in any way, shape, or form. That is an editorial comment.

Mr. BINGAMAN. Mr. President, let me once again try to put this in perspective for my colleagues. As I indicated, this is an effort, another effort, to weaken the renewable portfolio standards we have in the bill. We put the renewable portfolio standards in here because we believe strongly it is in our national interest that we diversify the sources from which we obtain energy and that we encourage the development and improvement of the new technologies which we know can be sources of energy as we move into the future. That is why we have a renewable portfolio standard in the bill.

The requirement we have is not that onerous. When we require 1 percent of the power sold by a utility by the year 2005 to be generated from renewable sources, that is not an unduly onerous requirement. All of the numbers we have been hearing about how it will cost such enormous amounts for the utilities to comply, assuming they are going to do nothing to meet excess demand in the future—the truth is, they are going to be adding generating capacity in the future to meet increased consumer demand. That is as it should be.

All we are saying is, as they make those decisions about adding new generating capacity in the future, they should be encouraged, they should be incentivized, to look at renewable energy as the source for some of that power. That is, to my mind, a responsible course to follow. We are way behind other industrial allies, the countries in Europe, in beginning to use renewable energy in our country. It is time we began to use these new technologies, began to improve these technologies. They have proven themselves to be effective. It would be extremely unfortunate, in my view, if we further weakened the renewable portfolio standard at this time.

Mr. NICKLES. Mr. President, I know my colleague from Ohio desires to speak, but I wish to make a couple of rebuttals to the comments made by the Senator from New Mexico. Then I am delighted to have my friend from Ohio speak.

We didn't reduce the renewable portfolio standard. It is still 10 percent. I don't think it should be there, but my decision was to minimize the damage under the Bingaman proposal, and we decided to cut the penalty in half, the same amount the Clinton administration proposed—the only proposal that had a hearing before Congress, and that happened to be a hearing not before this Congress but the last Congress in 1999. To think we would even have a proposal that has an indirect tax on utility users and consumers of billions of dollars, estimated by the Energy Information Agency of $88 billion, without even having a hearing, I find ridiculous.

I hear colleagues say it was based on Texas, and it was not; there is a world of difference between capacity and generated electricity, especially when you talk about renewables. Texas has a standard that would equal 2 percent of their generation, and we are talking about a 10 percent mandate. There is a lot of difference. There is a lot of difference when the cost impact is in the millions and billions of dollars for utilities all across the country. And I will put in more estimates.

When I made this speech earlier, trying to strike the provision, I said something about a chart we got from the Department of Energy that said Kansas City Power and Light said it would cost $16 million—that is per year—when fully implemented. I mentioned that was pretty good for the consumers of Kansas City Power and Light.

They said, in a letter: Unfortunately, EIA grossly understated the cost of 10 percent mandate to Kansas City Power and Light. The hit is much worse than that. We project total costs being more than $300 million over the 15-year period between 2005 and 2020 for the full 10 percent. For a company of our size, these costs are intolerable.

So for people to say we don't think it will be very much, Senator BREAUX, Senator VOINOVICH, Senator MILLER, and I are at least trying to reduce the cost and trying to keep the cost at somewhat more affordable levels as proposed by the previous administration.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I rise to support the Nickles-Breaux amendment on renewable portfolio standards.

Last month, the Senate debated the renewable portfolio standard included in the legislation before us today. I want to make it clear that I applaud the efforts of my colleagues to encourage the use of renewable electricity generation.

I agree that renewable energy is an important part of the future and should be developed. I also strongly believe renewable sources are vital as this country seeks to diversify energy supplies and decrease our dependence on foreign sources to meet our energy needs.

As my colleagues know, the Bingaman amendment that was accepted last month stipulates that we must develop a mandatory minimum standard for renewable energy of 10 percent by the year 2019. At the time, I opposed the requirement because I believed it mandated an unrealistic level of renewable usage in a short period of time, at the virtual expense of other sources of electricity generation.

I think one point that seems to get lost over the use of renewables in America is that, right now, very little of our power in this Nation is generated by renewables. As a matter of fact, it is 1.6 of 1 percent. My colleagues should understand when we are talking renewables in this bill, we are

talking solar, we are talking wind, we are talking geothermal and we are talking biomass; that is it.

When I stood to oppose the original mandate, I pointed out that in my home State of Ohio, our use of renewable energy is much lower than the national average. Renewables, including hydropower, generate 1 percent of our electricity.

I also pointed out there are many other States which rely on renewable sources for electricity generation. According to the 1998 data from the Energy Information Administration—and this is really important because it gets at the regionalism and how unfair this mandate is, as it is written, to certain regions of the country—at least 10 percent of the electricity generated in 16 States comes from renewable power. Of these 16, 5 States receive more than 50 percent of their electricity from renewable sources, and the primary source is hydroelectric power. Four of the five States—Idaho, Oregon, South Dakota, Washington—rely on hydroelectric power for more than 60 percent of their electricity. Maine is the only State east of the Mississippi to rely on renewables for more than 50 percent of its electricity, 30 percent coming from hydro and 30 percent from other renewables.

Regions and even individual States that currently have a high percentage of renewable energy sources would be less impacted by the underlying provisions. However, forcing a mandatory minimum would unduly burden States such as Ohio.

Let me tell you a little about my State and States in the Midwest. We rely heavily on coal. Mr. President, 86 percent of our energy comes from coal. As Members of this Senate know, there are bills that have been introduced that will increase and require us to reduce NO_X, SO_X, mercury, and some are even talking about carbon. In our State, we are putting our money into clean coal technology, not into switching to renewables.

What this underlying bill requires is that, in a place such as Cleveland, OH, my kilowatt—maybe some of my colleagues are not aware of this—my cost per kilowatt hour in Cleveland is 4.7 cents. This bill is talking about increasing that by 3 cents per kilowatt hour. That is a tremendous increase we are going to have to bear in States such as Ohio.

AEP, which has its home office in Ohio, American Electric Power, estimates that they would have to install an additional cumulative total of 2,100 megawatts of renewables by 2011, a total of 4,100 megawatts by 2015, and a total of 7,000 megawatts by 2020 under this requirement. This should be compared with their total generation, which is 38,000 megawatts. That is in 11 States. And this calculation does not include a safety valve or cost cap. The cost impact on AEP alone would range from $100 million to $400 million net present value.

One of the things that bothers me when we debate these things in the Senate is, we are talking about the utilities. The utilities are the ratepayers.

In my State, our manufacturers are taking it in the back of the neck. We are losing manufacturing jobs in the Midwest. One of the things that triggered this was a year ago we had a spike in gas prices, which put most of the small businesses in a negative position. Then, with the high cost of the dollar, they are in deep trouble, especially if they export.

So we are talking about adding costs on a specific segment of our economy, which happens to fall heavily in my State. We use a lot of electricity. It also puts a negative burden on the people who live in my inner cities.

People just talk about these things as if it didn't matter. But the people who make less than $10,000 a year pay about 30 percent of whatever they have for energy costs. This kind of legislation, as it is written, is going to drive those costs up. Let's talk about those people who are going to pay the cost.

What I am saying today, to my colleagues, is give me a break. Give us a break. Some of you are from regions that do not have the problems we have. We have 23 percent of the manufacturing jobs in this country in the Midwest. In my State alone, we have more manufacturing jobs than they have in the entire northeastern part of the country.

What we are trying to do today is come up with a reasonable number in terms of this mandate. It may not mean a lot to some people who live in some of the other States that do not have manufacturing, but it does mean a great deal in States like my State. I think of Paul's Letter to the Romans, Chapter 12: We are all part of one body. We have different functions.

It would be really nice if on the floor of this Senate we would start to give a little more consideration to some of the specific problems some of us have in our States so we could continue to survive and prosper and have reasonable energy costs, continue our manufacturing, and not drive up the cost for the least of our brethren.

I urge my colleagues to really give serious consideration to this. This is a reasonable proposal we are making today. It does not eliminate the mandate. It just says, if we have to comply with it, we comply with it in a way that is less oppressive than what is contained in the underlying bill.

Mr. REID. Under the previous order, the Senate is going to stand in recess so we can all listen to our Secretary of State in room 407. I ask, however, that the recess be extended until the hour of 4:15. I cleared this with my colleague, Senator NICKLES. I ask that that time count against the 30 hours.

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

RECESS

Mr. REID. I ask unanimous consent the Senate now stand in recess.

There being no objection, the Senate, at 2:59 p.m., recessed until 4:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. NELSON of Florida).

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001—Continued

Mr. REID. Mr. President, for the information of all Senators, we hope to be able to have a vote on the Nickles amendment within the next half hour. We do not know for sure how long people will speak. We have had a number of Members indicate they wanted to speak on the Nickles amendment. We have several of them in the Chamber right now. We will proceed on that. There should be a vote within the next half hour.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 3256

Mr. KYL. Mr. President, if none of my colleagues are prepared to take the floor, let me spend a couple of minutes in support of the Nickles amendment.

As you know, the Nickles amendment, which is the pending business, would reduce the amount of penalty in effect that a public utility would bear if it did not produce the required amount of electricity for retail sales with so-called renewable energy resources. This has to do, again, with the portfolio that we call the renewable resources that would be required to account for 10 percent of the retail sales of all the investor-owned utilities in the country.

Bear in mind that the publicly owned utilities are exempted only because a point of order would have been effective against the inclusion of the public utilities in the amendment due to the unfunded mandate nature of the underlying provision. Ultimately, this probably will apply both to investor-owned and public utilities, but for the moment it applies only to the investor-owned utilities.

When I talk about a penalty on the utilities, of course, I am really talking about a penalty on the utility customers because utilities are not in the business of losing money—at least not very long. As a result, their expenses are charged back to their customers.

What we are really talking about in the underlying bill is a requirement that these utilities produce 10 percent of their retail power from so-called renewable resources, such as wind, solar, or biomass energy. Then, if they don't do so, they have to buy that amount from other available resources or, if they can't do that, pay an amount equal to 3 cents per kilowatt hour to make up the difference.

Let us say that the requirement when the bill is fully effective is 10 percent and they are able to generate 1

percent from the renewable resources; let us say they are able to buy another 1 percent from somewhere else. That means they would have 8 percent that would have to be accounted for by a penalty of 3 cents per kilowatt hour of that retail sale.

How much would that cost the utility customers around the country? That is the question. The Nickles amendment would cut the cost in half. The Nickles amendment would say, instead of 3 cents per kilowatt hour, it would be 1½ cents per kilowatt hour.

I am informed by Senator NICKLES that is the amount the Clinton administration had proposed when it had a similar proposal.

We would be talking about cutting in half the penalty that otherwise would pertain.

I cited earlier in this debate the statistics by utility and by State. I have these statistics again. I will recite a few of them and insert in the RECORD at the appropriate point and make available for all of my colleagues exactly how the customers in each State would be required to pay, again just for the penalties of the public utilities; that is to say, the investor-owned utilities.

Let me cite some examples.

In the State of Alabama, the cost to the customers is $156-plus million or, under the Nickles amendment, these customers in Alabama would save $78 million per year.

Since I see my colleague from Vermont in the Chamber, let me look at Vermont. In Vermont, the utility customers of the investor-owned utilities would save over $7 million per year under the amendment of the Senator from Oklahoma.

Let me look at Florida, the State from which the Presiding Officer comes. Florida is a big State with a lot of utility customers—a mix of both public and private utilities—but the private utilities annually would suffer an expense of over $451 million, so that the savings from the Nickles amendment for the utility customers in Florida, the investor-owned utilities, would be more than $225 million.

In my own State of Arizona, the cost is almost $100 million. So the savings per year would be just under $50 million.

Let me pick a couple of other States.

For the State of Nevada, the State of the distinguished majority whip, the savings would be over $37 million because the expense there is over $75 million.

Let me pick another couple States at random.

For New York State, the savings would be almost $132 million.

Let me take my neighboring State of California, another large State. Californians, obviously, are going to get clobbered by this renewable portfolio requirement. The estimate is, therefore, that for the State of California, just cutting this penalty in half, reducing it to 1½ cents per kilowatt hour, would save the customers in California over $243 million per year.

These savings illustrate that there is a cost to what we are imposing in the Senate. We come up with a lot of good ideas. In fact, our ideas are so good we want to impose them on everybody else.

I offered amendments to make this voluntary, but my proposals were rejected. So this is a mandatory requirement. This is required of all of the electric customers in this country, so I thought it would be important to know how much it is going to cost—in other words, by our action, what costs are we imposing on the electric customers of our country?—so that we can then make a judgment of whether it is worth it.

What we are doing here has significant consequences to people. We pass bills all the time to try to help people in need. People need help with their housing, so we provide them assistance for housing. People need help with their heating bills, so we provide them assistance under a program called LIHEAP. And there are any number of other programs.

So why, then, would we be imposing this kind of a big cost on them? Of course, the bigger the family, the more your expenses are going to be; therefore, the more this is going to cost you.

What sense does it make for us to impose this kind of cost on consumers with this legislation and then turn right around under the LIHEAP bill and say: Well, we know you are having to pay a lot for your electric bill, so we are going to help you make up for part of that. This just does not make any sense. It is incoherent policy, and it damages real people. That is why I am citing these statistics.

In a relatively small State—let me just take the State of the honorable chairman of the Energy Committee—the State of New Mexico, by passing the Nickles amendment, the people of New Mexico would save over $19 million a year because they are going to have to pay almost $40 million as a penalty because New Mexico cannot generate the requisite 10 percent that we are going to mandate under this bill.

These are not my figures. This comes from the Department of Energy, from the Energy Information Administration, which is a branch of the U.S. Department of Energy. These are up-to-date figures. I had figures in this Chamber before when we were debating this issue. These are even more updated figures than that.

So it seems to me that we in this body have to think about the consequences of our mandates. If we are going to make Americans pay more, we better have a darn good excuse or a good reason for making them do that.

Doesn't it make sense that we would say to people—let's just take the State of California, for example—Look, Californians, you are going to have to pay $243 million under the Nickles amendment, but if the Nickles amendment does not pass, you are going to have to pay $487 million a year in penalties. You may think it is worth it in order to encourage the development of wind energy or solar energy. If you do think it is worth it, would you be willing to pay that cost on an individual basis?

My guess is, you would have, out of, say, 100 people, probably 5 or 10 who would say: We feel like we are in a contributing mood, and we would like to pay for our share of what it will really cost us—the real cost to generate more of this energy from these so-called renewable resources—so we will pay a higher electric bill.

I have not broken this down per customer, but, obviously, each customer is going to pay a fairly significant amount. But if you say to the people of California, Are you willing to pay almost $500 million a year more—if you put that to a vote—most of them would say: No, we don't think so. Why don't you figure out another way to make this happen. This represents a substantial increase in our power bill, and we don't want to do it.

What we are doing in this body—I am going to call it arrogant because I think it is a certain degree of arrogance that must affect our willingness to impose these kinds of financial burdens on the American people for the sake of, what, to generate more energy with wind, to do what, save some oil or gas or coal maybe that we would otherwise use to produce power.

Of course, we are not willing to expand our energy production, but we are going to require this use of renewable resources. And the incentive is going to be: If you don't do it, then you all are going to have to pay a big penalty. I think that is arrogance on our part. The reason I use that harsh word is because I think if you put that question to your constituents—I know if I put that question to the constituents that I represent, I am very certain most of them would say: No, thank you. We would just as soon you not impose that additional tax on us.

This is a tax on energy. It is a tax on energy use for individual retail customers. But most of our constituents will not know that is what we have done. That is why I am going to make it a point to let them know. We are going to publicize this in every way that I know, in every State that I know, to make sure that the constituents of all of my colleagues understand what their Senator imposed upon them in the way of a new tax and what it is going to cost them.

These figures are going to be in every State in the country so that there will be no question that it is understood what the costs are, on our constituents, that we are imposing upon them in the name of good, to produce more wind energy and more solar energy. I just want the folks in California to know it is going to cost them almost $500 million a year—$487 million to be exact—and the same thing for every other State.

The figures are actually understated because, as I said, this only represents what the investor-owned utilities will have to pay in penalties. We know there will be additional penalties, assuming the publicly owned utilities are also added to this at a later time.

So I think it is important for the American people who buy energy to understand what we are imposing on them by way of cost. The best way to do that is by bringing it out, with the amendment of the Senator from Oklahoma, by demonstrating what we can save them by simply cutting this penalty in half, from 3 cents per kilowatt hour to 1½ cents per kilowatt hour.

It is still a lot of money. I have not added it all up, but it adds up to an awful lot of money. It is clearly in the multiples of billions of dollars.

But we have these statistics by State so we will at least be able to show people what they will save by State as a result of the adoption of the Nickles amendment. We will have a copy of this at the party desks at the time that the vote is called on the Nickles amendment.

Any Member wishing to see how much he or she is willing to save his or her constituents, if you would like to see how much you will save your constituents by voting for the Nickles amendment, we will have that here for you. Conversely, if you would like to see how much of a tax you will impose upon your constituents, we have that column as well.

I hope my colleagues will take advantage of the information we have. This is information from the Department of Energy on how much this electric tax is going to cost the ratepayers all over this country. We could at least do them a favor by cutting the penalty in half. And if you want to know how much you will save your constituents by doing that, by supporting the Nickles amendment, we have all the figures right here.

I see the Senator from Oklahoma is here. I have been referring to his amendment. Let me see if the State of Oklahoma would save any money here. It turns out we are going to tax the utility customers there over $112 million a year. So at least he is going to save his constituents over $56 million a year. That ain't peanuts. That is real savings. Equivalent numbers apply to all of the rest of the States.

I hope my colleagues will support the Nickles amendment and do their constituents a favor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. REID. Will the Senator yield for a unanimous consent request?

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. I thank my friend and colleague from Arizona for his statement, for his homework, for his research and knowledge on the issue. I hope all Senators will pay attention because we are talking about an amendment that will have a real impact on utility rates, on electric rates all across the country. It will cost millions. Actually, I think my colleague from Arizona will agree, utility companies don't really pay those rates. They may be assessed, but they will pass them on to consumers. They will pass them on to ratepayers in Florida, in Arizona, in Illinois, in Oklahoma, and in Nevada.

I appreciate my colleague's homework and also his very strong statement.

Mr. KYL. Mr. President, I ask unanimous consent to print in the RECORD the table to which I referred.

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

RETAIL SALES, REVENUE, AND POTENTIAL COST OF PURCHASING CREDITS

State	Consumers	Retail sales (in millions of dollars)	Retail sales (MWh)	Retail rate (cents per kWh)	Maximum credit purchase cost (in millions of dollars)	Maximum potential rate increase (percent)	Savings by Nickles amendment (per year)
Alaska	25,160	57.418	446,293	12.87	1.339	2.33	$669,500
Alabama	1,322,172	2,952.707	52,067,783	5.67	156.203	5.29	78,101,500
Arkansas	807,898	1,532.386	25,714,924	5.96	77.145	5.03	38,572,500
Arizona	1,250,550	2,640.775	33,224,190	7.95	99.673	3.77	49,836,500
California	9,392,462	16,306.188	162,352,407	10.04	487.057	2.99	243,528,500
Colorado	1,310,550	1,512.893	26,072,373	5.80	78.217	5.17	39,108,500
Connecticut	1,439,185	2,712.489	28,094,031	9.66	84.282	3.11	42,141,000
District of Columbia	225,522	798.345	10,615,521	7.52	31.847	3.99	15,923,500
Delaware	268,512	481.564	8,409,335	5.73	25.228	5.24	12,614,000
Florida	6,201,773	10,384.739	150,469,636	6.90	451.409	4.35	225,704,500
Georgia	2,029,531	4,566.067	78,410,565	5.82	235.232	5.15	117,616,000
Hawaii	427,108	1,359.755	9,690,596	14.03	29.072	2.14	14,536,000
Iowa	1,042,106	1,748.968	29,672,171	5.89	89.017	5.09	44,508,500
Idaho	529,224	828.594	20,190,466	4.10	60.571	7.31	30,285,500
Illinois	4,787,291	8,032.121	115,334,741	6.96	346.004	4.31	173,002,000
Indiana	2,145,265	4,104.112	81,161,466	5.06	243.484	5.93	121,742,000
Kansas	920,868	1,582.619	26,053,970	6.07	78.162	4.94	39,081,000
Kentucky	1,130,058	1,728.643	42,790,408	4.04	128.371	7.43	64,185,500
Louisiana	1,580,399	4,463.903	69,479,189	6.42	208.438	4.67	104,219,000
Massachusetts	2,500,731	4,028.951	41,828,995	9.63	125.487	3.11	62,743,500
Maryland	2,018,170	3,772.670	56,457,358	6.68	169.372	4.49	84,686,000
Maine	240,605	610.219	6,005,478	10.16	18.016	2.95	9,008,000
Michigan	4,031,301	6,722.444	94,191,371	7.14	282.574	4.20	141,287,000
Minnesota	1,352,070	2,310.741	40,791,277	5.66	122.374	5.30	61,187,000
Missouri	1,774,796	3,084.596	50,364,934	6.12	151.095	4.90	75,547,500
Mississippi	591,022	1,300.929	22,434,100	5.80	67.302	5.17	33,651,000
Montana	324,989	369.137	6,493,525	5.68	19.481	5.28	9,740,500
North Carolina	2,761,911	5,583.562	91,831,679	6.08	275.495	4.93	137,747,500
North Dakota	211,223	266.432	4,661,341	5.72	13.984	5.25	6,992,000
Nebraska	[1]	[1]	[1]	[1]	[1]	[1]	.....
New Hampshire	551,061	1,017.886	9,182,528	11.09	27.548	2.71	13,774,000
New Jersey	3,501,933	5,852.654	61,734,317	9.48	185.203	3.16	92,601,500
New Mexico	595,083	878.927	13,161,860	6.68	39.486	4.49	19,743,000
Nevada	860,471	1,602.964	25,132,075	6.38	75.396	4.70	37,698,000
New York	6,199,843	10,772.137	87,985,541	12.24	263.957	2.45	131,978,500
Ohio	4,563,007	9,456.943	145,679,640	6.49	437.039	4.62	218,519,500
Oklahoma	1,155,222	2,120.652	37,552,508	5.65	112.568	5.31	56,284,000
Oregon	1,237,619	1,825.143	34,579,587	5.28	103.739	5.68	51,869,500
Pennsylvania	4,797,660	7,351.474	94,598,197	7.77	283.795	3.86	141,897,500
Rhode Island	462,946	722.418	7,077,982	10.21	21.234	2.94	10,617,000
South Carolina	1,185,320	2,779.379	50,322,355	5.52	150.967	5.43	75,483,500
South Dakota	204,358	297.778	4,581,465	6.50	13.744	4.62	6,872,000
Tennessee	44,781	81.005	1,846,070	4.39	5.538	6.84	2,769,000
Texas	6,420,510	15,872.458	249,502,909	6.36	748.509	4.72	374,254,500
Utah	646,728	865.412	18,858,674	4.59	56.576	6.54	28,288,000
Virginia	2,590,554	4,916.679	84,375,562	5.83	253.127	5.15	126,563,500
Vermont	250,227	477.304	4,678,429	10.20	14.035	2.94	7,017,500
Washington	1,240,194	1,820.509	30,840,107	5.90	92.520	5.08	46,260,000
Wisconsin	2,161,626	3,139.087	54,767,754	5.73	164.303	5.23	82,151,500
West Virginia	939,290	1,393.543	27,538,329	5.06	82.615	5.93	41,307,500
Wyoming	173,275	356.151	8,706,113	4.09	26.118	7.33	13,059,000
National total	92,424,160	169,444.470	2,437,982,165	6.95	7,313.946	4.32	3,656,973,000

[1] Nebraska does not include any privately owned utilities.

Note.—Assumes a 10% Renewable Portfolio Standard (RPS) applied to privately owned utilities with a maximum credit price of 3 cents per kilowatthour. Does not account for potential fuel cost savings from lower fossil fuel bills as a result of increased renewable generation as required by the RPS. Since many utilities will likely be renewable credit sellers, the impact on the prices in their states will be much lower than shown.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I would give to the Senator from Nevada the hour that was reserved under postcloture for Senator AKAKA of Hawaii.

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

The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I rise in opposition to this amendment. This is very complicated stuff, all these things trading around and all that. It is very difficult for people to understand. It sounds good.

I think under the circumstances, even though it is the opposition, the administration is somewhere we should look, in the form of the Department of Energy, as to what the facts are. If you do that, you will find that the facts are quite different from those represented by the Senator from Arizona and obviously the Senator from Oklahoma. It is also clear that in different areas of the country, this works differently. It depends on what your production is, what is available to you in renewables and all that. I will rely upon the Department of Energy and expect, with this administration being in control of that Department, that the facts they give us ought to be fairly accurate.

It seems to me we have brought forth these arguments several times now. However, I will reiterate that the U.S. Department of Energy, in its most recent analysis, has found that a 10-percent renewable energy requirement will, by the year 2020, save the American consumers up to $3 billion, save consumers up to $3 billion in electricity costs. Imposing a Federal renewable energy mandate of 10 percent will cost $3 billion less for consumers by the year 2020 as compared to business as usual. This result is an overall cost savings to consumers from 2002 to 2020 of $13.2 billion. This is what the most recent studies of the U.S. Department of Energy, Energy Information Administration have found.

It escapes me why we are spending so much time arguing about cost. I have heard some of my colleagues claim that the cost to consumers will be off the charts. This is at odds with the repeated findings of the U.S. Department of Energy of this administration.

A number of my colleagues have referred to Energy Information Administration statistics to the effect that renewable energy will cost Americans $88 billion. However, these EIA numbers are referring to the gross cost of the price of renewable energy, not the increased cost to consumers of using renewable energy versus using other forms of energy.

The relevant question is not whether, if you bought only renewable energy, it would add up to a total cost of $88 billion. The question is, How much more is that amount than what you would be paying anyway from fossil fuel or other energy sources without a renewable energy mandate?

As I have stated, the studies completed in February of this year by the U.S. Energy Information Administration, which are consistent with the previous studies, say that under a 10-percent renewable energy mandate, consumer costs will actually go down by close to $3 billion per year by the year 2020, compared to energy costs if no renewable energy mandate existed.

I will also point out that although the 1.5-cent cap Senator NICKLES is now proposing was indeed the amount contained in the bill put forward by the Clinton administration, that bill also would have imposed a far more aggressive renewable mandate than the one currently in the Senate bill.

Under the Clinton administration's bill, renewable energy would have been required to reach 7.5 percent by the year 2010. This is compared to only a roughly 4-percent requirement by 2010 in the energy bill currently before us. The renewable energy provision currently in the bill does not even get to an actual 10-percent renewable energy standard by the year 2020. By the time all of the various exceptions and deductions are added in, the amount of mandated renewable energy required in this bill by the year 2020 is actually closer to 5 percent. This amount is disappointingly close to what American business is likely to achieve anyway with no additional support from the Federal Government.

I must say, I find the continued attempt to weaken this marginal requirement baffling. I, along with my colleagues, have repeatedly made the argument on the floor for the many benefits of renewable energy. These include environmental and health benefits which have not been taken into consideration. They include making our American businesses competitive in a booming European market in wind and other renewable energy. This should be the example at which we are looking. As the EIA has shown, they include benefits to the American consumer, ultimately making the costs to consumers actually decrease.

Few of my colleagues dispute these benefits. Even those supporting this amendment have recognized the great national benefits to promoting renewable energy. It seems painfully difficult for us to change our old ways of looking at things and to take steps that will bring these modern and beneficial energy sources to our door.

These arguments over the price of cost caps are just another attempt to dismantle the existing renewable energy position. The Senate has already voted several times against attempts to destroy this position, and I hope we will recognize the amendment for what it is—another side-door attempt to do just that.

Different States have different problems. Oil-producing States naturally want to sell all the oil they can. If we look at the program as it is, look at the advantages it has, and look at the end results as reported by the Department of Energy, that it will save money in the years ahead, I say this bill should stay as it is.

I urge my colleagues to join me in keeping this really modest provision in the bill.

Mr. NICKLES. Will the Senator yield for a question?

The PRESIDING OFFICER. The Senator from Nevada.

Mr. NICKLES. Will the Senator from Vermont yield?

Mr. JEFFORDS. Yes, I am happy to yield.

Mr. NICKLES. I thank my colleague.

I heard you say this amendment was an attempt to destroy the renewable section. Are you aware of the fact that we didn't change the 10-percent requirement so the bill still requires that 10 percent of the electricity generated would have to be in the form of renewables? And I remind you that the Clinton administration only proposed 7.5 percent. So we didn't change that. And I might say that the penalty, the cap, is the same amount that was proposed by the Clinton administration. It was a penny and a half per kilowatt hour. If you missed the target of 10 percent, that target amount, the penalty amount, would be the same as required by the Clinton administration. So I don't think this amendment guts the renewables. I wanted to make sure you were aware of it. This isn't the same vote we had previously on renewables.

Mr. JEFFORDS. I think it is 7.5 percent by 2010. Other than that, I stand by the speech I made and the results I said will be there and our understanding of the bill, as the U.S. Department of Energy understands it.

Mr. NICKLES. Further, to clarify, the Senator is aware, then, that the renewable standard is higher than that proposed by the Clinton administration because it is 10 percent instead of 7.5 percent. Is the Senator aware that the penalty in the Bingaman-Daschle proposal is twice as high as that proposed by the Clinton administration?

Mr. JEFFORDS. I think the times that it went into effect were different. It depends on how you compare it. I stand by my statement.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, before my friend leaves the Chamber, the distinguished chairman of the Environment and Public Works Committee, I express my appreciation for his work on this bill and other matters that have come before this body, and that he has had the opportunity to move forward to do something about a renewable portfolio.

On the appropriations bill that I have had the pleasure of working with Senator DOMENICI for a number of years, the Senator has always come there making sure our conscience was clear and that the Appropriations Subcommittee on Energy and Water did everything it could for development of renewable energy resources. He has always been there asking us to do more. I appreciate that. I think one of the big

problems with this bill is that we haven't done more to increase the renewables portfolio. The Senator and I tried to increase it to 20 percent. Ten percent is a bare minimum. What I say to my friend from Oklahoma, through the Chair, is that, sure, the 10% requirement hasn't changed, but with this amendment that 10% is not directed toward the development of renewables. The amendment will encourage the use of credits. So with Senator NICKLES amendment you wind up having a program in this country where you don't really develop renewables.

I say to my friend from Vermont, thank you very much for making us keep our eye on this. We need to develop more renewables. This is the fourth attempt of what I believe is the oil companies of this country trying to get us to back off of the renewables portfolio.

The oil companies love this amendment that is before us. But the American people don't like it. Why? Because when it is explained to them, energy has a price other than just the cost at the production level. What do I mean by that?

Mr. President, a few years ago in Nevada, a company came to Nevada. They owned a plant near Barstow, CA—the largest solar energy production facility in America, with 200 megawatts of electricity. They wanted to build a production facility in the Eldorado Valley between Las Vegas and Boulder City, in a relatively remote place. They went before the Nevada Public Service Commission. The company was called the Luz Company. It was named from the Old Testament, where Jacob's Ladder was; that is where it came down, Luz. The public service commission could not allow them to build that facility because all they were allowed to consider at that time was the cost of production. It had nothing to do with the smog and junk that the coal-fired and oil-fired generating plants produced in the Las Vegas Valley. They could not take that into consideration. That is one of the problems we have had all over America today.

The fact is, since then, the Nevada Legislature has changed that. It is tremendous that they have done that. They have now, in Nevada, a 15-percent renewable portfolio standard. That is excellent. I am proud of what the State of Nevada has done. That has only been at the time of the last legislature.

Our Nation needs to diversify its energy policy. The Senate passed a renewables portfolio standard—we call it the RPS—requiring that 10 percent of the electricity produced comes from clean, renewable energy resources. What is that? The Sun—the warmth of the Sun, the warmth of the Earth, geothermal.

Wind used to bother me but I kind of like it now. Wind always got on my nerves; it would never be there when I wanted it. I now like the wind. I have come to the realization that it cleans the air. I have also come to the realization that we in Nevada can use that wind to produce electricity. In fact, we are doing that at the Nevada Test Site, where almost a thousand bombs have been detonated.

We are building, with the permission of the DOE, a wind farm there. Within 3 years, with the work done by the Finance Committee—and I appreciate the work by Senators BAUCUS, GRASSLEY, and other members of that committee on a tax credit for wind—that will allow that generating facility to go forward. Within 3 years, they will produce enough electricity to supply electricity to 250,000 homes in Las Vegas. That is good.

So, Mr. President, the RPS in this bill is too weak. As I have already said to my friend, the distinguished Senator JEFFORDS, it is not as much as I had hoped for, not as much as I wanted. I voted for 20 percent, which Senator JEFFORDS and I propounded.

One provision in the renewable portfolio standard allows for a system of tradeable, renewable energy credits. For this system to effectively work—and we have not talked about it that much today—the cost of renewable energy credits must encourage the growth of renewable energy.

The Nickles amendment lowers the cost of these renewable energy tax credits to the point where a utility will choose to buy credits rather than produce renewable energy. In this country, I want more renewable energy. We have spent trillions of dollars in the oil business—utilities are heavily invested in that. Let's change a little and spend a little money on renewable energy so my friend, my children, and my children's children can breathe clean air. That is what this is all about. Ask my children whether they are interested in using the worst-case scenario. The EIA analysis reflected the worst-case scenario—that the cost of electricity might increase 0.1 cents per kilowatt-hour. Every one of my five children—let them vote on it. They will go for renewable energy because they want clean air for their children, my 12 grandchildren. I want them to have clean air. They are not going to have it if we keep firing generators with coal, gas, and oil.

We need to do something different—Sun, geothermal, wind. That is what this amendment is about. This is the fourth time they have tried to whack this very small amount that we have in this bill, 10 percent for renewable energy. I am glad, if for no other reason, cloture has been invoked. Maybe this will be the end of it. Maybe not.

What this amendment attempts to do makes no sense. This is not the goal of the renewable portfolio standard. This amendment is basically, in my opinion, interested in damage control.

I am interested in expanding our energy resources through clean renewable energy. The DOE's Energy Information Administration suggests that the renewable portfolio standard may raise the price—worst-case scenario—of electricity consumers by 0.1 cents per kilowatt hour. That is the estimate. It doesn't include the stimulative effect of section 45, the production tax credit that the Senate adopted yesterday.

This bill isn't perfect. It is far from perfect. But there are some good things in the bill. One of the good things is what was done yesterday in adopting the Finance Committee's energy tax provisions.

The chairman of this committee, Senator BINGAMAN, is a member of that Finance Committee. That was good work they did, because they had provisions in there to help production and they also had provisions in there to help the renewable portfolio. With the production tax credit, there is likely to be no increase in consumer prices resulting from the renewable portfolio. After pouring billions of dollars—I say trillions—into oil and gas, we need to invest in a clean energy future. Other nations in the world are developing renewable energy sources much faster than the United States is. America needs to reestablish leadership in renewable energy.

I oppose this amendment and, contrary to earlier statements, the renewable portfolio standard provision in this bill, as modified, is as close to the Texas RPS as possible, while accommodating regional differences. Why do I say that? Because under the Texas RPS statute, the amount of new renewables is based on capacity. However, as implemented by the Texas Public Utility Commission, the regulations convert the capacity obligation to a generation standard.

I cite Chapter 25.173(h)(1) from the Texas RPS:

> The total statewide renewable energy credit requirement for each compliance period shall be calculated in terms of megawatt hours and shall be equal to the renewable capacity target multiplied by 8,760 hours per year, multiplied by the appropriate capacity conversion factor. . . .

It says it all.

The section goes on to spell out exactly how the capacity standard is converted to a generation standard. I ask unanimous consent that the regulations from the State of Texas be printed in the RECORD.

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

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS

SUBCHAPTER H. ELECTRICAL PLANNING

Division 1. Renewable energy resources and use of natural gas

§25.173. Goal for Renewable Energy

(a) Purpose. The purpose of this section is to ensure that an additional 2,000 megawatts (MW) of generating capacity from renewable energy technologies is installed in Texas by 2009 pursuant to the Public Utility Regulatory Act (PURA) §39.904, to establish a renewable energy credits trading program that would ensure that the new renewable energy capacity is built in the most efficient and economical manner, to encourage the development, construction, and operation of new renewable energy resources at those sites in

this state that have the greatest economic potential for capture and development of this state's environmentally beneficial resources, to protect and enhance the quality of the environment in Texas through increased use of renewable resources, to respond to customers' expressed preferences for renewable resources by ensuring that all customers have access to providers of energy generated by renewable energy resources pursuant to PURA §39.101(b)(3), and to ensure that the cumulative installed renewable capacity in Texas will be at least 2,880 MW by January 1, 2009.

(b) Application. This section applies to power generation companies as defined in §25.5 of this title (relating to definitions), and competitive retailers as defined in subsection (c) of this section. This section shall not apply to an electric utility subject to PURA §39.102(c) until the expiration of the utility's rate freeze period.

(c) Definitions.

(1) Competitive retailer—A municipally-owned utility, generation and transmission cooperative (G&T), or distribution cooperative that offers customer choice in the restricted competitive electric power market in Texas or a retail electric provider (REP) as defined in §25.5 of this title.

(2) Compliance period—A calendar year beginning January 1 and ending December 31 of each year in which renewable energy credits are required of a competitive retailer.

(3) Designated representative—A responsible natural person authorized by the owners or operators of a renewable resource to register that resource with the program administrator. The designated representative must have the authority to represent and legally bind the owners and operators of the renewable resource in all matters pertaining to the renewable energy credits trading program.

(4) Early banking—Awarding renewable energy credits (RECs) to generators for sale in the trading program prior to the program's first compliance period.

(5) Existing facilities—Renewable energy generators placed in service before September 1, 1999.

(6) Generation offset technology—Any renewable technology that reduces the demand for electricity at a site where a customer consumers electricity. An example of this technology is solar water heating.

(7) New facilities—Renewable energy generators placed in service on or after September 1, 1999. A new facility includes the incremental capacity and associated energy from an existing renewable facility achieved through repowering activities undertaken on or after September 1, 1999.

(8) Off-grid generation—The generation of renewable energy in an application that is not interconnected to a utility transmission or distribution system.

(9) Program administrator—The entity approved by the commission that is responsible for carrying out the administrative responsibilities related to the renewable energy credits trading program as set forth in subsection (g) of this section.

(10) REC offset (offset)—An REC offset represents one MWh of renewable energy from an existing facility that may be used in place of an REC to meet a renewable energy requirement imposed under this section. REC offsets may not be traded, shall be calculated as set forth in subsection (i) of this section, and shall be applied as set forth in subsection (h) of this section.

(11) Renewable energy credit (REC or credit)—An REC represents one megawatt hour (MWh) of renewable energy that is physically metered and verified in Texas and meets the requirements set forth in subsection (e) of this section.

(12) Renewable energy credit account (REC account)—An account maintained by the renewable energy credits trading program administrator for the purpose of tracking the production, sale, transfer, and purchase, and retirement of RECs by a program participant.

(13) Renewable energy credits trading program (trading program)—The process of awarding, trading, tracking, and submitting RECs as a means of meeting the renewable energy requirements set out in subsection (d) of this section.

(14) Renewable energy resource (renewable resource)—A resource that produces energy derived from renewable energy technologies.

(15) Renewable energy technology—Any technology that exclusively relies on an energy source that is naturally regenerated over a short time and derived directly from the sun, indirectly from the sun, or from moving water or other natural movements and mechanisms of the environment. Renewable energy technologies include those that rely on energy derived directly from the sun, on wind, geothermal, hydroelectric, wave, or tidal energy, or on biomass or biomass-based waste products, including landfill gas. A renewable energy technology does not rely on energy resources derived from fossil fuels, waste products from fossil fuels, or waste products from inorganic sources.

(16) Repowering—Modernizing or upgrading an existing facility in order to increase its capacity or efficiency.

(17) Settlement period—The first calendar quarter following a compliance period in which the settlement process for that compliance year takes place.

(18) Small producer—A renewable resource that is less than two megawatts (MW) in size.

(d) Renewable energy credits trading program (trading program). Renewable energy credits may be generated, transferred, and retired by renewable energy power generation, competitive retailers, and other market participants as set forth in this section.

(1) The program administrator shall apportion a renewable resource requirement among all competitive retailers as a percentage of the retail sales of each competitive retailer as set forth in subsection (h) of this section. Each competitive retailer shall be responsible for retiring sufficient RECs as set forth in subsections (h) and (k) of this section to comply with this section. The requirement to purchase RECs pursuant to this section becomes effective on the date each competitive retailer begins serving retail electric customers in Texas.

(2) A power generating company may participate in the program and may generate RECs and buy or sell RECs as set forth in subsection (j) of this section.

(3) RECs shall be credited on an energy basis as set forth in subsection (j) of this section.

(4) Municipally-owned utilities and distribution cooperatives that do not offer customer choice are not obligated to purchase RECs. However, regardless of whether the municipally-owned utility or distribution cooperative offers customer choice, a municipally-owned utility or distribution cooperative possessing renewable resources that meet the requirements of subsection (e) of this section may sell RECs generated by such a resource to competitive retailers as set forth in subsection (j) of this section.

Except where specifically stated, the provisions of this section shall apply uniformly to all participants in the trading program.

(e) Facilities eligible for producing RECs in the renewable energy credits trading program. For a renewable facility to be eligible to produce RECs in the trading program it must be either a new facility or a small producer as defined in subsection (c) of this section and must also meet the requirements of this subsection:

(1) A renewable energy resource must not be ineligible under subsection (f) of this section and must register pursuant to subsection (n) of this section;

(2) The facility's above-market costs must not be included in the rates of any utility, municipally-owned utility, or distribution cooperative through base rates, a power cost recovery factor (PCRF), stranded cost recovery mechanism, or any other fixed or variable rate element charged to end users;

(3) For a renewable energy technology that requires fossil fuel, the facility's use of fossil fuel must not exceed 2.0% of the total annual fuel input on a British thermal unit (BTU) or equivalent basis;

(4) The output of the facility must be readily capable of being physically metered and verified in Texas by the program administrator. Energy from a renewable facility that is delivered into a transmission system where it is commingled with electricity from non-renewable resources can not be verified as delivered to Texas customers. A facility is not ineligible by virtue of the fact that the facility is a generation-offset, off-grid, or on-site distributed renewable facility if it otherwise meets the requirements of this section; and

(5) For a municipally owned utility operating a gas distribution system, any production or acquisition of landfill gas that is directly supplied to the gas distribution system is eligible to produce RECs based upon the conversion of the thermal energy in BTUs to electric energy in kWh using for the conversion factor the systemwide average heat rate of the gas-fired units of the combined utility's electric system as measured in BTUs per kWh.

(6) For industry-standard thermal technologies, the RECs can be earned only on the renewable portion of energy production. Furthermore, the contribution toward statewide renewable capacity megawatt goals from such facilities would be equal to the fraction of the facility's annual MWh energy output from renewable fuel multiplied by the facility's nameplate MV capacity.

(f) Facilities not eligible for producing RECs in the renewable energy credits trading program. A renewable facility is not eligible to produce RECs in the trading program if it is:

(1) A renewable energy capacity addition associated with an emissions reductions project described in Health and Safety Code §382.5193, that is used to satisfy the permit requirements in Health and Safety Code §382.0519;

(2) An existing facility that is not a small producer as defined in subsection (c) of this section; or

(3) An existing fossil plant that is repowered to use a renewable fuel.

(g) Responsibilities of program administrator. No later than June 1, 2000, the commission shall approve an independent entity or serve as the trading program administrator. At a minimum, the program administrator shall perform the following functions:

(1) Create accounts that track RECs for each participant in the trading program;

(2) Award RECs to registered renewable energy facilities on a quarterly basis based on verified meter reads;

(3) Assign offsets to competitive retailers on an annual basis based on a nomination submitted by the competitive retailer pursuant to subsection (n) of this section;

(4) Annually retire RECs that each competitive retailer submits to meet its renewable energy requirement;

(5) Retire RECs at the end of each REC's three-year life;

(6) Maintain public information on its website that provides trading program information to interested buyers and sellers of RECs;

(7) Create an exchange procedure where persons may purchase and sell RECs. The exchange shall ensure the anonymity of persons purchasing or selling RECs. The program administrator may delegate this function to an independent third party. The commission shall approve any such delegation;

(8) Make public each month the total energy sales of competititon retailers in Texas for the previous month;

(9) Perform audits of generators participating in the trading program to verify accuracy of metered production data;

(10) Allocate the renewable energy responsibility to each competitive retailer in accordance with subsection (h) of this section; and

(11) Submit an annual report to the commission. Beginning with the program's first compliance period, the program administrator shall submit a report to the commission on or before April 15 of each calendar year. The report shall contain information pertaining to renewable energy power generators and competitive retailers. At a minimum, the report shall contain:

(A) the amount of existing and new renewable energy capacity in MW installed in the state by technology type, the owner/operator of each facility, the date each facility began to produce energy, the amount of energy generated in megawatt-hours (MWh) each quarter for all capacity participating in the trading program or that was retired from service; and

(B) a listing of all competitive retailers participating in the trading program, each competitive retailer's renewable energy credit requirement, the number of offsets used by each competitive retailer, the number of credits retired by each competitive retailer, a listing of all competitive retailers that were in compliance with the REC requirement, a listing of all competitive retailers that failed to retire sufficient REC requirement, and the deficiency of each competitive retailer that failed to retire sufficient RECs to meet its REC requirement.

(h) Allocation of REC purchase requirement to competitive retailers. The program administrator shall allocate REC requirements among competitive retailers. Any renewable capacity that is retired before January 1, 2009 or any capacity shortfalls that arise due to purchases of RECs from out-of-state facilities shall be replaced and incorporated into the allocation methodology set forth in this subsection. Any changes to the allocation methodology to reflect replacement capacity shall occur two compliance periods after which the facility was retired or capacity shortfall occurred. The program administrator shall use the following methodology to determine the total annual REC requirement for a given year and the final REC requirement for individual competitive retailers:

(1) The total statewide REC requirement for each compliance period shall be calculated in terms of MWh and shall be equal to the renewable capacity target multiplied by 8,760 hours per year, multiplied by the appropriate capacity conversion factor set forth in subsection (j) of this section. The renewable energy capacity targets for the compliance period beginning January 1, of the year indicated shall be:

(A) 400 MW of new resources in 2002;

(B) 400 MW of new resources in 2003;

(C) 850 MW of new resources in 2004;

(D) 850 MW of new resources in 2005;

(E) 1,400 MW of new resources in 2006;

(F) 1,400 MW of new resources in 2007;

(G) 2,000 MW of new resources in 2008; and

(H) 2,000 MW of new resources in 2009 through 2019.

(2) The final REC requirement for an individual competitive retailer for a compliance period shall be calculated as follows:

(A) Each competitive retailer's preliminary REC requirement is determined by dividing its total retail energy sales in Texas by the total retail sales in Texas of all competitive retailers, and multiplying that percentage by the total statewide REC requirement for that compliance period.

(B) The adjusted REC requirement for each competitive retailer that is entitled to an offset is determined by reducing its preliminary REC requirement by the offsets to which it qualifies, as determined under subsection (i) of this section, with the maximum reduction equal to the competitive retailer's preliminary REC requirement. The total reductions for all competitive retailers is equal to the total usable offsets for that compliance period.

(C) Each competitive retailer's final REC requirement for a compliance period shall be increased to recapture the total usable offsets calculated under subparagraph (B) of this paragraph. The additional REC requirement shall be calculated by dividing the competitive retailer's adjusted REC requirement by the total adjusted REC requirement of all competitive retailers. This fraction shall be multiplied by the total usable offsets for that compliance period and this amount shall be added to the competitive retailer's adjusted REC requirement to produce the competitive retailer's final REC requirement for the compliance period.

(i) Nomination and calculation of REC offsets.

(1) A REP, municipally-owned utility, G&T cooperative, distribution cooperative, or an affiliate of a REP, municipally-owned utility, or distribution cooperative, may apply offsets to meet all or a portion of its renewable energy purchase requirement, as calculated in subsection (h) of this section, only if those offsets are nominated in a filing with the commission by June 1, 2001. A G&T may nominate the combined offsets for itself and its member distribution cooperatives upon the presentation of a resolution by its Board authorizing it to do so.

(2) The Commission shall verify any designations of REC offsets and notify the program administrator of its determination by December 31, 2001.

(3) REC offsets shall be equal to the average annual MWh output of an existing resource for the years 1991–2000 or the entire life of the existing resource, whichever is less.

(4) REC offsets qualify for use in a compliance period under subsection (h) of this section only to the extent that:

(A) The resource producing the REC offset has continuously since September 1, 1999 been owned by or its output has been committed under contract to a utility, municipally-owned utility, or cooperative nominating the resource under paragraph (1) of this subsection or, if the resource has been committed under a contract that expired after September 1, 1999 and before January 1, 2002, it is owned by or its output has been committed under contract to a utility, municipally-owned utility, or cooperative on January 1, 2002; and

(B) The facility producing the REC offsets is operated and producing energy during the compliance period in a manner consistent with historic practice.

(5) If the production from a facility producing the REC offset energy ceases for any reason, the competitive retailer may no longer claim the REC offset against its REC requirement.

(j) Calculation of capacity conversion factor. The capacity conversion factor used by the program administrator to allocate credits to competitive retailers shall be calculated as follows:

(1) The capacity conversion factor (CCF) shall be administratively set at 35% for 2002 and 2003, the first two compliance periods of the program

(2) During the fourth quarter of the second compliance year (2003), the CCF shall be readjusted to reflect actual generator performance data associated with all renewable resources in the trading program. The program administrator shall adjust the CCF every two years thereafter and shall:

(A) be based on all renewable energy resources in the trading program for which at least 12 months of performance data is available;

(B) represent a weighted average of generator performance;

(C) use all valid performance data that is available for each renewable resources; and

(D) ensure that the renewable capacity goals are attained.

(k) Production and transfer of REC's. The program administrator shall administer a trading program for renewable energy credits in accordance with the requirements of this subsection.

(1) A REC will be awarded to the owner of a renewable resource when a MWh is metered at that renewable resource. A generator producing 0.5 MWh or greater as its last unit generated should be awarded one REC on a quarterly basis. The program administrator shall record the amount of metered MWh and credit the REC account of the renewable resource that generated the energy on a quarterly basis.

(2) The transfer of RECs between parties shall be effective only when the transfer is recorded by the program administrator.

(3) The program administrator shall require that RECs be adequately identified prior to recording a transfer and shall issue an acknowledgement of the transaction to parties upon provision of adequate information. At a minimum, the following information shall be provided:

(A) identification of the parties;

(B) REC serial number, REC issue date, and the renewable resource that produced the REC;

(C) the number of RECs to be transferred; and

(D) the transaction date.

(4) A competitive retailer shall surrender RECs to the program administrator for retirement from the market in order to meet its REC allocation for a compliance period. The program administrator will document all REC retirements annually.

(5) On or after each April 1, the program administrator will retire RECs that have not been retired by competitive retailers and have reached the end of their three-year life.

(6) The program administrator may establish a procedure to ensure that the award, transfer, and retirement of credits are accurately recorded.

(l) Settlement process. Beginning in January 2003, the first quarter following the compliance period shall be the settlement period during which the following actions shall occur:

(1) By January 31, the program administrator will notify each competitive retailer of its total REC requirement for the previous compliance period as determined pursuant to subsection (h) of this section.

(2) By March 31, each competitive retailer must submit credits to the program administrator from its account equivalent to its REC requirement for the previous compliance period. If the competitive retailer has insufficient credits in its account to satisfy its obligation, and this shortfall exceeds the applicable deficit allowance as set forth in

subsection (m)(2) of this section, the competitive retailer is subject to the penalty provisions in subsection (o) of this section.

(m) Trading program compliance cycle.

(1) The first compliance period shall begin on January 1, 2002 and there will be 18 consecutive compliance periods. Early banking of RECs is permissible and may commence no earlier than July 1, 2001. The program's first settlement period shall take place during the first quarter of 2003.

(2) A competitive retailer may incur a deficit allowance equal to 5.0% of its REC requirement in 2002 and 2003 (the first two compliance periods of the program). This 5.0% deficit allowance shall not apply to entities that initiate customer choice after 2003. During the first settlement period, each competitive retailer will be subject to a penalty for any REC shortfall that is greater than 5.0% of its REC requirement under subsection (h) of this section. During the second settlement period, each competitive retailer will be subject to the penalty process for any REC shortfall greater than 5.0% of the second year REC allocation. All competitive retailers incurring a 5.0% deficit pursuant to this subsection must make up the amount of RECs associated with the deficit in the next compliance period.

(3) The issue date of RECs created by a renewable energy resource shall coincide with the beginning of the compliance year in which the credits are generated. All RECs shall have a life of three compliance periods, after which the program administrator will retire them from the trading program.

(4) Each REC that is not used in the year of its creation may be banked and is valid for the next two compliance years.

(5) A competitive retailer may meet its renewable energy requirements for a compliance period with RECs issued in or prior to that compliance period which have not been retired.

(n) Registration and certification of renewable energy facilities. The commission shall register and certify all renewable facilities that will produce either REC offsets or RECs for sale in the trading program. To be awarded RECs or REC offsets, a power generator must complete the registration process described in this subsection. The program administrator shall not award offsets or credits for energy produced by a power generator before it has been certified by the commission.

(1) The designated representative of the generating facility shall file an application with the commission on a form approved by the commission for each renewable energy generation facility. At a minimum, the application shall include the location, owner, technology, and rated capacity of the facility and shall demonstrate that the facility meets the resource eligibility criteria in subsection (e) of this section.

(2) No later than 30 days after the designated representative files the certification form with the commission, the commission shall inform both the program administrator and the designated representative whether the renewable facility has met the certification requirements. At that time, the commission shall either certify the renewable facility as eligible to receive either RECs or offsets, or describe an insufficiencies to be remedied. If the application is contested, the time for acting is extended by 30 days.

(3) Upon receiving notice of certification of new facilities, the program administrator shall create an REC account for the designated representative of the renewable resource.

(4) The commission may make on-site visits to any certified unit of a renewable energy resource and may decertify any unit if it is not in compliance with the provisions of this subsection.

(5) A decertified renewable generator may not be awarded RECs. However, any RECs awarded by the program administrator and transferred to a competitive retailer prior to the decertification remain valid.

(o) Penalties and enforcement. If by April 1 of the year following a compliance year it is determined that a competitive retailer with an allocated REC purchase requirement has insufficient credits to satisfy its allocation, the competitive retailer shall be subject to the administrative penalty provisions of PURA §15.023 as specified in this subsection.

(1) Except as provided in paragraph (4) of this subsection, a penalty will be assessed for that portion of the deficient credits.

(2) The penalty shall be the lesser of $50 per MWh or, upon presentation of suitable evidence of market value by the competitive retailer, 200% of the average market value of credits for that compliance period.

(3) There will be no obligation on the competitive retailer to purchase RECs for deficits, whether or not the deficit was within or was not within the competitive retailer's reasonable control, except as set forth in subsection (m)(2) of this section.

(4) In the event that the commission determines that events beyond the reasonable control of a competitive retailer prevented it from meeting its REC requirement there will be no penalty assessed.

(5) A party is responsible for conducting sufficient advance planning to acquire its allotment of RECs. Failure of the spot or short-term market to supply a party with the allocated number of RECs shall not constitute an event outside the competitive retailer's reasonable control. Events or circumstances that are outside of a party's reasonable control may include weather-related damage, mechanical failure, lack of transmission capacity or availability, strikes, lockouts, actions of a governmental authority that adversely effect the generation, transmission, or distribution of renewable energy from an eligible resource under contract to a purchaser.

(p) Renewable resources eligible for sale in the Texas wholesale and retail markets. Any energy produced by a renewable resource may be bought and sold in the Texas wholesale market or to retail customers in Texas and marketed as renewable energy if it is generated from a resource that meets the definition in subsection (c)(14) of this section.

(q) Periodic review. The commission shall periodically assess the effectiveness of the energy-based credits trading program in this section to maximize the energy output from the new capacity additions and ensure that the goal for renewable energy is achieved in the most economically-efficient manner. If the energy-based trading program is not effective, performance standards will be designed to ensure that the cumulative installed renewable capacity in Texas meets the requirements of PURA §39.904.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I want to finish. We have had these battles since I came to Congress in 1975. We recognized at that time we were so vulnerable with respect to our oil supplies that it was essential we put ourselves on a course that could make us much more independent. We have made very little progress in that time.

The PRESIDING OFFICER. Will the Senator suspend? The Chair inquires, did the Senator from Nevada relinquish the floor?

Mr. REID. I had not finished.

Mr. JEFFORDS. Fine, let me finish quickly.

Mr. REID. I am not finished, though. If I can proceed.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I will be very quick. I apologize.

Mr. President, the manager of this bill, Senator BINGAMAN, has noted that this amendment is opposed by numerous organizations, some of which are energy coalitions, not just environmental groups, although they join with us also in opposing this amendment:

The Nickles amendment is the latest in a sustained attempt by power companies to undermine efforts to diversify America's energy supply with clean renewable energy.

It is wrong.

The Nickles amendment would reduce diversity of technologies and states that benefit from the RPS.

Under a lower price cap, only the very lowest-cost renewable energy technologies can benefit from an RPS—primarily wind power at the very best sites. Biomass, geothermal and solar would be at a significant disadvantage to meet the portfolio standard if these lower credits are adopted.

And that affects Western States. Not only would it be geothermal and solar, but, of course, wind. The wind blows a lot in the West. The Nickles amendment would reduce benefits to Western States with good resources about which I have spoken. The Nickles amendment would reduce the amount of renewable energy developed.

It is from all perspectives undermining what we are trying to accomplish in this legislation, which is develop renewable energy for this country and having not only incentives, but there would be a requirement to do it. Voluntarism simply has not worked.

Do not believe the industry's claim that this will cost too much money. The Bush administration's EIA found that a 10-percent RPS would save consumers money.

I hope my colleagues will reject this amendment. I hope this is the last weakening amendment to the RPS that is in this bill. The bill as it now stands is good, and I think we should vote like we have the previous three times and not let this amendment weaken the standards in this bill relating to renewables.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I have a few more comments. Logic should make this obvious. If you can provide energy that does not cost you any money—solar and wind, for example—is it not logical to put it in the mix? That is all we are saying. The Department of Energy agrees with us and says it will save money.

I understand those from the oil-producing States do not want this provision, but common sense tells us it is the best thing we can do. Therefore, I urge my colleagues to vote against the amendment.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, for the information of my colleagues, we are going to vote on this amendment shortly. Staff should notify their Senators.

I wish to make a couple comments.

One, the Department of Energy supports this amendment. It does not oppose it.

Two, as to colleagues saying this amendment does not cost anything, they are not talking about the people who know something about the amendment. The Energy Information Administration talks about the cost to States in the millions and millions of dollars. The State of Florida shows about a $450 million increase.

For my colleagues' information, I have a letter from the Public Service Commission in the State of Florida. The letter says they support this amendment to lower the amount of the penalty from 3 cents to 1.5 cents, and that it would reduce the cost of the Federal mandate on the Florida ratepayers. I happen to think those people know something about this issue.

I have letters from utility companies. Some people say these are oil companies. I am talking about utility companies. This is not oil companies versus other companies. This is about an assault on ratepayers because we are getting ready to say you have to have 10 percent of your power from renewables. We did not change that. But if you do not make it—and I will tell my colleagues, it is not easy to make that.

There was an article in the Wall Street Journal about the city of Jacksonville. The city of Jacksonville has a renewable standard of 7.5 percent. They have tried a lot of alternative sources of power. Guess what. They are not there yet. I hope they get there, but they have found out that some of these alternative sources of power cost a lot of money, and the ratepayers are objecting.

Nantucket, a very pristine area a lot of us have enjoyed off the coast, wants to have renewables. They talked about having a wind farm. Wind farms are subsidized a lot through the Tax Code. There was an effort to build a wind farm off the coast, but there is a lot of objection from environmentalists because of what it would do to bird, migration and to the environment as well.

The point is, yes, there is a desire by many to go to renewables, but there is also a penalty. This bill has a very high penalty. It has a penalty twice as high as that proposed by the Clinton administration.

What Senator BREAUX, myself, Senator MILLER, and Senator VOINOVICH have offered is a compromise. It does not eliminate the renewable standard. It says let's reduce the penalty to the same number the Clinton administration proposed.

How much is the penalty? It is 1.5 cents a kilowatt hour. How much is that? The wholesale cost of electricity is 3 cents around the country. In some areas, it is as low as 2.2 cents, and in other areas it is closer to 4 cents. The nationwide wholesale cost of electricity is right around 3 cents.

The penalty under the Bingaman proposal in the underlying bill for not complying is 3 cents. That is a lot. That is 100 percent of the cost of electricity. We are telling people you have to pay that kind of penalty if you do not make the target. That is a heck of a gun at your head. As a matter of fact, the penalty is so high on some utilities that produce a lot of electricity—and, yes, maybe electricity is primarily produced by coal, oil, and gas—it is a heavy hit. It is not insignificant when the CEO of Southern Company estimates the cumulative cost of this mandate on Southern Company through the year 2000 will be from $3 billion to $6.5 billion. That is not insignificant.

For somebody to say they think it will not cost anything is absurd. Did the CEO of Southern Company put his name on this letter, and is he factually wrong? I do not think that is the case. It is the reason this amendment is supported by almost every utility in the country. It is the reason this amendment is supported by the Chamber of Commerce, the NFIB, and the National Association of Manufacturers. Somebody is going to have to pay the bill. Guess what. It is not the utilities that pay the bill. They are going to pass it on to their ratepayers.

If we do not adopt this amendment, there is going to be a significant hit on ratepayers. It is going to happen and people should know it. They should know we are voting on whether we are going to have electric rates go up significantly. This amendment tries to mitigate it. They are still going to go up because there is a penalty of 1.5 cents. That is about 50 percent of the wholesale price of electricity. That is still pretty significant. If we do 3 cents, it is 100 percent. That is a big hit, not to mention the fact in addition to the 3 cents, there is also already in the Tax Code—it has already been agreed upon—a 1.7-cent tax credit for renewables.

So we give a tax credit. That is great. But to have this heavy a mandate is a big hit on consumers. It is in the hundreds of millions of dollars in almost every State, including States in the Northeast.

I am going to correct my colleague on the Texas renewable standard. I have the greatest respect for my colleague from Nevada. I love him like a brother. The Texas renewable standard—and maybe we should have the Senator from Texas present because he argued this before in this Chamber, and he said the underlying bill—to paraphrase Senator GRAMM of Texas—is so far from being the Texas renewable standard it is remarkable. What we have in Texas is capacity, not energy-produced, and what we have in Texas is equal to a 2-percent standard, not a 10-percent standard. There is a big difference.

I believe I understood the Senator from Nevada to say there was a 15-percent renewable. My guess is that includes hydro. The underlying bill does not include hydro. Hydro is pretty clean power. We have Hoover Dam. That is pretty clean power. It generates a lot of electricity. It is water. It is great power. It is cheap. It is very good power. It is not included as renewable under the definition of the underlying bill.

So I urge my colleagues to support this amendment.

I am going to insert in the RECORD several statements. I want to insert a letter from the American Corn Growers Association, very big advocates of renewable sources, but they are also supportive of this amendment because they believe this is a proper mix. They also know that their ratepayers, their users, the ones who grow corn, buy a lot of electricity, think this is the proper blend. They want renewable sources.

I will read a part of this letter.

ACGA also supports a fair and equitable renewable portfolio standard requiring a portion of the Nation's energy to come from renewable sources. However, while we want to do everything we can to promote renewable production by farmers we must oppose undue mandates that will impose additional fuel costs on all rural consumers.

Senator Nickles' amendment will significantly reduce the cost of complying with the standard, and in turn protect rural America from excessive price increases for electricity, by cutting the energy credits from 3 cents per kilowatt-hour to 1.5 cents per kilowatt-hour.

I also wanted to mention a company called Mid-America Energy Company. This is a company that is based in Omaha, NE. They have analyzed this proposal and developed estimates on increased costs that will result from its enactment of RPS.

According to our preliminary calculations, implementing RPS in S. 517 will begin increasing electricity costs for Mid-America's regulated and competitive customers in 2007 by 600,000, with costs rising to more than $40 million in the year 2019.

This is in rural America. This is in Middle America. This is in the corn-growing areas. This is one of the largest utilities in the area that said this is going to be a big hit that they are going to pass on to their consumers.

I am surprised there is any opposition to this amendment because this amendment does not eliminate the RPS standard, it does not eliminate the 10-percent standard; all it does is say, let us reduce the penalty to 1.5 cents per kilowatt hour. It is the same proposal the Clinton administration supported.

I do not say things lightly on this floor. I want to be as accurate as possible, and if I am ever inaccurate, I want to be corrected, and I will stand corrected. This amendment will save billions of dollars. I had one letter from one company, Southern Company, that said it was billions of dollars of expense to them and their customers. That is a

few States. I cannot say that is one State. It is a few States. It is a big utility. In my State, for one company, it is something like $60 million. They showed it each year: Here is the production. Here is their cost of compliance. And it increases substantially. By the last year, it is something like $60 million.

Senator KYL alluded to the fact that in my entire State it is over $100 million. The State of Vermont, I believe he said, was $7 million.

This also came from the Energy Information Agency. So maybe people are able to distort figures and say it does not cost anything. It does cost something. One cannot say that companies are going to have to pay 3 cents per kilowatt hour if they do not meet a target and say it does not cost anything. There are significant costs, and ratepayers will pay for it. I do not think the utilities pay for it, I think the ratepayers pay for it, and I think it is time we stand up for ratepayers.

So I urge my colleagues to support the amendment I have offered with Senator BREAUX, Senator MILLER, and Senator VOINOVICH.

I yield the floor.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from New Mexico.

Mr. BINGAMAN. Madam President, I will make a few more comments and then move to table the amendment. I think we have had a lot of debate. Everyone knows the issues. I think it is clear this is the fourth amendment we have dealt with on the Senate floor in an attempt to undermine the renewable portfolio standard we have in the bill. There are a lot of figures that have been cited, many of which have no basis in fact, as far as I can tell.

One of the statements we heard was that this was going to cost—if we go ahead and keep the bill as it is currently—the ratepayers of California $243 million a year, or some such figure. The reality is, in our bill we are saying by the year 2005 each State will generate 1 percent of the power they sell—each utility will generate 1 percent of the power they sell from renewable sources.

In California, 12.19 percent of the power sold today is from renewable sources.

Mr. NICKLES. Will the Senator yield?

Mr. BINGAMAN. Yes.

Mr. NICKLES. Does that 12 percent include hydro?

Mr. BINGAMAN. Yes, it includes the hydro that is given credit for in this bill.

Mr. NICKLES. I did not think hydro was included in this bill.

Mr. BINGAMAN. No, hydro is included in this bill, to an extent, and this includes the hydro that is given credit for.

Mr. NICKLES. If the Senator will yield further, existing hydro is not included in the bill. Only incremental new hydro is included in the bill, and I do not know how the Senator can count that for existing percentages.

Mr. BINGAMAN. As I understand it, the existing hydro is deducted from the base before the calculation is made. So to that extent, existing hydro is included in the bill.

Mr. NICKLES. I know the Senator is going to move to table this amendment, and I think that is fine. I think we are ready to vote. The Senator has mentioned this is the fourth amendment we have dealt with in regard to renewables. One of the reasons I think we have had a few amendments dealing with this is that it costs so much money, and we have never had a hearing, and we never had a markup.

I happen to be a member of the Energy Committee. I would have loved to have participated in a hearing and a markup on this section. I would love to hear from experts on both sides of this aisle how much this amendment would really cost, but we were denied that opportunity. So it is one of the reasons we have to legislate on the floor of the Senate, because we did not have the opportunity to do it in committee.

Mr. BINGAMAN. Reclaiming my time, my colleague has had ample opportunity to argue his side of the case today and several weeks ago. We know his view on it. He is not in favor of the renewable portfolio standard. This amendment would undermine the renewable portfolio standard we have in the bill because what it would do is make it much less likely that renewables, other than wind, to be very specific, would be used to any significant degree. So those States that depend upon biomass as a renewable, those States that depend upon biothermal as a renewable, those States that depend upon solar power as a renewable might find it more difficult.

We do not think the amendment makes sense. We think it will undermine the renewable portfolio standard. On that basis, I urge my colleagues——

Mr. NICKLES. Before the Senator moves to table——

Mr. BINGAMAN. On that basis, I urge my colleagues to—if the Senator wants further debate, I am not trying to cut off debate, but he has concluded his debate, as I understand it.

Mr. NICKLES. Will the Senator yield?

Mr. BINGAMAN. I will yield for one additional question, if it is a question.

Mr. NICKLES. I want to insert something into the RECORD.

Mr. BINGAMAN. If he wants to insert something into the RECORD, I am glad to have him do that.

Mr. NICKLES. I appreciate my colleague yielding for this request. I know he wants to move to table.

Earlier, I was looking for a letter I could not find. This is a letter from the Northeast Utilities. I ask unanimous consent that this letter be printed in the RECORD.

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

I recognize that many of the Senators from New England supported the federal RPS portfolio. While NU believes that renewable programs should be developed on the state level, we support the further development of renewable sources of energy. We are concerned, however, that our consumers in New England will be penalized by the program included in the Senate bill. As you know, the RPS provision in the bill applies only to shareholder-owned utilities that sell more than 1 million megawatt-hours per year at the retail level. Federal agencies, state and municipal utilities and electric cooperatives are exempt from meeting the RPS requirements currently included in the bill. It also appears that self-generators are exempt.

Given these exemptions, PSNH will be the only utility in New Hampshire that would be required to participate in the program. It creates a very uneven field for us and will cost our customers an estimated $22 million a year. This provision goes directly against the intent of current NH law which encourages PSNH and other energy companies to find ways to mitigate the high cost of purchases from renewable sources.

Also, the federal penalty that is set forward in the bill for not submitting the required number of credits will hit consumers in Connecticut and Massachusetts with a ''double whammy,'' as they already have to pay penalties if they do not achieve the levels set forth in the state programs that are already in existence. It would in essence, penalize Connecticut and Massachusetts for having state programs.

Though it would be our preference to see these provisions changed dramatically in conference, the Senate will likely have the opportunity to vote for an amendment by Senator Nickles that reduces the penalty in the bill from 3 cents to a more reasonable 1.5 cents. Remember, the goal is not only to increase the number of renewable sources, but to also to lower costs to consumers. Please support the Nickles RPS amendment.

MIKE MORRIS

Mr. NICKLES. The key point of this letter says:

PSNH will be the only utility in New Hampshire that would be required to participate in the program. It creates a very uneven field for us and will cost our consumers an estimated $22 million a year.

It talks about the impact on the northeastern part of the country, including New Hampshire, Vermont, Massachusetts, and Connecticut.

Mr. BINGAMAN. Madam President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion to table amendment No. 3256. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from South Dakota (Mr. DASCHLE) and the Senator from South Dakota (Mr. JOHNSON) are necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

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

The result was announced—yeas 38, nays 59, as follows:

[Rollcall Vote No. 83 Leg.]

YEAS—38

Baucus	Dorgan	Mikulski
Biden	Durbin	Murray
Bingaman	Edwards	Nelson (NE)
Boxer	Feingold	Reed
Cantwell	Harkin	Reid
Carnahan	Inouye	Rockefeller
Carper	Jeffords	Sarbanes
Chafee	Kennedy	Snowe
Clinton	Kerry	Stabenow
Collins	Kohl	Torricelli
Conrad	Leahy	Wellstone
Dayton	Levin	Wyden
Dodd	Lieberman	

NAYS—59

Akaka	Enzi	McConnell
Allard	Feinstein	Miller
Allen	Fitzgerald	Murkowski
Bayh	Frist	Nelson (FL)
Bennett	Graham	Nickles
Bond	Gramm	Roberts
Breaux	Grassley	Santorum
Brownback	Gregg	Schumer
Bunning	Hagel	Sessions
Burns	Hatch	Shelby
Byrd	Hollings	Smith (NH)
Campbell	Hutchinson	Smith (OR)
Cleland	Hutchison	Specter
Cochran	Inhofe	Stevens
Corzine	Kyl	Thomas
Craig	Landrieu	Thompson
Crapo	Lincoln	Thurmond
DeWine	Lott	Voinovich
Domenici	Lugar	Warner
Ensign	McCain	

NOT VOTING—3

Daschle	Helms	Johnson

The motion was rejected.

Mr. NICKLES. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Without objection, the amendment is agreed to.

The amendment (No. 3256) was agreed to.

Mr. REID. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Louisiana.

AMENDMENT NO. 3274 TO AMENDMENT NO. 2917

Ms. LANDRIEU. Madam President, I call up amendment No. 3274, the participant funding amendment, for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside, and the clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Louisiana [Ms. LANDRIEU] proposes an amendment numbered 3274.

Ms. LANDRIEU. Madam President, I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To increase the transfer capability of electric energy transmission systems through participant-funded investment)

At the appropriate place, insert the following:

SEC. . TRANSMISSION EXPANSION.

Section 205 of the Federal Power Act is amended by inserting after subsection (h) the following:

''(i) RULEMAKING.—Within six months of Enactment of this Act, the Commission shall issue final rules governing the pricing of transmission services.

''(1) TRANSMISSION PRICING PRINCIPLES.—Rules for transmission pricing issued by the Commission under this subsection shall adhere to the following principles:

''(A) transmission pricing must provide accurate and proper price signals for the efficient and reliable use and expansion of the transmission system; and

''(B) new transmission facilities should be funded by those parties who benefit from such facilities.

''(2) FUNDING OF CERTAIN FACILITIES.—The rules established pursuant to this subsection shall, among other things, provide that, upon request of a regional transmission organization or other Commission-approved transmission organization, certain new transmission facilities that increase the transfer capability of the transmission system may be Participant Funded. In such rules, the Commission shall also provide guidance as to what types of facilities may be participant funded.

''(3) PARTICIPANT-FUNDING.—The term 'participant-funding' means an investment in the transmission system controlled by a RTO, made after the date that the RTO or other transmission organization is approved by the Commission, that—

''(A) increases the transfer capability of the transmission system; and

''(B) is funded by the entities that, in return for payment, receives the tradable transmission rights created by the investment.

''(4) TRADABLE TRANSMISSION RIGHT.—The term 'tradable transmission right' means the right of the holder of such right to avoid payment of, or have rebated, transmission congestion charges on the transmission system of a regional transmission organization, the right to use a specified capacity of such transmission without payment of transmission congestion charges, or other rights as determined by the Commission.''.

Ms. LANDRIEU. Madam President, I see my colleague, Senator DURBIN, in the Chamber. I would not mind yielding 1 minute necessary for him to just lay down an amendment, if that would be in order.

The PRESIDING OFFICER. Is there objection?

The Senator from New Mexico.

Mr. BINGAMAN. Madam President, what is the request?

Ms. LANDRIEU. I say to the Senator, I was recognized to offer an amendment. The amendment has been called up. We are on amendment No. 3274, which we discussed and is in order. But Senator DURBIN has asked to lay down an amendment that will take 1 minute, and then we will go back to this amendment, if that would be OK with you and the Senator from Alaska.

Mr. BINGAMAN. I thank the Senator from Louisiana. I have no objection.

The PRESIDING OFFICER. Is there objection?

The Senator from Alaska.

Mr. MURKOWSKI. Reserving the right to object—and I may not object—my concern is we have six pending amendments, I am told. I would like to try to work through the amendments. I am sure the manager of the bill feels the same way. I did not hear the request.

Ms. LANDRIEU. It is 2 minutes to Senator DURBIN, and then I will get right on with my amendment, and we will move through with others who are waiting.

Mr. MURKOWSKI. Madam President, I yield the floor.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Madam President, I did not hear the unanimous consent request. I am standing here, and I have an amendment that I have been wanting to offer. I would like to know what the unanimous consent request is, if the Chair could so inform me.

The PRESIDING OFFICER. The Senator from Louisiana sought consent that she might yield for 2 minutes to the Senator from Illinois in order to allow the Senator to offer an amendment.

Mr. DURBIN. If the Senator from Iowa will yield.

Mr. HARKIN. I will yield to get a clarification.

Mr. DURBIN. I am asking for 2 minutes to call up an amendment and lay it aside—no speeches, no debate, no vote.

The PRESIDING OFFICER. Is there objection?

Mr. MURKOWSKI. Reserving the right to object, Senator FITZGERALD has been waiting quite a while. I am sure he would certainly be willing to accommodate the two Senators with 2 minutes each, but I would propose that we go back and forth, if the Senator from Iowa has an amendment.

I remind all Members, we have a limited amount of time. So as we begin to accept amendments, without disposing of them, we are going to run into a time constraint.

I yield the floor.

Mr. REID. Reserving the right to object, I say to my friend from Alaska, we now have pending, 1, 2, 3, 4, 5, 6, 7 amendments.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Illinois.

Mr. DURBIN. Madam President, I thank the Senator from Louisiana—and this goes to prove that the Good Samaritan never goes unpunished—for yielding 2 minutes.

AMENDMENT NO. 3342 TO AMENDMENT NO. 2917

Madam President, I ask unanimous consent that the pending business be set aside so that I can call up amendment No. 3342.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN] proposes an amendment numbered 3342.

Mr. DURBIN. Madam President, I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To strike the nonbusiness use limitation with respect to the credit for the installation of certain small wind energy systems)

In Division H, on page 98, line 16, strike ''If'' and insert ''Except in the case of qualified wind energy property expenditures, if''.

Mr. DURBIN. Madam President, I am grateful that I have had the chance to work with Senators BAUCUS and GRASSLEY to provide a small tax incentive for installation of small wind systems in America's farms, ranches, and other places in rural areas that have wind potential. Specifically, my amendment would give wind power—a limitless and clean energy source—a level playing field with solar, geothermal energy, which are in current law, and fuel cell energy, which is included in the underlying tax title. All of these renewable energies are eligible for a 10 percent business investment credit under section 48 of the tax code. And I think we should give people who wish to tap into wind energy the same credit. With my amendment, farmers, ranchers and other business owners who wish to install a small wind energy system up to 75 kilowatts can do so, and get a credit on their tax return worth 10 percent of the cost of installing the wind system. I applaud the work of Senators BAUCUS and GRASSLEY, as well as the rest of the Finance Committee, which put together a package of energy tax incentives. I am hopeful that the small wind system amendment that I have filed will be accepted as part of the tax incentive package. I know Senators BAUCUS and GRASSLEY are working diligently to make this happen in the near future.

However, in the event that the Finance Committee and bill managers do not succeed in working something out on this provision, I am calling up this amendment so that it may be considered by the Senate at the appropriate time. This amendment makes small changes to the underlying tax title, so that farmers, ranchers, and small business owners will be eligible for a tax incentive when they choose to install a wind energy system on their property. This amendment would have an effect similar to adding wind to section 48 of the tax code, where solar, geothermal, and now fuel cell energy already receive a business investment credit.

Madam President, I ask unanimous consent that the amendment be laid aside.

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

Mr. DURBIN. Madam President, I yield to the Senator from Louisiana with gratitude.

The PRESIDING OFFICER. The Senator from Louisiana.

AMENDMENT NO. 3274

Ms. LANDRIEU. Madam President, I am now prepared, after that slight detour, to get back on amendment No. 3274, which is a very important amendment. Many of us have worked on this amendment now for many weeks in an attempt to try to find and establish a fairer way to fund the new transmission lines that are necessary to move electricity from one part of this country to another, to meet the growing demand of our transmission grid system.

Let me begin by sharing a chart that I have used several times in this Chamber to show what the problem is and to ask the Senate to consider, very strongly, this proposed solution to our current dilemma.

We have a great dilemma on our hands. We have, some people might describe, a crisis on our hands. We have a system that we are moving to, a deregulated, more market-based system, which I believe ultimately, with the right safeguards, will be very good for all of us, for all of our States. Most importantly, our constituents and our businesses, both large and small—our consumers, our retailers—all of us will benefit from this new efficient system. Why? Because costs will be lowered, efficiencies will be increased. And we can make sure that when people go to turn their light switch on, the light will actually come on.

It is very important. Part of the problem is that we are not producing enough energy or electricity in our own country. Part of the problem is we are not doing our part at conserving what we should. So there is a mismatch between what we need and what we are producing.

But also, even if we got that balance right, which I hope we are going to try to do through this bill, the problem is, because we are producing electricity in some parts of the country and using it in others, some parts of the country produce more than they use, and some parts of the country do not produce as much as they need, we have to move it.

As you can see from this chart I have in the Chamber, the demand for electricity, represented by this blue line, has been increasing substantially. But the investment in building these transmission lines has been decreasing. So this gap right here is a real problem.

It has to be closed or even if we would drill the way the Senator from Alaska and I would hope we would drill, and produce more oil and gas and other fuels for electricity, and invest in more nuclear power, we still need to have more transmission lines built. The reason we are not is because there is a flaw in the system where the incentives are not in the right place.

My amendment, in short, will create a participant funding mechanism so that the Federal Energy Regulatory Commission can issue rules governing the pricing of these transmission services. I am reminded of a quote I have become familiar with and actually like that says: All some folks want is their fair share, and yours.

The problem is, we have to create a system that is very fair and smart so that we put the incentives in the right places, and when the cost allocations to build these transmission lines are set by FERC, that they are set in a way that whomever is using them, pays for them. If we don't do that, there will be no incentive to build them because people who don't need them won't build them. The people who need them won't get charged for them, and they won't get built. And blackouts and brownouts will become more of the rule as opposed to the exception.

This amendment will provide a platform for true fairness in electricity pricing, paving the way for much needed transmission expansion at the national level. Over the past 10 years, as I have shown, peak demand growth for electricity has increased by 17 percent, while transmission investment has declined by 45 percent. What is even more troubling is that current demand for electricity is projected to increase by 25 percent over the next 10 years with only a modest increase in transmission capacity. Again, if we don't do something, we are going to continue to have a situation where power does not reach the people who need it.

The current transmission pricing mechanism at wholesale levels still employs an old, what I would call, socialized rate method of pricing. Its effect is to continuously increase the rates for local customers, even though most of the beneficiaries may be outside of the region.

This antiquated pricing method has dampened the push to enhance capacity in energy-producing States such as Louisiana and others—and this is not just a Louisiana-specific amendment; it affects us all in many States—as State regulators are reluctant, understandably so, to pass excessive transmission costs off to local customers when the beneficiaries will primarily be out-of-State or out-of-region customers.

Meanwhile, energy-dependent regions—and there are some regions that are more dependent than others—are denied cheap and reliable electricity.

Electricity price spikes in the Midwest in the summer of 1998 were caused in part by transmission constraints, limiting the ability of the region to import electricity from other regions of the country. You may remember during the summer of 2000, our dilapidated transmission infrastructure limited the ability to sell low-cost power from the Midwest to the South during a period of peak demand, resulting in higher prices. I could go on and on with examples.

In California, path 15 is a notorious transmission bottleneck. The east coast has also suffered. So no region of the country has been spared.

Surely there must be a fairer and smarter way to allocate costs which would stimulate growth instead of having this decline. It is not fair to expect customers in energy-generating States such as Louisiana to pay for transmission expansion when it is primarily being developed for out-of-State use.

In addition, the lack of transmission capacity under this archaic pricing method continues to deny customers in energy-importing States the benefit of cheaper electricity from other regions of the country. The best policy for efficient, competitive wholesale pricing is therefore participant-funded expansion. In this system, market participants fund expansions to the transmission network in return for transmission rights created by that investment. This approach gives proper economic incentives for new generator location and transmission expansion decisions.

The participant funding concept is not new. This is not something we have dreamed up in the last few weeks. It is not something with which the industry itself is not familiar. It has been a concept that has been successfully implemented in the natural gas industry through incremental pricing.

As a result of incremental pricing in the natural gas industry, proposed annual additions in 2002 to natural gas pipeline capacity have increased by 100 percent relative to 1999. In other words, we are in the process in this energy bill of building national systems to move fuel and energy and power from States that produce it to States that need it. Just as we built an interstate highway system, we are building an interstate natural gas pipeline system. We also have to build an interstate electric grid system. And we are moving from something that was very regulated and very parochial and very State oriented to one that regional and national.

We have to create that grid. If we do not put this in place, the incentives simply will not be there, and much of our work will be for naught.

It is important to note this amendment provides FERC with the option. There are many people who think this amendment is a mandate. It is an option to permit participant funding for certain new transmission facilities upon request of RTOs or other FERC-approved transmission organizations. The amendment does not make participant funding mandatory. It is simply a pricing option for FERC.

Initially, I knew there were many different opinions about this amendment. We tried to build a consensus. But unfortunately, there is a lot of self-interest and parochialism in this debate. We have struggled to overcome it.

Electricity policymaking should not be governed by what is popular, but what is necessary. There is not unanimous consensus in Louisiana for this amendment. It is not going to win me a popularity contest. But I know there has to be a better system of pricing for electric transmission so that we can move power from one part of the country to the other and get everybody what they need when they need it at a fair and reasonable price. The growth of our economy depends on it. Jobs depend on it. Businesses depend on it. This is what we should do.

I realize this amendment has unfortunately been the subject of a pretty strong campaign of disinformation. I hope what I have shared and shown, in as simple a way as I can, helps to clear up the fact that it is not a mandate. The current path has us going in the wrong direction. We have to come up with something new, something that is flexible, something that is fair, something that will work. I hope most certainly that we can get past the inertia.

Therefore, I have consulted with Senator BINGAMAN of New Mexico and the Senator from Alaska. I have proposed, instead of calling for a vote at this particular time, that the Energy Committee take up further study of transmission pricing; that the committee would hold a hearing in a short period of time with the Commissioners of the Federal Energy Regulatory Commission, as well as industry leaders.

I believe this issue has significant merit, and it is the right approach to solving a real and serious problem for our Nation.

We need to build a stronger, more reliable transmission grid. So I want to, at this time, ask Senator BINGAMAN for his comments and thank him for his cooperation. We must push forward with a good system.

He has indicated that he would be amenable to a hearing, et cetera. At this time, I ask him if that is his understanding.

Mr. BINGAMAN. Madam President, in response, let me say, first, I compliment the Senator from Louisiana for raising this very important issue. It is an important issue and also a very complicated issue. It is one that we have had the chance to talk about to some extent. But, clearly, we do need, in the Energy Committee, to look at this issue and allow witnesses to come in and explain it in more depth. Before we take action, that would be my preference.

So I would be glad to commit that we will schedule a hearing later on, once we get back to some kind of opportunity to have hearings in the Energy Committee on issues such as this. I would be anxious to have a hearing and hear from the witnesses that the Senator from Louisiana believes are most informed on this issue.

I do think it is premature—at least for me, and perhaps for many Senators—to be making a judgment on what to do at this point. But it is an important issue.

Again, I commend the Senator from Louisiana for raising it, and I hope, following a hearing in the committee, we will be in a much better position to craft legislation to deal with it or determine what is the proper course.

Ms. LANDRIEU. I thank the Senator for his willingness to work with me and with the coalition of Senators—both Democrats and Republicans—and believe this is the right step to take to create the kind of transmission grid necessary. I look forward to working with him at that hearing to focus more attention on this important subject.

Madam President, at this time, after submitting more material for the RECORD, I would like to ask unanimous consent that amendment No. 3274 be laid aside.

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

The Senator from Illinois is recognized.

Mr. FITZGERALD. Madam President, I ask for the yeas and nays on my amendment, No. 3124.

The PRESIDING OFFICER. The amendment must be pending to make that request.

AMENDMENT NO. 3124

Mr. FITZGERALD. Madam President, I call up amendment No. 3124.

If I may have a couple of moments, then I will proceed to put the question to the body.

The PRESIDING OFFICER. The Senator is recognized.

Mr. FITZGERALD. Madam President, my amendment removes subsidies and incentives currently in the pending bill for garbage incinerators.

Many of my colleagues may not realize it, but built into this energy bill is the promotion of more waste incineration around the country by defining waste incinerators as a form of renewable energy.

Waste incineration is not a form of renewable energy. It is not really renewable, and it certainly isn't clean and environmentally friendly in the way of wind or solar power energy. The Daschle substitute, which is now pending, defines garbage incineration as renewable energy. Garbage incineration is, therefore, eligible for all the incentives—or what amounts to subsidies, I would say—as though it were a clean and renewable source of energy.

My amendment removes the subsidies and incentives for garbage incineration by excluding solid waste incineration from the bill's definition of renewable energy. I tell my colleagues that it would be, in my judgment, a very serious mistake to allow the bill to leave this Chamber with an incentive for waste incinerators all over the country.

Back in the 1980s, the Illinois Legislature passed an incentive for waste incineration, and within a matter of a few years waste incinerators were planned for all parts of Illinois. A couple of them, in fact, were built. They were spewing harmful, toxic pollutants, and people were up in arms and demanded that the legislature of Illinois repeal the incentives and subsidies they had for waste incinerators.

We do not want to make the same mistake nationwide that my State made at one time. Let's learn from their mistake and let's also stick with common sense. We don't need subsidies and incentives for waste incinerators. We don't want to subsidize the pollution of the United States of America.

With that, I see my good friend and colleague from New Jersey who should be recognized.

I yield the floor.

(Mr. DAYTON assumed the Chair.)

Mr. REID. Mr. President, he has no right to do that. Mr. President, I have no problem with the Senator from New Jersey speaking, but today we have been doing too much yielding and that is not appropriate, unless you have a question or something like that.

I have spoken to the Senator from Florida, Mr. GRAHAM. He wishes to speak in opposition to my friend from Illinois for about 15 minutes. It is my understanding that the Senator from New Jersey is speaking in favor of the amendment of the Senator from Illinois. I ask the Senator from New Jersey how long he wishes to speak.

Mr. CORZINE. Roughly a minute.

Mr. REID. Mr. President, the Senator from New Jersey wishes to speak for up to 5 minutes and the Senator from Florida for up to 15 minutes. So I ask that we vote on this matter at 6:25. I ask that at that time Senator BINGAMAN be recognized to offer a motion to table, with no second-degree amendments in order.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from New Jersey is recognized.

Mr. CORZINE. Mr. President, I rise to strongly support this amendment that would recognize what I think is a very commonsense principle—that solid waste is not considered a renewable in the way that we are intending with regard to this legislation.

It seems to me that when we are putting dioxins, mercury, lead, and arsenic into the air, somehow or another we should not be using that as a basis for alternative energy sources—at least in my commonsense interpretation. We were trying to get solar and wind—things that are clean alternatives—to produce energy as substitutes for fossil fuels and other focuses on production of energy.

So it seems to me that we are taking a step backward in dealing with our environment at the same time we are defining biomass or alternative energies as garbage. Certainly, in our State, where air quality issues are an extraordinary concern to the public, we have a number of these incinerators, about which the public has great protest.

I believe this amendment is conforming to what the intent, at least, of how I have felt about alternative energy sources, and I wholly support pulling back this incentive and subsidization for garbage as an alternative energy source.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I rise today in opposition to the amendment that has been offered by the Senator from Illinois. The fact that the two proponents have used their own States and their experience as the reasons for their opposition makes my point. My point is this is not an issue where one size fits all. It is not an issue where we can require uniformity of treatment across the entire mass of the United States of America. I will try to explain, using illustrations from my own State, why I think that is inappropriate policy.

What this amendment would do is exclude the small amount of municipal solid waste to energy which is part of the current renewable portfolio standard. Over my objection, this bill does not allow new waste-to-energy incineration to count as renewable. We are only talking about whether you can include in the base amount for your State that which is already in place.

A few weeks ago, in a statement I submitted for the RECORD, I pointed out how difficult it is going to be for many States to reach the 10-percent standard which this bill requires by the year 2020. I will add to that statement that I gave previously by saying Senator FITZGERALD's amendment makes the current renewable standard even more inequitable and more unfair in its treatment of particular States.

The ability of the investor-owned electrical generators, which is the only class covered by this renewable portfolio, within a particular State to be able to meet the 10-percent standard by the year 2020 is substantially affected by conditions over which those same investor-owned electrical generators have no control.

As an example, they have no control over the availability of renewables within their State. They have no control over the environmental characteristics that are peculiar to their State. They have no control over the growth patterns. If a State is stagnant or declining in its population, it is going to be a lot easier to meet these standards than if a State is required to add substantially to its generation capacity in order to meet demographic or economic growth.

Let me use my own State of Florida as an example of some of those peculiarities.

Florida, as many other States, particularly in the southeastern region, does not have conditions which are appropriate for hydropower. We are a flat State. We do not have any high, elevated water sources that can fall over and generate hydropower. Surprisingly, we are not a State which is very adaptable to wind power. We do not have winds that are reliable enough or sustainable enough to make wind power a commercially adaptable renewable source. In fact, the largest investor-owned utility in America for wind power is Florida Power and Light Company.

Florida Power and Light Company is the largest wind power electrical utility in the Nation. It produces zero wind power in the State that bears its name, not because they are not interested in wind power, not that they have not had a lot of technical experience, it just does not work in the environmental conditions of Florida.

Solar, which some think would be the silver bullet for renewables in Florida—I had a solar panel in my house when I was a boy, and that was a few years ago. Sixty years later, it still has not developed into a reliable source of energy at anywhere near economic cost.

These factors are going to make it difficult for my State and others to meet the 10-percent renewable standard as currently included in the bill.

In addition, 87 percent of what in the base is defined as renewable energy in Florida comes from waste to energy. Florida is in the course of building its 14th waste-to-energy plant, making it second only to New York State in the number of these plants.

In my judgment, waste to energy is undoubtedly a renewable source of energy. Our cities and towns will continue to produce solid waste that must be disposed of in some manner. Waste to energy is a viable means of dealing with the problem of disposal.

In my State, over 80 percent of our water supply is subsurface. It is in large aquifers that are just a few feet below the surface. That is the nature of our geology. One of the reasons that incineration has become such a popular alternative is not that people love to have incinerators or are not cognizant of the fact there are some negative implications, but the alternative of putting on top of our water supply mass amounts of solid waste is intolerable. So we have been moving away from that and towards incineration as a means of disposing of our pollution.

I would describe myself as an environmentalist but an environmentalist who looks at what the reality is of the options before me. In my State, the options are we bury it or we burn it. I think the case is unquestionable that it is environmentally less offensive to burn it than it is to bury it right over your water supply.

This method has the added benefit of being able to generate not a great part but approximately 1.6 percent of our electrical supply.

I thought one of the purposes of this was to displace fossil fuels, and that is 1.6 percent of energy which, but for incineration, would have been produced through fossil fuel. It is 1.6 percent of energy that, if it were not being produced through incineration, would be lost and would be in a large landfill posing a continuous threat to our water supply.

I believe in the principle of some flexibility in this law. I had a colloquy with the chairman of the committee a few days ago urging that when this got into conference committee, one of the areas that would be looked at would be how to take the differences that exist from State to State, region to region within our country into greater control, greater consideration in arriving at what is an appropriate renewable energy inventory.

Also, our experience in terms of incineration has not been as dire as that of Illinois and New Jersey apparently. Our facilities are relatively new, as

witnessed by the fact we have our 14th currently under construction. They use the maximum achievable control technology, including scrubbers, bag houses, selective noncatalytic reduction, and carbon injection. All of these are designed to reduce the amount of emissions, including the reduction of greenhouse gases.

Emission data that has been circulated recently, in my judgment, is grossly out of date in terms of what modern waste to energy and efficient sources of biomass have been doing in reducing pollution while contributing substantially to alternatives to fossil fuels for energy.

This is not just a Florida-specific issue. In 1993, the Los Angeles District Sanitation Department concluded that the waste-to-energy facility in Commerce, CA, created less pollution than the trucks used to haul the trash to a nearby landfill without regard to the environmental damage once it gets in the ground in the landfill.

According to EPA calculations, if half of the trash produced annually in the United States were used to generate electricity, 1.4 billion fewer pounds of pollutants would be discharged into the atmosphere compared to the energy generation through coal or oil burning.

Waste-to-energy has also been historically treated as a biomass, at least as far back as the FERC rules of 1978.

I ask unanimous consent to have printed in the RECORD the number of States which today have defined for their own State law that waste-to-energy is a renewable energy source.

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

STATE RENEWABLE PORTFOLIO STANDARDS

Currently many states have established renewable portfolio standards, either through state statute, executive orders or public utility commission regulations. Of those states eleven define waste-to-energy as a renewable energy source. They are: Maine, Connecticut, New Jersey, Massachusetts, Wisconsin, Iowa, Nevada, Pennsylvania, Hawaii, and Maryland.

Many other sates define waste-to-energy as a renewable energy source for inclusion in other state incentive programs. They are California, Florida, Michigan, Montana, New Hampshire, Ohio, Washington, Oregon, Oklahoma, Utah and New York.

Mr. GRAHAM. For these reasons—primarily the fact that we need to be pragmatic—we need to recognize that different States have different conditions; that the options for disposal of solid waste in many instances, as in the case of Florida, are limited; and of those options, incineration represents one that is relatively environmentally appropriate and is one of the best sources that is available to us to begin to meet this 10-percent standard of a renewable portfolio.

I urge the defeat of the Fitzgerald amendment, or the adoption of the motion that I anticipate is about to be made to table the Fitzgerald amendment.

Mr. LEVIN. Mr. President, I will vote in favor of the Fitzgerald amendment because the underlying language in the bill would allow even an incinerator that is out of compliance with federal emissions regulations to qualify as a ''renewable energy source.'' A facility which is not in compliance with the applicable state and federal pollution prevention control and permit requirements for any period of time should not be considered an eligible facility for purposes of the renewable portfolio standard.

It is my understanding that this distinction was utilized when it came to the tax incentives in this bill and it should be utilized in this area as well.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. FITZGERALD. I ask unanimous consent for an additional minute to reply to the distinguished Senator from Florida.

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

The Senator from Illinois.

Mr. FITZGERALD. I emphasize this amendment would in no way impair States that incinerate their waste from continuing to do so. In fact, Illinois has waste incineration. What we are saying with this amendment is we should not be promoting, with Federal incentives or subsidies, waste incineration. It is not a renewable form of energy. It is not a clean form of energy. In fact, it spews terrible, harmful pollutants such as dioxins and mercury into the air. The ash produced by waste incineration is very environmentally harmful.

This amendment simply says we will not have a Federal program to promote waste incineration, and no State would be prevented from continuing to burn garbage. We would not be promoting it with a Federal policy.

I thank my colleagues for their time.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, in reference to the amendment, the underlying bill does not, as I read it, provide any subsidy or incentive for use of municipal solid waste. We do say utilities that now generate waste from that source can deduct that from the base they begin with, but we do not give them credit for that generation, and we do not give them credit for any new generation from that source in the future. So there are no incentives. There are no subsidies, as I read the bill.

For that reason, I oppose the amendment by the Senator from Illinois. I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

Is there objection to having the vote at this time?

Without objection, it is so ordered.

The question is on agreeing to the motion to table amendment No. 3124. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from South Dakota (Mr. DASCHLE), the Senator from South Dakota (Mr. JOHNSON), and the Senator from Vermont (Mr. JEFFORDS) are necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

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

The result was announced—yeas 50, nays 46, as follows:

[Rollcall Vote No. 84 Leg.]

YEAS—50

Akaka	Feinstein	Nelson (NE)
Allen	Frist	Nickles
Baucus	Graham	Roberts
Bayh	Grassley	Rockefeller
Bingaman	Hagel	Santorum
Breaux	Hatch	Sessions
Brownback	Hutchinson	Shelby
Bunning	Inhofe	Smith (OR)
Byrd	Inouye	Stevens
Campbell	Landrieu	Thomas
Carper	Lieberman	Thompson
Cleland	Lincoln	Thurmond
Clinton	Lott	Torricelli
DeWine	Lugar	Voinovich
Dodd	Miller	Warner
Dorgan	Murkowski	Wyden
Enzi	Nelson (FL)	

NAYS—46

Allard	Domenici	Levin
Bennett	Durbin	McCain
Biden	Edwards	McConnell
Bond	Ensign	Mikulski
Boxer	Feingold	Murray
Burns	Fitzgerald	Reed
Cantwell	Gramm	Reid
Carnahan	Gregg	Sarbanes
Chafee	Harkin	Schumer
Cochran	Hollings	Smith (NH)
Collins	Hutchison	Snowe
Conrad	Kennedy	Specter
Corzine	Kerry	Stabenow
Craig	Kohl	Wellstone
Crapo	Kyl	
Dayton	Leahy	

NOT VOTING—4

Daschle	Jeffords
Helms	Johnson

The motion was agreed to.

Mr. BINGAMAN. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. BINGAMAN. Mr. President, these are a couple of cleared matters on which I would like to complete action before we do anything else.

AMENDMENTS NOS. 3050, 3093, 3097, AND 3274, WITHDRAWN

Mr. BINGAMAN. Mr. President, I ask unanimous consent that amendments Nos. 3050, 3093, 3097, and 3274 be withdrawn.

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

AMENDMENTS NOS. 3187, AS MODIFIED, 3243, AND 3268, EN BLOC

Mr. BINGAMAN. Mr. President, I ask unanimous consent that notwithstanding rule XXII, it be in order for the Senate to consider en bloc amendments Nos. 3187, 3243, and 3268; that amendment No. 3187 be modified with the changes at the desk; that the foregoing amendments be agreed to en bloc, and that the motions to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendments (Nos. 3187, as modified, 3243, and 3268), en bloc, were agreed to, as follows:

AMENDMENT NO. 3187, AS MODIFIED

(Purpose: To provide for increased energy savings and greenhouse gas reduction benefits through the increased use of recovered material in federally funded projects involving procurement of cement or concrete)

On page 283, between lines 8 and 9, insert the following:

SEC. 9___. INCREASED USE OF RECOVERED MATERIAL IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) AGENCY HEAD.—The term ''agency head'' means—

(A) the Secretary of Transportation; and

(B) the head of each other Federal agency that on a regular basis procures, or provides Federal funds to pay or assist in paying the cost of procuring, material for cement or concrete projects.

(3) CEMENT OR CONCRETE PROJECT.—The term ''cement or concrete project'' means a project for the construction or maintenance of a highway or other transportation facility or a Federal, State, or local government building or other public facility that—

(A) involves the procurement of cement or concrete; and

(B) is carried out in whole or in part using Federal funds.

(4) RECOVERED MATERIAL.—The term ''recovered material'' means—

(A) ground granulated blast furnace slag;

(B) coal combustion fly ash; and

(C) any other waste material or byproduct recovered or diverted from solid waste that the Administrator, in consultation with an agency head, determines should be treated as recovered material under this section for use in cement or concrete projects paid for, in whole or in part, by the agency head.

(b) IMPLEMENTATION OF REQUIREMENTS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator and each agency head shall take such actions as are necessary to implement fully all procurement requirements and incentives in effect as of the date of enactment of this Act (including guidelines under section 6002 of the Solid Waste Disposal Act (42 U.S.C. 6963)) that provide for the use of cement and concrete incorporating recovered material in cement or concrete projects.

(2) PRIORITY.—In carrying out paragraph (1) an agency head shall give priority to achieving greater use of recovered material in cement or concrete projects for which recovered materials historically have not been used or have been used only minimally.

(c) FULL IMPLEMENTATION STUDY.—

(1) IN GENERAL.—The Administrator and the Secretary of Transportation, in cooperation with the Secretary of Energy, shall conduct a study to determine the extent to which current procurement requirements, when fully implemented in accordance with subsection (b), may realize energy savings and greenhouse gas emission reduction benefits attainable with substitution of recovered material in cement used in cement or concrete projects.

(2) MATTERS TO BE ADDRESSED.—The study shall—

(A) quantify the extent to which recovered materials are being substituted for Portland cement, particularly as a result of current procurement requirements, and the energy savings and greenhouse gas emission reduction benefits associated with that substitution;

(B) identify all barriers in procurement requirements to fuller realization of energy savings and greenhouse gas emission reduction benefits, including barriers resulting from exceptions from current law; and

(C)(i) identify potential mechanisms to achieve greater substitution of recovered material in types of cement or concrete projects for which recovered materials historically have not been used or have been used only minimally;

(ii) evaluate the feasibility of establishing guidelines or standards for optimized substitution rates of recovered material in those cement or concrete projects; and

(iii) identify any potential environmental or economic effects that may result from greater substitution of recovered material in those cement or concrete projects.

(3) REPORT.—Not later than 30 months after the date of enactment of this Act, the Secretary shall submit to the Committee on Appropriations and Committee on Environment and Public Works of the Senate and the Committee on Appropriations and Committee on Energy and Commerce of the House of Representatives a report on the study.

(d) ADDITIONAL PROCUREMENT REQUIREMENTS.—Within 1 year of the release of the report in accordance with subsection (c)(3), the Administrator and each agency head shall take additional actions authorized under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) to establish procurement requirements and incentives that provide for the use of cement and concrete with increased substitution of recovered material in the construction and maintenance of cement or concrete projects, so as to—

(1) realize more fully the energy savings and greenhouse gas emission reduction benefits associated with increased substitution; and

(2) eliminate barriers identified under subsection (c).

(e) EFFECT OF SECTION.—Nothing in this section affects the requirements of section 6002 of the Solid Waste Disposal Act (42 U.S.C. 6962) (including the guidelines and specifications for implementing those requirements).

AMENDMENT NO. 3243

(Purpose: To strike section 721)

On page 148, strike lines 4 through 22, renumber the subsequent section accordingly.

AMENDMENT NO. 3268

(Purpose: To direct the Secretary of Energy to establish a program to provide guarantees of loans by private institutions for the construction of facilities for the processing and conversion of municipal solid waste into fuel ethanol and other commercial byproducts)

On page 205, between lines 8 and 9, insert the following:

SEC. 8___. COMMERCIAL BYPRODUCTS FROM MUNICIPAL SOLID WASTE LOAN GUARANTEE PROGRAM.

(a) DEFINITION OF MUNICIPAL SOLID WASTE.—In this section, the term ''municipal solid waste'' has the meaning given the term ''solid waste'' in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

(b) ESTABLISHMENT OF PROGRAM.—The Secretary of Energy shall establish a program to provide guarantees of loans by private institutions for the construction of facilities for the processing and conversion of municipal solid waste into fuel ethanol and other commercial byproducts.

(c) REQUIREMENTS.—The Secretary may provide a loan guarantee under subsection (b) to an applicant if—

(1) without a loan guarantee, credit is not available to the applicant under reasonable terms or conditions sufficient to finance the construction of a facility described in subsection (b);

(2) the prospective earning power of the applicant and the character and value of the security pledged provide a reasonable assurance of repayment of the loan to be guaranteed in accordance with the terms of the loan; and

(3) the loan bears interest at a rate determined by the Secretary to be reasonable, taking into account the current average yield on outstanding obligations of the United States with remaining periods of maturity comparable to the maturity of the loan.

(d) CRITERIA.—In selecting recipients of loan guarantees from among applicants, the Secretary shall give preference to proposals that—

(1) meet all applicable Federal and State permitting requirements;

(2) are most likely to be successful; and

(3) are located in local markets that have the greatest need for the facility because of—

(A) the limited availability of land for waste disposal; or

(B) a high level of demand for fuel ethanol or other commercial byproducts of the facility.

(e) MATURITY.—A loan guaranteed under subsection (b) shall have a maturity of not more than 20 years.

(f) TERMS AND CONDITIONS.—The loan agreement for a loan guaranteed under subsection (b) shall provide that no provision of the loan agreement may be amended or waived without the consent of the Secretary.

(g) ASSURANCE OF REPAYMENT.—The Secretary shall require that an applicant for a loan guarantee under subsection (b) provide an assurance of repayment in the form of a performance bond, insurance, collateral, or other means acceptable to the Secretary in an amount equal to not less than 20 percent of the amount of the loan.

(h) GUARANTEE FEE.—The recipient of a loan guarantee under subsection (b) shall pay the Secretary an amount determined by the Secretary to be sufficient to cover the administrative costs of the Secretary relating to the loan guarantee.

(i) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all guarantees made under this section. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the loan for the guarantee with respect to principal and interest. The validity of the guarantee shall be incontestable in the hands of a holder of the guaranteed loan.

(j) REPORTS.—Until each guaranteed loan under this section has been repaid in full, the Secretary shall annually submit to Congress an report on the activities of the Secretary under this section.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

(l) TERMINATION OF AUTHORITY.—The authority of the Secretary to issue a loan guarantee under subsection (b) terminates on the date that is 10 years after the date of enactment of this Act.

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

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I ask unanimous consent that the pending

amendment be laid aside temporarily and call up amendment No. 3195.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I say to my friend from Iowa, we have several amendments tonight that we are going to try to put in the queue. But I should say to all my friends on this side of the aisle, most all of the amendments that have been offered have been Democratic amendments. I have been advised by the Republican leader and the manager of the bill for the Republicans that they are going to allow this to happen on a few more amendments, but that is about the end of it. So everyone should understand, this isn't going to go on for the next few hours.

There are actually three amendments that I have gone over with the manager of the bill for the Republicans. And they have tentatively agreed that we could set amendments aside to offer those. But I am just telling everybody that they are not going to allow this to go on until we get rid of some of these amendments, perhaps tomorrow.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, obviously, we are anxious to cooperate with the majority, but this is beginning to wind down, and we anticipate a limited amount of time tomorrow to finish. So we encourage all Senators to try to proceed with their amendments as soon as possible so at the end we do not run out of time and are unable to accommodate Members.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Is there objection?

The Senator from Delaware.

Mr. CARPER. Mr. President, reserving the right to object, I ask unanimous consent that my amendment No.——

The PRESIDING OFFICER. The Chair informs the Senator, there is a unanimous consent request pending at this time.

Is there objection?

Mr. CARPER. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, I ask unanimous consent that my amendment No. 3198 be called up after Senator HARKIN's amendment is reported and that my amendment then be immediately laid aside.

The PRESIDING OFFICER. Is there objection to the request, as modified?

Without objection, it is so ordered. The request, as modified, is agreed to.

The Senator from Iowa.

AMENDMENT NO. 3195 TO AMENDMENT NO. 2917

Mr. HARKIN. Mr. President, has the clerk reported the amendment?

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself, Mr. COCHRAN, Mr. GRASSLEY, and Mrs. LINCOLN, proposes an amendment numbered 3195.

Mr. HARKIN. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To direct the Secretary of Energy to revise the seasonal energy efficiency ratio standard for central air conditioners and central air conditioning heat pumps within 60 days)

Beginning on page 293, strike line 5 and all that follows through page 294 and insert the following:

Section 325(d)(3) of the Energy Policy and Conservation Act (42 U.S.C. 6295(d)) is amended by adding at the end the following:

''(C) REVISION OF STANDARDS.—Not later than 60 days after the date of enactment of this subparagraph, the Secretary shall amend the standards established under paragraph (1).''.

Mr. HARKIN. I offer this amendment on behalf of Senators COCHRAN, GRASSLEY, LINCOLN, and myself.

I yield the floor to the Senator from Mississippi for any comments he may wish to make.

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

Mr. COCHRAN. Madam President, I am pleased to join both of my friends from Iowa, Senator HARKIN and Senator GRASSLEY, along with the distinguished Senator from Arkansas, Mrs. LINCOLN, in sponsoring this amendment to the energy bill.

This amendment would seek to change a provision that is in the bill, as reported by the committee, or as it is pending before the Senate, that relates to seasonal energy efficiency ratios of air-conditioners.

The reason we are offering this amendment is to permit the Department of Energy to proceed with the rulemaking, which they have the power to undertake and they are now considering, to make air-conditioners more energy efficient.

The difficulty with the bill, as reported by the committee, is that it preempts the rulemaking process and establishes, by law, a new seasonal energy efficiency ratio, and it establishes it at the level of 13. That is one of the standards of measuring energy efficiency. The current energy ratio that is established under the regulations is at 10. Almost everybody agrees that this standard ought to be increased and that the efficiency ought to be improved. The issue is, how much?

This amendment that we are offering suggests the appropriate level is 12 instead of the committee-mandated ratio of 13. Why is that? It is because, at this level, if it is not amended, you are going to increase the cost of air-conditioners by about $700 each. In a State such as my State of Mississippi, that is a huge increase for consumers. We have a lot of people who do not make enough money to afford an air-conditioner if it costs that much more than the current air-conditioners will cost. That is a big problem.

Another problem is, a lot of manufacturing plants that are manufacturing air-conditioners or components will be put out of business if the ratio is set at 13, as this committee bill does. There is one plant in my State, located in Grenada, MS, that will shut down if this amendment isn't approved, and 2,500 people who work there will be out of a job. That will not occur if this amendment is adopted.

So this is a serious proposal, and it is undertaken with the notion that we do need to improve the energy efficiency of these air-conditioning units. Our amendment will cause that to happen, and we will save money generally over the life of this new ratio because we will use less energy. Less electricity will be consumed by the Nation. And that is good. That is one of the aims of this bill.

So I am hopeful the Senate will look with favor on the amendment. I appreciate the distinguished Senator from Iowa inviting me to join him in offering this amendment. I am hopeful on tomorrow, when we get to the process of voting and approving amendments, the Senate will vote for this amendment.

The PRESIDING OFFICER. The Senator from Delaware.

AMENDMENT NO. 3198 TO AMENDMENT NO. 2917

Mr. CARPER. Under the previous order, I call up amendment No. 3198.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. CARPER], for himself, Mr. SPECTER, and Ms. LANDRIEU, proposes an amendment numbered 3198.

The amendment is as follows:

(Purpose: To decrease the United States dependence on imported oil by the year 2015)

On page 177, before line 1, insert the following:

SEC. 811. REQUIREMENT FOR REGULATIONS TO REDUCE OIL CONSUMPTION.

(a) OIL SAVINGS.—

(1) IN GENERAL.—The new regulations required by section 801 shall include regulations that apply to passenger and non-passenger automobiles manufactured after model year 2006 and are designed to result in a reduction in the amount of oil (including oil refined into gasoline) used by automobiles of at least 1,000,000 barrels per day by 2015.

(2) CALCULATION OF REDUCTION.—To determine the amount of the reduction in oil used by passenger and non-passenger automobiles, the Secretary of Transportation shall make calculations based on the number of barrels of oil projected by the Energy Information Administration of the Department of Energy in table A7 of the report entitled ''Annual Energy Outlook 2002'' (report no. DOE/EIA-0383(2002)) to be consumed by light-duty vehicles in 2015 without the regulations required by paragraph (1).

(3) CONSIDERATION OF ALTERNATIVE FUEL TECHNOLOGIES.—The Secretary of Transportation shall consult with the Secretary of Energy to identify alternative fuel technologies that could be utilized in the transportation sector to reduce dependence on crude-oil-derived fuels. The Secretary of

Transportation shall take those technologies into consideration in prescribing the regulations under this section.

(4) FINAL REGULATIONS.—The Secretary of Transportation shall issue the final regulations required by this subsection after carrying out the consultation described in paragraph (3), but not later than 15 months after the date of the enactment of this Act.

(b) REPORTS TO CONGRESS.—

(1) REQUIREMENT.—Beginning in 2007, the Secretary of Transportation shall, after consulting with the Administrator of the Environmental Protection Agency, submit to Congress in January of every odd-numbered year through 2015 a report on the implementation of the requirements of this section.

(2) CONTENT.—The report required by paragraph (1) shall explain and assess the progress in reducing oil consumption by automobiles as required by this section.

The PRESIDING OFFICER. Under the previous order, the amendment is set aside.

The Senator from Iowa.

AMENDMENT NO. 3195

Mr. HARKIN. Madam President, there was a little bit of confusion on the floor. What is the pending matter now?

The PRESIDING OFFICER. The Senator's amendment.

Mr. HARKIN. Madam President, I thank the Senator from Mississippi. He said very precisely what this really is all about. I am going to give a lengthier statement, but as long as he is still on the floor, I want to thank him. He hit it right on the head.

This is really about, No. 1, the loss of jobs in a number of States. We will lose many jobs in Iowa, too, I say to the Senator from Mississippi. Secondly, it is about whether or not a significant number of low-income people and the elderly will be able to afford to have air-conditioning.

In some parts of the country it gets hotter than up in my area, but still, up in my area in the summer, it gets pretty darn hot. And the elderly need that air-conditioning. It is a health matter for them. They have to have air-conditioning. It is probably for a shorter period of time in Iowa than in Mississippi or Florida or Georgia, or places like that; nonetheless, there are periods of time in the summer when it is a health matter for the elderly to make sure they have air-conditioning. And some will not be able to afford the purchase price of an air-conditioner with this 13 seasonal energy efficiency ratio, SEER, that is in the bill.

Basically, what this amendment does is strikes the language in the bill that mandates this. First of all, I don't think we ought to be mandating appliance standards. This is something that ought to be within the purview of the Department of Energy to let them review all the data and then come up with a standard.

If we don't like it, maybe we might want to override it. But for us to just come in and mandate a standard which, quite frankly, has been proven not to be workable—I will get into that in a second—is the wrong way for the Senate to proceed.

Again, for the record, when we talk about the SEER numbers, it is the measure of energy efficiency. The higher the number, the more energy efficient the product.

On first blush, people say: We want the most efficient machine possible. Well, let's take a look at that. The Department of Energy is required by law to set standards that are ''economically justified and technologically feasible.'' The current standard is 10. The bill would raise that to 13. Our language simply requires the Department of Energy to issue a revised standard which must be higher than the current 10 standard and issue it within 60 days. And basically on the basis of not only the present administration's analysis but a lot of work done by staff in the previous administration, they would set that at 12 within 60 days.

Again, there has been some confusion about my amendment. Some have said this is a rollback. We are going to roll back the 13. That is not true. There is no 13 right now. It is at 10. So it is not a rollback.

I see my colleague from Iowa is here. He, too, is a strong supporter of this. I thank him for his strong support in trying to bring some reason to this. But in the past my colleague and I have worked together on appliance standards with the DOE back in 1995 and 1996 to establish a fair and balanced system, one that balances conservation, competition, and the needs of consumers in an interpretative rule, really what the law requires. The rule under which we are operating requires that consumers be looked at, not just as an average, uniform group, but as subgroups such as those within various income and age levels. That is what the rule requires.

Again, if you just look at it as a uniform rate, a uniform average group, perhaps you would come to some different conclusion. The rule doesn't say that. The rule says you have to look at it as subgroups of the population.

Under the rule, DOE's responsibilities must look after the consumer and make sure that these subgroups would be looked at. We need to see how a change in appliance standards will impact various kinds of people, such as the elderly, low-income people, and renters. Unfortunately, the last administration, the Clinton administration, effectively did not properly look at this important requirement. They lumped everybody together. And so the different subgroups were not properly considered under the Clinton administration.

When the professional staff recommended a 12 standard in 2000 under the Clinton administration, that recommendation by the professional staff in the Department of Energy was changed in the Office of the Secretary of Energy. The required analysis of the economic impacts on these subgroups required by the process was not properly done to reach that SEER 13 level. I also understand the Department of Justice in the Clinton Administration had considerable concerns about the negative impacts on competition of a 13 SEER requirement. That is a very important question, particularly for those who want to keep the price to the consumer low and who want competition.

The imposition of this 13 standard would have a serious impact on both consumers and the industry. The Department of Justice is opposed to this, the Small Business Administration, the National Association of Home Builders, and the Manufactured Housing Institute. It is economically damaging, especially to senior citizens, lower and fixed-income families and, as we said earlier, employees in the industry.

As the SEER ratings rise, the cost of the machines rise. The Senator from Mississippi already pointed out that going from a 10 to a 13 will cost more than $700 per air-conditioner. By comparison, the cost of going to a 12 is only an estimated $407. So when you go up above that 12, it becomes really expensive. Again, if you make it that expensive, what would a consumer do if they have an old energy-inefficient air-conditioner? Would they go out and buy this new one? Will they ever be able to recoup the cost, especially if they live in Michigan or in Iowa where we need our air-conditioners for short periods of time. They would never recoup the money, if they could even afford it.

What many will do is, particularly a lot of modest homeowners, people who live in manufactured housing who have higher costs still with a SEER 13 because that machine will not fit in the space provided for in many manufactured homes? What many will do is they will say: It is cheaper for me to stay with the old one. That doesn't help the environment. It means more energy use in those homes. And so we have accomplished far less than many believe if we go to a 13?

There has to be some reason in this. We can't underestimate the impact that going to this standard would have on lower income people and senior citizens. You will hear arguments tomorrow about the average consumer out there, what this might cost the average consumer. I have often said to people, if you took me and Bill Gates and you averaged our income, I would be a billionaire on my salary here. Imagine that. You can't just look at an average like that. What you have to look at—and the rule says you have to look at—is those subgroups such as the elderly and low income, which they haven't done and which this 13 rating doesn't properly take that into account.

Senior citizens rely on air-conditioning for their health as well as for their comfort. Sometimes it is not a luxury in the summer months. The elderly need that. Again, if they only use it in the summer, 2 or 3 months in Iowa or Michigan, they would never be able to recover the higher cost of a 13.

Furthermore, renters will also be affected by this. It is expected that the increased cost of a new air-conditioner would be passed on in the form of higher rents to 34 million renter households where the median income is $24,400. So, again, if you add that 13 and the landowners have to replace it, they will pass it on in higher rents to renters or they simply will decide not to replace it. Then what have we accomplished?

Recently, the Energy Information Administration conducted an independent review of the impact of imposing a nationwide standard of 13 for air-conditioners compared to a 12. The EIA review stated that a 12 standard would save the Nation $2.3 billion, while a 13 standard would cost the Nation $600 million in additional costs. So a 12 standard—this is the Energy Information Administration—would save the Nation $2.3 billion; a 13 would cost us $600 million. Again, it is because the impacts of a 13's higher cost.

I haven't gotten into the size. It is quite a bit larger than 12. Therefore, people who live in manufactured housing, where the space for the air conditioner is preset, would not be able to get a new air conditioner without retrofitting their home so those people lose if we go to a 13. We lose jobs—the Department of Energy said 20,000 jobs by the year 2006. I see my colleague from Iowa on the floor. I know he wants to speak on this. I know, at first blush, for people who say they are environmentalists, I think I have a pretty good environmental record; but this is not the direction in which to go. This will hurt the elderly and low-income people because many won't be able to afford an air conditioner. Plus, it will cost a heck of a lot of jobs in my State and, I know, in a number of other States.

Madam President, I have more to say on this, but I want to respect my colleague from Iowa who is here.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa, Mr. GRASSLEY, is recognized.

Mr. GRASSLEY. Madam President, I am glad to be able to work with my colleague from Iowa on this amendment. He is being transparent, and I would like to be transparent on it. There are jobs affected in our State. For the Senator from Michigan, the Presiding Officer, it is my understanding there is a company in her State called Heat Controller, Inc., that would not be able to meet these SEER 13 standards, and that there would be jobs in jeopardy at Heat Controller. You may want to check that out, but that is what my information tells me. If I am wrong, I would like to be corrected.

So I compliment the Energy Committee because, generally, in this legislation they have had suggestions that push industry to do things that are more energy efficient. In most cases, those initiatives by this legislation and by the Energy Committee are not only good for saving energy, but they are also very good for the consumer.

Now, Senator HARKIN has touched on this, that if we go to what is called SEER 13, 75 percent of the country, according to a map I have here, will not, through the life of the use of SEER 13 appliances, be able to get a payback. In other words, there is no benefit to the consumer. So this is one of the rare instances in which the Senate Energy Committee has a suggestion in their legislation that might save energy, but is very costly to the consumer. We want to promote things that are energy efficient, but we also want to promote things that are good for the consumer.

Most of the time, you buy energy-efficient appliances. Recently—maybe 3 years ago—I had an opportunity, and a necessity, to buy a new furnace for my farmhouse in Iowa. In looking at what to buy, they could very quickly say, well, if you buy our furnace, within 5 or 7—I am not sure how long, but it was a relatively short period of time—you will save enough on LP gas to pay for it. Buy one of these thermostats that is automatically controlled to go up and down with the heat, and in a certain period of time it is paid for.

In this particular instance, the Senate Energy Committee has offered us a proposal that will save energy, yes; but for people in 75 percent of the country, geographically—I don't know how that is population-wise—there is not a payback.

So that is why I ask this body to look at the wisdom of this particular provision in this bill. Obviously, I am asking you to look at the wisdom that is behind the amendment offered by the Senator, my colleague from Iowa.

The Department of Energy has authority, through the rulemaking process, to set these standards. The Department of Energy is required by statute, under the National Appliance Energy Conservation Act, to set these standards and to do it in a way ''that is economically justified and technologically feasible.''

So I think the underlying legislation—which we can obviously change if we want to, and I think it is unwise to change—the underlying statute calls for it to be economically justified. This is one that is technologically feasible; it saves energy, but it doesn't appear to be economically justified by going from 12 to 13. What we are trying to do is overturn precisely what the bill does in the first place. The Department of Energy is considering a rule based on information and based on analysis from several years' worth of submission during the rulemaking process. Unfortunately, this bill seeks to take action that would raise the standard—a 30-percent increase in efficiency—and to do it clearly, without consideration of information collected by the Department of Energy.

Had the authors of this bill considered the evidence regarding the economic impact of a 30-percent increase, they would have soon realized it is contrary to the statutory criterion imposed on the Department of Energy which requires that it be economically justified.

Economically, a 13 SEER standard just doesn't make sense. For example, 75 percent of the consumers purchasing 13 SEER units will incur a net cost. At the end of the lifetime of the product, the savings in operating costs won't be sufficient to offset the additional up-front costs of that particular product—besides the fact that some companies, as I have implied to the Senator from Michigan, are not able to make SEER 13 and maybe it would really harm those jobs as a result of that additional complication.

This is particularly true for consumers in the middle and northern tiers of the United States. Critics claim that the additional cost of the 13 SEER product is insignificant. However, the Energy Information Administration conducted an independent review of the economic impact of imposing either a 30-percent increase in SEER, which this bill proposes, and a 20-percent increase. The Energy Information Administration concluded that a 20-percent increase would result in savings of $2.3 billion in energy costs for consumers while a 30-percent increase would actually cost consumers $600 million.

So based on that evidence, it is contrary to the best interest of the consumer. There is not a payback. The difference between the savings of $2.3 billion compared to a loss of $600 million is certainly significant and clearly does not justify a 30-percent increase.

The supporters of the 13 SEER standard also disregard the concerns expressed by the Department of Justice. A number of equipment manufacturers selling air-conditioners in the United States today don't offer products at 13 SEER. Which I mentioned to the Senator from Michigan. For that reason, the Department of Justice opposes a 13 SEER standard based on anti-competitive implications for the industry.

It is also important for my colleagues to understand exactly what the amendment offered by Senator HARKIN and my colleague, Senator COCHRAN, would do. This amendment won't impose a lower standard for air-conditioners and heat pumps. It simply eliminates the 13 SEER mandate of the bill and requires the Department of Energy to determine an appropriate standard and set that standard within 60 days.

In conclusion, I urge my colleagues to oppose the 13 SEER standard in the bill that is not economically justified as the underlying, present law requires. I urge my colleagues to support this amendment, which will allow the Department of Energy to complete the rulemaking process within a standard that is not only good for saving energy and technologically feasible, but also good for the consumer.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Madam President, I thank Senator GRASSLEY for his strong support not only on this amendment but in previous years, and for bringing some reason to how we address this SEER standard. He is right on target.

Again, we have to keep in mind the differences about which we are talking. If we look the first 15 years after the rule is implemented, from 2006 to 2020, the difference between the 13 and 12 is four-hundredths of a percent of the cumulative U.S. generating capacity—four-hundredths of a percent. I am all for saving energy—we all are—but what is this going to do to our elderly and low-income people in between time and the loss of jobs?

I am not saying we should never go to a 13. I am not saying that. What I am saying that the appliance standards should be staged, looking at the economic effects and the technology over time. Again, look at the impact going from a 10 to a 13 would have on jobs, on people of low income, on our renters, and our elderly. A 13 standard would also have an impact on competition in small business. It would eliminate 84 percent of all new central air-conditioning models on the market today and 86 percent of all new heat pumps. Nearly half of the original equipment manufacturers selling air-conditioners in the United States today do not offer products at 13. A lot of those, mostly small manufacturers may be forced out of business.

There is a large company, one of the biggest. They are for the 13? They are for the 13. Interesting. I can see a scenario whereby a lot of the smaller manufacturers—they are doing a good job. I can see a scenario where they simply would be forced out of the business, and I can see this great big company coming in and buying them up. Then what happens to the competition? It is a lot less.

It is interesting to note that one, the largest company in this business, is for the 13 standard. Again, we ought to ask the question about what we are trying to do? They are trying to acquire market share from the small companies who will have difficulty retrofitting their factories to make 13 SEER machines.

To the extent we go to 13 and we force the change, I do not know what the elderly are going to do and what low-income people are going to do. They cannot recoup their investment, and it will be an additional $700 for an air-conditioner.

On that issue, I just mentioned the competition. That may be why the Department of Justice in the last administration had serious concerns about a SEER 13 standard. And why this administration opposed this on the basis of competition. That is why the Small Business Administration opposes it. Again, they are concerned about smaller manufacturers being able to remain in this line of business.

One last thing I have not talked about—I should have my chart. I do not this evening. Maybe I will bring it in the morning. The size of the air-conditioners with a 13 standard is substantially larger than a 12. Not one-twelfth bigger, but maybe a third again as big. They are huge.

That would create enormous retrofitting problems for many manufactured homes, especially manufactured homes because these homes have a precisely set space for central air-conditioners. They could not likely be replaced without considerable retrofitting. That is why the American Housing Institute supports a 12 standard where that would fit in the same place where a 10 fits right now. They expressed their concern about what would happen to families on limited incomes.

The National Association of Homebuilders opposes the 13 standard, not because they are opposed to 13, but for each $1,000 added to the cost of a new home takes out 400,000 buyers. We do want to build more homes. We do want more people to own their own homes, a key part of the American dream.

I am all in favor of efficient appliances. Reducing our energy consumption is important to reducing air pollution, global warming, reducing price spikes, but it has to be reasonable, and it has to be something where we do not end up worse than we are.

I suppose sometime down the pike if we go to a 13 standard—I mentioned over the first 15 years the standard will be in effect, the difference is four-hundredths of a percent in cumulative energy use in the United States—four-hundredths of a percent—but at what cost will that come to the elderly, people of low income, working families, jobs, and competition in the industry?

I will have more to say about this tomorrow. I hope people who have not thought much about this and say, gee, 13 is higher than 12, it must be better, more energy efficient, will stop to think about whether or not we are going to get the energy savings we want if we go to the 13 standard and people cannot afford it so they stick with the older ones that use more energy, that they will pollute more.

If we adopt the 12, it can be used, it is reasonable in cost, it fits into the spaces, and we can move to it in a reasonable fashion. Certainly 12 is better than 10, and 10 is what the standard is right now.

I hope when we get to this vote tomorrow people will take a look at the end result and not just be swayed by the fact that 13 looks better, looks more energy efficient than a 12. The rule says we have to look at its economic effect on subgroups. If this body is in the position of mandating—this amendment says we do not mandate it, we leave it up to the regulatory body, but the rule under which they have to operate says they have to look at the impact, not just on the general population but on certain subgroups—low income, working families, the elderly.

Our amendment will allow the Department of Energy to implement a 12 standard, which I believe is much more reasonable at this time than going to a 13 right away.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I ask unanimous consent that the pending amendment be set aside.

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

AMENDMENT NO. 3359 TO AMENDMENT NO. 2917

Mr. REID. Madam President, I call up amendment No. 3359 offered by Senator BINGAMAN.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. BINGAMAN, proposes an amendment numbered 3359 to amendment No. 2917.

Mr. REID. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purchase: To modify the credit for new energy efficient homes by treating a manufactured home which meets the energy star standard as a 30 percent home)

In Division H, on page 74, line 16, strike ''Code'' and insert ''Code, or a qualifying new home which is a manufactured home which meets the applicable standards of the Energy Star program managed jointly by the Environmental Protection Agency and the Department of Energy''.

Mr. REID. Madam President, I ask that the pending amendment be set aside.

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

AMENDMENT NO. 3139 TO AMENDMENT NO. 2917

Mr. REID. Madam President, I call up amendment No. 3139.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mrs. BOXER, for herself and Mrs. FEINSTEIN, proposes an amendment numbered 3139 to amendment No. 2917.

Mr. REID. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide for equal liability treatment of vehicle fuels and fuel additives)

Beginning on page 204, strike line 15 and all that follows through page 205, line 8, and insert the following:

''Notwithstanding any other provision of federal or state law, a renewable fuel, as defined by this Act, used or intended to be used as a motor vehicle fuel, or any motor vehicle fuel containing such renewable fuel, shall be subject to liability standards no less protective of human health, welfare and the environment than any other motor vehicle fuel or fuel additive.''.

AMENDMENT NO. 3311 TO AMENDMENT NO. 3139

Mr. REID. Madam President, I call up a second-degree amendment, amendment No. 3311.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mrs. BOXER, for herself and Mrs. FEINSTEIN, proposes an amendment numbered 3311 to amendment No. 3139.

Mr. REID. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide for equal liability treatment of vehicle fuels and fuel additives)

In lieu of the matter proposed to be inserted, insert the following:

''(1) IN GENERAL.—Notwithstanding any other provision of federal or state law, a renewable fuel, as defined by this Act, used or intended to be used as a motor vehicle fuel, or any motor vehicle fuel containing such renewable fuel, shall be subject to liability standards no less protective of human health, welfare and the environment than any other motor vehicle fuel or fuel additive.

''(2) EFFECTIVE DATE.—this subsection shall be effective one day after the enactment of this Act.''

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

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

HYBRID VEHICLE TAX CREDIT

Mr. SESSIONS. Madam President, in the Finance Committee energy tax amendment that has now been included in the energy bill, the consumer tax credit available for the purchase of a new qualified light duty hybrid motor vehicle generally ranges from $250 to $3,500 depending upon the weight of the vehicle and the ''maximum available power'' from the vehicle's battery system. I note that in the proposed Sec. 30B(c)(2)(D)(iii)(I) the term ''maximum available power'' for a passenger automobile or light truck hybrid is defined as follows:

For purposes of subparagraph (A)(i), the term ''maximum available power'' means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by such maximum power and the SAE net power of the heat engine.

Because this language originated in his bill, S. 760, I would like to engage the senior senator from Utah in a brief colloquy to make sure we have a common understanding of this definition.

I note that the definition allows the use of either a ''standard 10 second pulse power test'' or an equivalent test. Is it the understanding of the Senator from Utah that this language authorizes a manufacturer to demonstrate the maximum available power of its rechargeable energy storage system by using either the standard 10 second pulse power test or some other test that will demonstrate the extent to which the rechargeable energy storage system is contributing to the overall power of the hybrid system?

Mr. HATCH. Yes, that is my understanding. Our purpose in authorizing an ''equivalent test'' is not to push manufacturers to one particular hybrid design by virtue of our prescribing the standard 10 second pulse power test. Rather, we want to provide flexibility in the methodology of measuring the hybrid performance of the vehicle and providing increased incentives for those vehicles that utilize the optimum combination of power from the two power sources.

Mr. SESSIONS. Is it the understanding of the Senator from Utah that the equivalent test described in this definition could include a test procedure, at the request of the manufacturer, that measures power from the rechargeable energy storage system using real world driving conditions?

Mr. HATCH. Yes, that is correct.

Mr. SESSIONS. Is it also the understanding of the Senator from Utah that there are Federal Test Program (FTP) driving cycles already formulated by EPA that could provide comparable results to the 10 second pulse power test?

Mr. HATCH. It is my understanding that such test procedures do exist and could provide an alternative way to measure maximum available power.

Mr. SESSIONS. I thank the Senator. That conforms to my understanding as well.

TITLE X

Mr. HAGEL. Mr. President, as I stated in a previous colloguy with my colleagues, we have reached broad agreement on many of the provisions within Title X related to the development and coordination of a national climate change policy.

There remain considerable uncertainties about the causes of climate change, which has been noted by the National Academy of Sciences. Our focus should be on addressing these uncertainties, not taking drastic unwarranted action that could cause severe economic disruption.

The revised provisions of Title X and other provisions will help reduce these uncertainties and take practical, market oriented steps to vastly improve our energy efficient technologies.

The agreement appropriately calls for the creation of a national strategy to address the challenge of climate change. It also creates an interagency task force to better coordinate climate change policies with the Executive Branch. This is needed. Climate change policy cris-crosses the jurisdiction of multiple government agencies. Far too often questions posed to the previous administration were answered with the response, ''You'll have to ask someone else. We don't handle that area.'' There needs to be accountability for climate change within the Executive Branch.

President Bush has already taken the initiative, and put forth a forward looking strategy to take action on climate change. His proposal includes: a reasonable goal for greenhouse gas emission reductions; a flexible way to achieve this goal, without harming economic growth; a voluntary emissions registry for industry and individuals to track their progress on greenhouse gas emissions; increased scientific research; increased investment in new energy efficient technologies; and efforts to work with other nations, particularly developing nations, on mutual efforts to address climate change.

In crafting this strategy, President Bush created an interagency task force very similar to that proposed in this legislation. The Cabinet Secretaries and others within the Executive Office of the President involved in this process spent countless hours reviewing the underlying climate issues and ranges of policy options. The chairman of the Council on Environmental Quality (CEQ), James Connaughton, played the lead role in developing the strategy. This level of engagement and policy development on climate change is unprecedented. It can, and should, serve as a model for carrying out provisions of this legislation as ultimately approved by the House and Senate.

As I stated in the colloquy included with the manager's amendment on Title X, I have remaining concerns regarding the creation of a National Office of Climate Change Policy with the Executive Office of the President (EOP). I do not disagree with the need for dedicated management within the EOP with regard to the creation and implementation of climate change policy. I understand the concerns for congressional oversight and the desire for those focused on climate change to be in positions subject to Senate confirmation and available for congressional testimony. However, I fail to see the need to create new bureaucracy within the EOP for this purpose.

Chairman Connaughton effectively performed this role in the current administration's policy review and development. I see no reason the chairman of the Council on Environmental Policy could not continue to perform this function. Moreover, statutory authority already exists for a Senate-confirmed deputy director for the Council on Environmental Policy. This position has never been filled, and could be designated to focus solely on the area of climate change. There are several options that could be pursued in the conference committee to address the legitimate functions called for within Title X without creating a new office within the EOP.

Title X also includes a Sense of the Congress resolution regarding participation by the United States in international efforts on climate change. This language is based on a resolution approved by the Senate Foreign Relations Committee in August of 2001, but has been substantially revised. It now reflects the uncertainties recognized by the scientific community that are inherent with any predictions of future

climate change. It acknowledges the commitment by the international community that actions taken should be appropriate to the economic development of each nation. The resolution also reflects the principals unanimously approved by the U.S. Senate through S. Res. 98 in July 1997—that U.S. participation in any international climate change treaty should be predicated on participation of all nations, including developing counties, and that such action must not harm the U.S. economy.

The resolution appropriately calls on the United States to continue to demonstrate international leadership on climate change within our commitment to the United Nations Framework Convention on Climate Change. It does not call on the U.S. to re-engage in efforts to ratify the flawed Kyoto Protocol. This resolution is forward looking. At the appropriate time the United States should provide the international community with a proposal that would address the global challenge and global commitment of climate change. It is only responsible that we balance the economic interests of America with our environmental and energy interests. This resolution insists upon this balance.

I appreciate the work of my colleagues on both sides of the aisle in reaching the bipartisan agreement made in Title X. It is a significant accomplishment. I look forward to working with them to address the remaining issues in conference.

Mr. HARKIN. Mr. President, I strongly support the Renewable Fuels Standards (RFS) contained in the Senate energy bill, S. 517. This historic agreement will be a milestone in the efforts to develop renewable fuels.

This agreement will dramatically increase the Nation's production of domestic, renewable fuels, including ethanol and biodiesel, from U.S. agricultural commodities and residues over the next decade. The renewable fuels standard will create a steady market for American agriculture, and provide significant economic benefits throughout rural America. Importantly, it will also increase U.S. fuel supplies, reduce our dependence on foreign oil, and protect the environment.

Some have questioned whether the renewable fuels standard as contained in the bill is too aggressive, and whether there is enough ethanol to meet the requirement. I am here to tell you there is more than enough ethanol production capacity today to meet the needs of the program when it goes into effect in 2004!

In fact, the U.S. ethanol industry has undergone significant growth in recent years in anticipation of the phase out of MTBE, particularly in California. In the past 2 years alone, since California Governor Davis' original Executive Order phasing out MTBE use in the State by December 31, 2002, 16 new plants have opened and several expansions to existing plans have been completed. As a result, the ethanol industry has the capacity to produce 2.3 billion gallons of ethanol per year right now, the amount needed to satisfy the renewable fuels standard in 2004. The 13 plants under construction will bring total capacity to 2.7 billion gallons by the end of this year, more than the volume of ethanol required under the agreement in 2005.

A survey by the California Energy Commission projects U.S. ethanol production capacity to double to more than 4 billion gallons by the end of 2003. Clearly, with the RFS beginning in 2004 at 2.3 billion gallons per year, there will be more than adequate supplies of ethanol to meet the requirement while providing additional volume to fuel supplies.

Importantly, the driving force behind the growth in ethanol production over the past 5 years has been farmers seeking to capitalize on the value-added benefits of ethanol production directly through ownership in ethanol plants. Today, farmer-owned ethanol plants make up more than a third of all U.S. ethanol production, with the capacity to produce a billion gallons of ethanol. Fourteen of the 16 ethanol plants opened in the past two years are owned by farmers, and 10 of the 13 under construction today are farmer-owned.

In Iowa today, we have nine operating ethanol plants. In addition, five new plants are under construction, all of which are farmer-owned. By the end of this year, half of all U.S. ethanol production facilities will be farmer-owned.

Ethanol production facilities across America serve as local economic engines, providing high-paying jobs, capital investment opportunities, increased local tax revenue and value-added markets for area farmers. With commodity prices very low, investment in value-added ethanol processing by America's farmers provides a critical opportunity for increased farm income and rural economic development. In these communities, largely untouched by the economic expansion of the last decade, the increased prices for corn in the radius around a plant stimulates very real economic development, and the value-added benefits of ethanol mean a $2 bushel of corn is converted into $5 of fuel and feed co-products.

Ethanol is the third largest use of corn. Last year, 700 million bushels of corn were used to produce ethanol and feed co-products, boosting corn prices and rural income. According to a study by AUS Consultants, the RFS will increase demand for grain by an average of 1.4 million bushels annually, increasing net farm income by nearly $6 billion per year. It will also create $5.3 billion in new investment, much of it in rural America.

The Renewable Fuels Standard will create demand for 5 billion gallons of ethanol and biodiesel by 2012. Importantly, these fuels can be produced throughout the United States, from grain and agricultural biomass residues. Iowa alone produces nearly 500 million gallons of ethanol a year. The Nation will produce nearly 2.2 billion gallons of ethanol in 2002.

Even as Iowa and other Midwest States stand ready to supply ethanol to California, the State can also produce much of the ethanol it will consume. For example, the California Energy Commission recently concluded the State of California has the potential to produce 100 million gallons of ethanol per year from cellulose such as rice straw and forestry wastes by 2005 and 400 million gallons per year by 2010. This later number represents well over half of the estimated supply that would be needed to satisfy the state's oxygenate requirement. Opportunities also exist for grain-based ethanol production in California.

A California based ethanol industry would provide significant economic and environmental benefits to the State. Ethanol production would provide rice growers with an alternative to burning or other costly forms of rice straw disposal. It could also help reduce the frequency and intensity of forest fires with the removal of forest debris for ethanol production. It is estimated in-state ethanol production could provide the State with more than $1 billion in economic benefits. These same benefits can be achieved in the southeast, northeast and northwest, establishing new biofuels industries across the Nation.

As we look to a future of increased production and use of domestic, renewable biofuels, we should also consider their role in future transportation applications such as fuel cells.

Extracting hydrogen from renewable sources such as ethanol will benefit the environment, rural America and energy security. Demonstrations with ethanol have shown that reforming ethanol into hydrogen provides higher efficiencies, fewer emissions, and better performance than other fuel sources, including gasoline. And ethanol used to power a fuel cell vehicle would count toward the Renewable Fuels Standard.

Clearly, the Renewable Fuels Standard represents a momentous opportunity to benefit rural America, improve the environment and enhance our Nation's energy security. The 5 billion gallons of renewable fuels that would be required in 2012 would replace gasoline we currently get from foreign oil. American farmers can be producers as well as consumers of energy. They are willing and able to supply fuel as well as our food and fiber. Farmers are on the front lines in the battle for energy independence, and their efforts will make a bold statement about our Nation's commitment to reduce oil imports and build domestic energy supplies that may one day make us truly energy independent.

Farmers are ready, willing and able to lead the way toward energy independence. The time is right for a Renewable Fuels Standard that takes advantage of farmer's ability to produce

renewable, domestic fuels to increase fuel supplies, reduce our dependence on foreign oil, and increase the U.S.' ability to control its own energy security and economic future.

MORNING BUSINESS

Mr. REID. I ask unanimous consent that the Senate now proceed to a period for morning business, with Senators permitted to speak not in excess of 5 minutes.

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

SECURE OUR COASTLINE

Mr. CLELAND. Madam President, I am proud to be a part of this body which wisely acted to improve border security last night. As we approach the end of April, I am here today to urge my House colleagues to act on the issue of port security, which the Senate passed unanimously last year. Our Nation's coastline is over 95,000 miles—by far our most prolific border. Yet, despite the tremendous national mobilization to increase security since September 11, protecting our seaports has been a somewhat elusive goal. Although the Senate acted last December to tighten security at our Nation's ports, the legislation is still stalled in the House of Representatives.

In my home state of Georgia, ports play an important role in international commerce and military support. The Port of Brunswick, GA, with three marine terminals, is growing rapidly. Brunswick is the home of a world-class auto and machinery import-export processing facility as well as an expanding forest products and agri-bulk operation. With the completion of the new Sidney Lanier Bridge this year and the on-going deepening of the Brunswick Harbor channel, the future of this operation is even brighter.

At the Port of Savannah, which brings in the eighth largest cargo volume in the Nation, ships carry iron, steel, lumber, machinery, and paper products.

It was the fastest growing container shipping operation in the Nation during calendar year 2001, and the only port to experience double-digit growth for the year. The total volume of business at the port has grown steadily over the last decade, reflecting its important contribution as a powerful economic benefit for importers, exporters and consumers located throughout the entire southeast region of the United States. The Port of Savannah is also an important strategic ally to our Nation's military, serving as a first responder for deployment of military equipment, supplies and personnel to hot spots around the world.

To utilize this important port, ships must traverse the Savannah River and pass between historic River Street, with its shops and restaurants, and the new Convention Center and hotel on Hutchinson Island, which can accommodate over 10,000 guests and employees. On any given day, there are thousands of people walking the streets of this beautiful, old town. If someone with sinister motives were able to gain access to this channel, they could easily wreak havoc on a large number of people in a short period of time. Imagine this situation repeated at ports throughout the country, many of which are located around large population centers. A New York Times article from November 2001 sums up the problem with a description of a port in Portland, Maine:

> The unscrutinized containers, the bridge, the oil tanks, the dormant but still radioactive nuclear power plant 20 miles north of the harbor—all form a volatile mix in a time of terrorism.

One must not forget that 68 nuclear power plants are located along navigable waters, and in my State, we also face maritime security risks as a result of the opening of a liquefied natural gas terminal LNG. One LNG carrier can carry enough gas to heat the homes of over 30,000 families.

Our ports and waterways are vulnerable. The Interagency Commission on Crime and Security in U.S. Seaports reports:

> The state of security in U.S. seaports generally ranges from poor to fair, and in a few cases, good.

This same report surveyed 12 large ports and found that only 3 controlled port access from the land, and that 9 of these ports did not control access via the water. To realize the ramifications, we only need to remember the U.S.S. *Cole*.

While Congress did appropriate over $93 million in funds for port security upgrades last year, we can and must do more. We have an opportunity, and a duty, to act to help prevent a terrorist attack on our ports before it happens. In December, the Senate unanimously passed S. 1214, the Port and Maritime Security Act of 2001. I am a cosponsor of this important legislation because I understand the crippling affect a terrorist attack at our ports would have on the Nation's commerce as well as our people.

Ninety-five percent of foreign trade travels on water. After September 11, the Nation's air travel system was halted for days, crippling commercial airlines, the postal service, and the transportation of goods and people worldwide.

Millions of dollars were lost in unrealized revenue as a result of only 4 days. The airports however, had a security system in place. They only needed adjusting in order to reopen our skies.

However, what security system is in place at our ports? If something happened at my home State's port of Savannah or Brunswick, how would this Nation respond? I believe Americans would rightly expect seaborne shipments to stop. This means that the employment of over 1 million people would be in jeopardy; over $74 billion in annual gross domestic product would halt; personal income contributions of over $52 billion would disappear, and local and Federal revenue exceeding $20 billion would dry up. The ripple effects throughout our Nation's economy and the world's—because sea shipment is the ultimate example of globalization—would be devastating. Unlike the airports, restoring normal sea shipments would take longer than 4 days because there is no system in place to upgrade but rather a patchwork of security initiatives that may not allow for any quick or uniform upgrades. In view of all of these disturbing facts, I urge my House colleagues to take up and pass S. 1214, which contains important provisions to make our seaports more secure.

At a minimum, S. 1214 requires security assessments and authorizes funding for these assessments at our ports, which some port authorities have done already. The Georgia Ports Authority—GPA—for example, has already conducted this assessment with its own funds.

This report recommends a major increase in the number of surveillance cameras, lighting, fencing and other perimeter security measures at Savannah and Brunswick. It also recommends the addition of some 40 new law enforcement and other security personnel to enhance the 60 person police force now deployed at the Port of Savannah and to also provide additional coverage in Brunswick. In addition, there is a recommendation for a major expansion of the credentialing system for personnel and vehicles that have access to the port facilities.

We do not yet have the price tag for all of these improvements, but we know that it will be costly. I am certain that GPA will be applying for Federal funding to assist in these costs, and I will strongly support their application as we work through the budget process. The $93 million grant program Congress established was only a first step toward strengthening our seaports, and S. 1214 would help up get closer to that goal.

This legislation also requires background checks for personnel employed in security Sensitive positions.

Additionally, S. 1214 authorizes funding for screening and detection equipment, and it requires crew and cargo manifests to be reported to the U.S. Customs Service before the ship arrives at a domestic port, not after.

In order to help coordinate the many agencies and law enforcement personnel at our Nation's ports, the bill encourages, where possible, locating these personnel at the same facility.

Additionally, after working with the bill's authors, I drafted a provision included in the Senate passed bill which establishes a pilot program operated by the U.S. Customs Service to ensure the integrity and security of cargo entering the United States. Specifically, this provision calls for Customs to explore the types of technology available that can be used to ensure a ship's

goods have not been tampered with. Such technology could enable ''preapproved'' cargo to enter the United States on an expedited basis.

This program would also require communication and coordination with foreign ports and foreign Customs officials and shippers, at the point the goods are loaded onto ships bound for our land, and would likely result in prescreening of American bound goods at these foreign ports.

This ''extension'' of our borders to enable screening of containers at foreign ports translates into a greater chance of eliminating threats at home and ensuring that properly handled and safe cargoes can be moved through the system so that we can focus on potentially more dangerous cargoes.

Commander Stephen Flynn of the U.S. Coast Guard and a Senior Fellow at the Council on Foreign Relations believes that homeland security can be supported through ''establishing private-sector cooperation, focusing on point-of-origin security measures, and embracing the use of new technologies.''

I wholeheartedly agree with Commander Flynn, and I believe my amendment accomplishes these goals.

I am pleased with the Commissioner of the U.S. Customs Service, Robert Bonner. He is in support of my amendment. In a speech given on January 17, 2002, Commissioner Bonner announced the Service's Container Security Initiative.

With over half of our Nation's containers originating at only 10 international ports, targeting these ports for an ''international security standard [for] sea containers,'' as Commissioner Bonner put it, would result in prescreening of most of the goods entering the country. The Commissioner continued by stating that pre-screening of containers and the use of technology are vital parts of this program:

> A first step in the [container security initiative] begins by examining and comparing our targeting methods with those of our international partners. And we should consider dispatching teams of targeting experts to each other's major seaports to benchmark targeting and to make sure that all high risk containers are inspected by the same technology that can detect anomalies requiring physical examination inside the container. . . . Having your containers checked and preapproved for security against the terrorist threat at a mega-port participating in this program should and likely will carry tangible benefits.

I look forward to working with Commissioner Bonner and the Customs Service on this initiative, as well as implementation of the pilot program called for in my amendment, and I have written to the Commissioner conveying my strong interest in the CSI program and pledging my full cooperation in implementing it. Additionally, I was pleased to read in the April 16 Washington Post that several U.S. businesses have signed on to participate in such a program to better ensure the integrity and safety of goods entering the United States.

I look forward to reviewing the successes and recommendations resulting from this important port security initiative.

One of the Customs Service's vital partners in the current port security regime is the U.S. Coast Guard. They were among some of the first respondents to the homeland security call on and after September 11.

I applaud the President for including the Coast Guard funding level increases in his budget, which will better enable the Coast Guard to carry out its multifaceted security initiatives—from monitoring our ports to search and rescue to drug interdiction programs.

In a Washington Post column from Sunday, March 3, about the potential development of weapons of mass destruction by Al Quaeda, the author writes:

> In ''tabletop exercises'' conducted as high as Cabinet level, President Bush's national security team has highlighted difficult choices the chief executive would face if the new sensors picked up a radiation signature on a boat steaming up the Potomac River . . .

Congress must send the President a strong port security bill before it is too late. I urge the House to promptly pass S. 1214.

TRIBUTE TO BOB KILLEEN

Mr. DAYTON. Madam President, I rise today to pay tribute to Bob Killeen, the former Subregional Director for Minnesota of United Auto Workers of Region 10. Bob has been a good friend of mine for the last 25 years. And even though his doctors say that he is in a tough battle, knowing Bob, and knowing his courage and his heart, I would not be surprised to see him bouncing back tomorrow.

I do want to take this opportunity on the Senate floor to pay tribute to him for the leadership he has given to the United Auto Workers in Minnesota over the past decades, to thank him for his enlightened leadership on behalf of working men and women in Minnesota, and to recognize him as a leader and a teacher for those who have followed in his footsteps, such as myself. Senator WELLSTONE, I know, joins with me in these remarks.

Bob is courageous in his convictions. He is always true to those convictions. But he has proceeded as a gentleman in the best sense of that word. He is respected by his friends and his supporters, and even by those who may have sat on the other side of the bargaining table. Bob has treated everybody with the same kind of respect and regard. That is why so many people love him, as I do, and care for him as a human being, and respect his convictions and his principles.

I say to Bob and to the members of the Killeen family how indebted all of us in Minnesota are to all of you for lending your spouse, and your father, to us during these years. I know it took many hours and nights away from his family for Bob to do the work that he was committed to doing. I know he would not have wanted it any other way, and I know his family would not have wanted it any other way as well.

To Bob, I wish you Godspeed. I thank you from the bottom of my heart for the gifts of your wisdom and your principles that you have bequeathed to me. I say to you: You have done a remarkably wonderful job for Minnesota, Bob. Thank you very much.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Madam President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred March 25, 1993 in New Haven, CT. Two Yale students were harassed and assaulted because they are gay. The assailant, Mark Torwich, 27, of Shelton, was charged with a hate crime in connection with the incident.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

ADDITIONAL STATEMENTS

WOMEN'S AUTOIMMUNE DISEASES RESEARCH AND PREVENTION ACT

• Mrs. BOXER. Madam President, yesterday I introduced the Women's Autoimmune Diseases Research and Prevention Act. This legislation would expand, intensify and better coordinate activities between the Office on Women's Health, the National Institutes of Health and other national research institutes with respect to autoimmune diseases in women.

The term ''autoimmune disease'' refers to a varied group of more than 80 serious, chronic illnesses that involve the human organ system; the nervous, gastrointestinal and endocrine systems; the skin and other connective tissues; the eyes; and blood and blood vessels. These are illnesses where the body's protective mechanisms go haywire, and where the body's immune system attacks the very organs it was designed to protect.

Overall, some 50 million Americans are afflicted with some form of autoimmune disease. But for reasons we do not understand, the vast majority of those affected, approximately 75 percent, are women, and most are stricken during the working and childbearing years. Taken together, autoimmune diseases represent the fourth largest cause of disability among women in the United States.

These diseases, which include lupus, rheumatoid arthritis, scleroderma, multiple sclerosis, Guillain-Barré syndrome, fybromyalgia, Hashimoto's thyroiditis, Graves' disease, Epstein-Barr virus and chronic active hepatitis, are heartbreaking and debilitating. In virtually all of these diseases the female-to-male ratios are dramatically skewed toward women, in some cases by ratios as high as 50 to 1.

Autoimmune diseases remain among the most poorly understood and poorly recognized of any category of illnesses, and although science suggests they may have a genetic component, they can cluster in families as different illnesses. For example, a mother may have lupus; her daughter, diabetes; and her grandmother, rheumatoid arthritis.

To help women live longer, healthier lives, more research is needed to shed light on genetic as well as hormonal and environmental risk factors that contribute to the causes of autoimmune diseases, as well as providing early diagnosis and treatment.

The legislation I have introduced addresses all of these issues. It directs the Office on Women's Health to conduct or support research to expand the understanding of the causes of, and develop methods for preventing, autoimmune diseases in women, including African American women and other women who are members of racial or ethnic minority groups. It calls for more epidemiological studies to address the frequency and natural history of these diseases and the differences among women and men.

The bill also promotes the development of safe, efficient and cost-effective diagnostic approaches to evaluating women with suspected autoimmune diseases, as well as clinical research on new treatments and rehabilitation for women. Finally, it provides for expanded information and education programs for patients and health care providers on genetic, hormonal, and environmental risk factors associated with autoimmune diseases in women, as well as the prevention and control of such risk factors.

Autoimmune diseases run the gamut from mild to disabling to life threatening. Nearly all affect women at far greater rates than men. The question before the scientific community is ''why?'' We have come a long way in the diagnosis and treatment of autoimmune disease. But more work is desperately needed, more information must be made available, and more resources must be devoted to this effort.

The Women's Autoimmune Diseases Research and Prevention Act can contribute to the growing body of knowledge about these awful illnesses. But it is not enough to simply understand these diseases well. We must ensure that the millions of American women stricken with autoimmune disease also live long, and well.●

CONGRATULATIONS TO ROXANNE GRIDER

● Mr. BUNNING. Madam President, today I rise to honor Roxanne Grider of Bullitt Central High School in Shepherdsville, KY.

I am extremely proud to announce that Ms. Grider is one of only 10 special education teachers in the Nation to receive the 2002 Shaklee Award for outstanding teachers of students with disabilities. She also is the first Kentuckian to receive this distinction since the award's inception 5 years ago. This award is given by the Glenda B. and Forrest C. Shaklee Institute for Improving Special Education and includes a $1000 prize and a trip to Wichita, KS for a conference featuring previous award winners and representatives of the Shaklee Institute.

After receiving a bachelor's degree in history and secondary education from Centre College in Danville, KY, Roxanne looked for a job as a high school history teacher. Fortunately for the special education community, she had no luck finding a teaching job in the field of history. Due to the rising demand for special education teachers, Roxanne was immediately offered a position in the Hopkins County School system. After going through an emergency certification process, Roxanne headed back to the classroom to focus her studies on helping those less fortunate individuals. She eventually received her master's degree, special education certificate, and Rank 1, which means she took 30 hours beyond her master's degree, from the University of Louisville. Ten years has now passed since she took that first job, and I believe Roxanne has taken full advantage of what appeared to be a professional mishap.

In her teaching career, Roxanne has set herself apart due to her innovate mind and enduring spirit. In the classroom, she empowers her students with real-life responsibilities such as planning and cooking meals, cleaning, and shopping. In the fall, her class has its own business, the B.C. Cookie and Candle Co., which sells glass jars filled with layers of cookie ingredients and topped with fabric covered lid. She wants all of her students to believe in themselves and what they can accomplish in life. It would be very easy and probably convenient for her to treat these children as if they were helpless, but she refuses to look at them in such a manner. For Roxanne, these children have the opportunity to live a proactive life full of adventure and action. Ultimately, she wants all of her students to have a job when they finish. Although it may not have been the field she wanted to enter, special education turned out to be the field Roxanne was destined to enter. She has touched many lives and truly made a difference.

I once again congratulate Roxanne for being honored with such a prestigious award. I am proud to have such an amazing and talented women looking after Kentucky's special children.●

HONORING THOMAS V. DOOLEY OF THE NEW JERSEY STATE AFL–CIO

● Mr. TORRICELLI. Madam President, I rise today to recognize Thomas V. Dooley for his years of devotion and commitment to the Middlesex County, NJ AFL–CIO Labor Council. Mr. Dooley is retiring from his position as president after many years of outstanding service.

A devoted father and husband, Mr. Dooley has played an important and prominent role in Middlesex County labor. Labor has a long history in this country for speaking up for the concerns of workers who would otherwise not be heard. But through the leadership and guidance of people such as Thomas Dooley their voices are being heard and action is being taken. As the International Representative for the Paper, Allied Industrial, Chemical and Energy Worker International Union of New Jersey, Thomas has been an effective and powerful voice for his members on a variety of critical issues.

Thomas Dooley has also been very involved in the community. He is currently vice president of the David B. Crabiel Scholarship Foundation, the Assistant Treasurer for the Middlesex County Board of Social Services and is a member of the Board of Directors for New Brunswick Tomorrow. He has excelled in his career, in his community and has dedicated his entire life towards helping others.

So I join with Thomas Dooley's brothers and sisters in the labor movement in recognizing his service to the community, his countless acts of compassion, and his commitment to working men and women. May his spirit of service and community be a model for all of us to admire and emulate.●

IDAHO TEACHER OF THE YEAR

● Mr. CRAIG. Madam President, today President Bush is recognizing the national Teacher of the Year, and I want to join him in recognizing teachers across America for the vital work they do. I come from a family of educators, so I have seen firsthand the impact teachers have on children. They do this because they care about each and every child they teach. These public servants deserve our gratitude and thanks.

While I believe this can be said of all teachers, I would like to recognize one particular teacher today who embodies this sentiment. She is Jennifer Williams, of Nampa, ID, and she was chosen by my State as Teacher of the Year.

One look at her career shows why she was chosen as the Teacher of the Year. She has dedicated 29 years of her life to teaching, and those 29 years have been full of innovation and a real love for education. Not only has she been busy in the classroom, she has also found time for activities which enrich the community and help kids outside of school. For example, she has co-chaired Boise's Art for Kids project and created

a youth art program through which she and her students go to rural communities to help children with art lessons.

While these activities are important, her classroom work is what truly sets her apart. She has received many awards for this work in the past, including being named Mountain Home School District's teacher of the year in 1991, as well as receiving the 1992 USWest Outstanding Teacher Award, the 2000 Governor's Award in the Arts, the 2001 Idaho Art Teacher of the Year, and the 2001 Unsung Heroes Award.

Her students adore her and her peers respect her. This what every teacher strives for, and Nancy has earned this regard. As Marilyn Howard, the Idaho State Superintendent of Education, said, ''Mrs. Williams stands out as one of those individuals who is a teacher in everything she does, not just in the classroom working with students, but also in her workplace and in her community. Her passion and dedication show in her accomplishments.''

As you can see, Jennifer Williams is truly a treasure for her school, for Idaho, and indeed for the Nation in general. Teachers like Jennifer make education a rewarding experience for students and parents alike. I am proud that the State of Idaho chose her as its Teacher of the Year. She is a great example for the rest of the State and the Nation, and I hope this award gives her a platform so she can help other teachers to excel as she has.●

UNITED WAY OF CHITTENDEN COUNTY CELEBRATES ITS SIXTIETH ANNIVERSARY

● Mr. LEAHY. Madam President, I rise today to recognize a group of Vermonters who have long served our state. It is with much pride and admiration that I congratulate the United Way of Chittenden County for 60 years of service in the greater Burlington area.

For the past 60 years, the United Way of Chittenden County has been providing relief and assistance to its community. In October of 1942, founders Henry Way, C.P. Hasbrook, and I. Munn Boardman started the Burlington Community Chest. The chest's first campaign raised over $100,000 to help organizations like the Burlington Boys Club, the YMCA and the Salvation Army. Over the years, the chest evolved into the United Way of Chittenden County, one of Chittenden County's foremost benefactors, a community-based, problem-solving organization. This past year, the United Way of Chittenden County raised a record $3.75 million to help its neighbors, both local and afar. This is a remarkable sum, and one that reflects the strong commitment of the United Way to support the welfare and growth of Vermont and her people.

The United Way of Chittenden County has become much more than a fundraising organization. They now train volunteers and coordinate a vast number of mentoring opportunities in Chittenden County, working with both national programs, like America Reads and the Retired and Senior Volunteer Program, and local groups, including Vermont's many museums, schools, and conservation societies. The United Way works to make Chittenden County a stronger community, tending to those in need. The many people who work and volunteer for the United Way become community supporters and community leaders. After graduating from law school, I was recruited to do my part and volunteer for the United Way of Chittenden County. It was a meaningful experience and one that has remained in the front of my memory during my 27 years in the U.S. Senate. Just as impressive as the volunteers of the United Way are those who benefit from the United Way's programs. They too become active and contributing members and leaders of their communities.

The organization's actions following the unspeakable events of September 11, 2001, demonstrated the strength and commitment of the United Way of Chittenden County. The United Ways of Vermont contributed $400,000 to the September 11th Fund, including over $200,000 from the United Way of Chittenden County. At the same time, the United Way of Chittenden County still managed to raise more funds for Vermont's programs than any previous year. This accomplishment is due in no small part to Campaign Chair Lisa Ventriss, whose devotion ensured that the United Way will continue helping Vermonters, even while it contributes to a national cause of such gravity and importance. This feat is a testament to the generosity and dedication of the United Way of Chittenden County, and of all Vermonters.

I would like to thank Gretchen Morse, the executive director of the United Way of Chittenden County, for her commitment to this organization's success and Vermont's well-being. Her leadership has helped keep the United Way of Chittenden County one of the most cost-effective charities of its kind. Indeed, 85 cents of every dollar collected by the United Way of Chittenden County goes directly back to the community, a number well above the national average. Given this organization's unyielding support, it is no surprise that the United Way State of Caring Index now ranks Vermont as the fifth most caring State in the Union.

Sixty years after its founding, the United Way of Chittenden County remains a model for charitable organizations across the State and across the country. I join the people of Chittenden County, VT, and the entire Nation in thanking the United Way for six decades of community service.●

IN HONOR OF SUSAN S. BENJAMIN UPON BEING SELECTED AS THE 2002 NEW MEXICO TEACHER OF THE YEAR

● Mr. DOMENICI. Madam President, I rise today to honor Susan S. Benjamin of Los Alamos, NM, who is in the Nation's Capitol today to be recognized as the 2002 New Mexico Teacher of the Year. She was one of 57 teachers from across the country who were honored by President Bush in a White House ceremony today for excellence in their profession. I am honored to have the opportunity to make a few remarks.

For the past 32 years, Susan has been making a difference in children's lives. As an elementary school teacher, she has touched the hearts and minds of her students, while generating interest and enthusiasm in learning. Parents, colleagues, and students all reap praises upon her for the excitement she brings to the classroom.

Previously, Susan has been selected as the Los Alamos Public Schools Teacher of the Year. She also received the New Mexico State Award for Excellence in Math Teaching on two separate occasions.

Through her dedicated service, Susan has earned a national reputation as an outstanding teacher. She has participated in nationwide Activities Integrating Math and Science, AIMS, workshops, working with other teachers to demonstrate techniques for math and science education.

Her efforts to increase student awareness of the importance of science and math education complements many of the ideas expressed in the newly authorized No Child Left Behind Act. Our children need the tools necessary to compete in a marketplace dominated by computers and information technologies that demands a high level of proficiency in math and science. Dedicated teachers like Susan will now have more freedom to develop programs related to technology which will ultimately benefit her students.

Susan has helped set the bar for excellence in teacher quality. I am encouraged to know that a teacher of her caliber will now have greater flexibility in providing her students the skills necessary to succeed in tomorrow's marketplace.

I am proud to honor Susan Benjamin, our 2002 New Mexico Teacher of the Year. On behalf of the Senate and New Mexico, I thank this fellow New Mexican for making a difference in our children's lives.●

90TH ANNIVERSARY OF THE GIRL SCOUTS

● Mr. DURBIN. Madam President, for nearly a century, the Girl Scouts have provided girls with enriching, educational, and above-all fun activities that have helped to mold more than 50 million women. This tradition continues today.

This year the Girl Scouts are celebrating their 90th birthday. I commend

their work in shaping society. The Girl Scouts serves to teach our future leaders and creates a refuge where young women can find themselves.

Their mission is to help all girls to grow strong. They stress the development of a woman's whole being, while fostering physical, mental, and spiritual growth. Girl Scouts enables women to reach their full potential. Not only do the Girl Scouts empower women to strive for their goals, but it teaches them responsibility, values, and decision making skills that are the basic foundations for success.

Since its founding, Girl Scouts across the Nation have been serving our communities. During World War I Girl Scouts learned about food preservation, sold war bonds, and collected peach pits to use in gas mask filters. In the 1950s Girl Scouts were working to break racial discrimination. And today Girl Scouts are on the cusp of technological insight, working hard to end hunger, save the planet, and help support those less fortunate then themselves.

The simplest things that Girl Scouts do impacts everyday people. In the wake of September 11, Girl Scouts across the Nation sent thank-you cards to the rescuers, and contributed $1 a piece to send to the orphans of Afghanistan. Throughout its long history, Girl Scouts has led efforts to tackle important societal issues and has remained proactive in its commitment to inclusiveness. Today we look to the future and our young people for reassurance. We look to the youth and see promise. We know that girls growing up today will need to take on challenges involving health, economics, politics, and social change. Our future leaders will have to be value conscious, globally aware, technologically skilled, and able to act with self-confidence. These are the very skills the Girl Scouts work to encourage in every girl.

Being a Girl Scout is important to the girls. Only a Girl Scout can explain what it truly means to be part of the organization. A Girl Scout from Illinois put it best:

> Being a Girl Scout is really fun. You can learn about growing up in a fun, roundabout kinda way. You can go on a six-day canoe trip or go on a two-hour hike. You can help with the Special Olympics or help someone with their homework. You can make a quilt or make a get-well card. Being a Girl Scout is being what you want to be.

Girl Scouts is about being well-rounded and being yourself.●

2002 PENNSYLVANIA BOYS BASKETBALL CHAMPIONS

● Mr. SPECTER. Madam President, I seek recognition today to acknowledge the Golden Lancers, the boys basketball team at Bishop Hannan High School in Scranton, PA.

On March 23, 2002, the Lancers won the PIAA Class AA State Boys Basketball Championship, when, in a very close game, the team defeated Sto-Rox, 70–68, becoming the first Lackawanna County team to win a State title since 1993 and the first team from Scranton to take home the title since Bishop Klonowski in 1976.

Each and every member of the team and its coaching staff should be proud of their accomplishment. Their hard work and commitment have produced many awards throughout this past season and will no doubt mean even more in the years to come.

I want to express my congratulations not only to the team and coaches, but to the entire Bishop Hannan community for representing Pennsylvania in such an outstanding manner.●

CONGRATULATIONS TO BEN LEBER OF VERMILLION, SOUTH DAKOTA

● Mr. JOHNSON. Madam President, I rise today to congratulate Ben Leber of the Kansas State University Wildcats. Ben, a Vermillion, South Dakota native, was chosen in the third round of the National Football League's 2002 Draft by the San Diego Chargers, and was the 71st overall draft pick.

At Vermillion High School, Ben excelled both in the classroom and on the football field. Ben played offense, as a running back, and defense, as a linebacker. He was a two-time All-State and All-Conference selection and played in the North-South Dakota All-Star game. He was also named to the Academic All-State team and was an honor roll student every year in high school. In 1997, his senior year, he was a Parade All-American, the only player from South Dakota to receive the honor that year, and received an honorable mention to the All-USA team by USA Today. At VHS, Ben also participated in Track and Basketball.

At KSU, where Ben is a Business-General Management major, he started 35 of his last 37 games as an outside linebacker, continuing the school's excellent linebacker tradition. His junior year, Ben was an All-Big Twelve Conference second-team pick. His senior year, he was an All-American third-team selection by the Associated Press and a Consensus All-Big Twelve Conference first-team choice. Ben was also named to the Butkus and Lombardi Award watch lists and was invited to participate in the prestigious Senior Bowl. Ben was a team representative and defensive captain both his junior and senior years. Over the course of his career at KSU, Ben had 216 tackles, 13.5 sacks, 11 passes broken, three forced fumbles and one fumble recovery.

I also want to take this opportunity to congratulate the Leber family, who have played no small role in Ben's success: his parents Al and Han, his brothers Jason and Aaron, and his sister Gina. I also want to congratulate VHS head football coach Gary Culver, who guided Ben and the Tanagers to the South Dakota 11A State Championship in 1995.

Ben reflects the best of South Dakota, and I know I speak for the entire state when I congratulate him on being drafted. We are all very proud of him.●

TRIBUTE TO RABBI SOLOMON GOLDBERG

● Mr. JEFFORDS. Madam President, I would like to recognize the outstanding contribution that has been made by Rabbi Solomon Goldberg to the Rutland, VT, Jewish Community and to his community at large.

Rabbi Goldberg, retiring after 42 years of service, has been a leader, mentor, and teacher at the Rutland Jewish Center, the regional anchor for Jewish life in central Vermont. His wisdom, compassion, and spiritual leadership have guided hundreds of families in Jewish tradition. He has taken his congregation through the arc of life experiences; from birth to bar and bat mitzvah to marriage and through memorial, his kindness and strength have been a constant source of support for all.

Rabbi Goldberg has also been a fine educator. He has dedicated himself to the work of interfaith teaching, learning and communication, which are so important to the overall understanding and peace between people of different faiths. I know that he intends, even in retirement, to continue this fine work and I commend and encourage him in those endeavors. He is a fine American, and I wish he, his wife Marilyn and their family, all the best as they enjoy this transition in their lives.●

ARMENIAN GENOCIDE

● Mr. LEVIN. Madam President, on this the 87th anniversary of the Armenian Genocide, I would like to take a few moments to pay tribute to the men, women and children who lost their lives in the 20th centuries' first systematic attempt to extinguish an entire people.

The past century was marred by many acts of unthinkable brutality and genocide. Among these events was the Armenian Genocide. April 24 marked the inception of a brutal campaign to eliminate Armenians from the Turkish Ottoman Empire. It was on this day in 1915 that 300 of the leaders in Istanbul's Armenian community were rounded up, deported and murdered along with 5,000 of the poorest Armenians who were executed in the streets and in their homes. During the period from 1915–1923, approximately 1.5 million Armenians perished under the rule of the Turkish Ottoman Empire. Countless other Armenians fell victim to deportation, expropriation, torture, starvation and massacre. It is out of necessity that all freedom loving people must remain vigilant in their efforts to rebut and refute those who would deny the events of the Armenian genocide ever occurred.

The Armenian genocide was the result of a consciously orchestrated government plan. Henry Morgenthau Sr., the American Ambassador to the Ottoman Empire, sent a cable to the U.S.

State Department in 1915 saying that the, ''deportation of and excesses against peaceful Armenians is increasing and from harrowing reports of eye witnesses it appears that a campaign of race extermination is in progress under a pretext of reprisal against rebellion.''

During my tenure in the Senate, I have spoken out about the Armenian Genocide because we must acknowledge the horrors perpetrated against the Armenian people and reaffirm our commitment to ensure that the world cannot and will not forget these crimes against humanity. We must speak out against such a tragedy and dedicate ourselves to ensuring that evils such as the Armenian Genocide are not revisited on our planet. This is the highest tribute we can pay to the victims of any genocide. It is important that we take time to remember and honor the victims, and pay respect to the survivors that are still with us.

In the Rotunda of the Russell Senate Office Building there is an important exhibit displayed by the Genocide Project. The Genocide Project is an organization that seeks to preserve the memory of the Armenian Genocide by creating powerful displays that combine photos and the narrative from survivors of the Genocide. I would urge all my colleagues to view this powerful and moving account of the tragic events which we remember today.

The Armenian people have preserved their culture, faith and identity for over 1,000 years. In the last century alone, the Armenian people withstood the horrors of two World Wars and several decades of Soviet dominance in order to establish modern Armenia. I hope all my Senate colleagues will join me in honoring and remembering the victims of the Armenian Genocide.●

● Mrs. FEINSTEIN. Madam President, I rise today to acknowledge and commemorate the 87th anniversary of the beginning of the Armenian Genocide. I do so every year because the lessons of the past must not be forgotten and the crimes of the past must not be repeated.

On April 24, 1915, the Ottoman Empire launched a brutal and unconscionable policy of mass murder. Over an 8-year period, 1.5 million Armenians were killed, and another 500,000 were driven from their homes, their property and land confiscated.

As Americans, as sons and daughters of liberty, justice and freedom, we must raise our voices and acknowledge this terrible crime to ensure that it does not happen again.

Those who would single out men, women, and children to be killed solely on the basis of their race, ethnicity, and religion must know that the United States and the international community will not allow their crimes to go unpunished.

We have seen the crimes of the Armenian Genocide repeated far too often in this century: in Germany, in Cambodia, in Rwanda, and in Bosnia. We have stood by and remained silent. Let us commemorate this occasion and state loud and clear: Never again.

Even as we remember the tragedy and honor the dead, we also honor the living. Half a million Armenian Americans reside in my home State of California and I am proud to be their representative in the U.S. Senate. They have overcome the horrors of the past to build a better future for themselves and their families in the United States. They are a testament to hard work, dedication, and perseverence and they have greatly enriched the culture and civic life of our State.

Let us remember the Armenian Genocide. Let us ensure that those who suffered did not die in vain. Let us rededicate ourselves to cause of human rights for all. Let us work together with Armenia and the Armenian American community to create a future filled with hope and possibility.●

● Mr. FEINGOLD. Madam President, today marks the 87th anniversary of when the Ottoman Empire began a policy to isolate, exile and even eliminate the Armenian population. Today, we pause to remember and honor the victims of the Armenian genocide. Between 1915 and 1923 one-and-a-half-million Armenians were systematically murdered at the hands of the Ottoman Empire and hundreds of thousands more were forced to leave their homes.

It has been nearly a century since this period of violence and annihilation began, and this anniversary serves as a reminder that this tragedy will not be forgotten. It must not be forgotten. Each year I commemorate this date on the Senate floor both to honor those who lost their lives and to remind the American people that the capacity for violence and hate is still prevalent in our world today. Recent history in Bosnia, Kosovo, and Rwanda tells us that systematic brutality and the attempts to extinguish a population because of their ethnicity are still all too real. And recent news reports detailing the re-emergence of anti-Semitism worldwide are an admonishment to us all that even lessons as searing and tragic as those taught by the Holocaust can be forgotten if we do not remain vigilant in our efforts to remember them.

As the chairman of the Subcommittee on Africa, I had the unique opportunity to visit the International Criminal Tribunal for Rwanda, ICTR, in Arusha, Tanzania, earlier this year. There I saw firsthand the tremendous progress being made and groundbreaking legal precedents being set with regards to genocide being seen by the international community as a crime against humanity. The court for Rwanda and the court for the former Yugoslavia send a clear message to the world that such horrific acts cannot and will not go unpunished. Since I became a member of the U.S. Senate, I have strived to make the protection of basic human rights and accountability for such atrocities worldwide a cornerstone in American foreign policy.

Today, we remember the Armenian men, women and children who lost their lives during that tragic time period in world history, as well as the other countless number of past and present victims of violence.●

● Mr. REED. Madam President, I rise to join my colleagues, my fellow Rhode Islanders and our Armenian American community in observing the 87th Anniversary of the Armenian Genocide.

Although some in the world still want to convince themselves, as well as others, that the deaths of so many Armenians was simply a product of a civil war, the facts are undeniable: from 1915 to 1923 1,500,000 Armenians died, and 500,000 refugees were forced to flee. These facts must continue to be affirmed. To ignore the Armenian Genocide would be to ignore history and therefore allow the preconditions to exist for another radical leader to rise and legitimize the future genocide of another of the world's people. Let anyone ask: ''who remembers the Armenians?'' and the answer would be: Millions in the United States and around the world. Today, Rhode Island is among 31 States which have, by either resolution or proclamation, recognized the Armenian Genocide.

At the time of the Armenian Genocide, Europe and the United States were too embroiled in the First World War to understand the magnitude and consequences of the atrocities being committed and therefore did little more than protest by correspondence. Understanding and remembrance today ensures that the world will respond appropriately to avert these tragedies tomorrow. As proof, we need only look to NATO's quick and decisive action to quell the Kosovo crisis.

We must also recognize that, in addition to the tragedies of the past, Armenians continue to suffer from the economic effects of natural disaster and the dispute over Nagorno Karabagh. Yet amidst this suffering the Armenian people continue to strive to build an independent democratic nation of peace in the Caucasus region. So, despite crisis elsewhere in the world, we must remain attentive to Armenia and the people of Nagorno Karabagh and recognize that significant economic assistance now will prove to be an investment with long term reward in a region of strategic significance to the United States.

Today while we solemnly commemorate the tragedy of the past, let us rededicate ourselves to building a strong and vibrant Armenia for the future.●

UNPUNISHED RELIGIOUS PERSECUTION IN THE REPUBLIC OF GEORGIA

● Mr. SMITH of Oregon. Mr. President, as a member of the Commission on Security and Cooperation in Europe, I have followed closely human rights developments in the participating States, especially as they have an impact on freedom of thought, conscience, religion or belief. In many former communist countries, local religious establishments have reacted with concern

and annoyance about perceived encroachment of religions considered ''non-traditional.'' But in the Republic of Georgia organized mob violence against those of nontraditional faiths has escalated, largely directed against Jehovah's Witnesses. For over 2 years, a wave of mob attacks has been unleashed on members of this and other minority religious communities, and it is very disturbing that the police have consistently either refused to restrain the attackers or actually participated in the violence.

Since October 1999, nearly 80 attacks against Jehovah's Witnesses have taken place, most led by a defrocked Georgian Orthodox priest, Vasili Mkalavishvili. These violent acts have gone unpunished, despite the filing of over 600 criminal complaints. Reports cite people being dragged by their hair and then summarily punched, kicked and clubbed, as well as buses being stopped and attacked. The priest leading these barbaric actions has been quoted as saying Jehovah's Witnesses ''should be shot, we must annihilate them.'' Considering the well-documented frenzy of these depredations, it is only a matter of time before the assaults end in someone's death.

Other minority religious communities have not escaped unscathed, but have also been targeted. Mkalavishvili coordinated an attack against a Pentecostal church last year during choir practice. His truncheon-wielding mob seriously injured 12 church members. Two days before Christmas 2001, over 100 of his militants raided an Evangelical church service, clubbing members and stealing property. In February of this year, Mkalavishvili brought three buses of people, approximately 150 followers, to burn Bibles and religious materials owned by the Baptist Union.

Mkalavishvili brazenly holds impromptu press conferences with media outlets, often as the violence transpires in the background. With his hooligans perpetrating violent acts under the guise of religious piety, camera crews set up and document everything for the local news. The absence of a conviction and subsequent imprisonment of Mkalavishvili is not for lack of evidence.

After considerable delay, the Georgian Government did commence on January 25 legal proceedings for two mob attacks. However, considering the minor charges being brought and the poor handling of the case, I fear Mkalavishvili and other extremists will only be encouraged to continue their attacks, confident of impunity from prosecution.

Since the initial hearing in January of this year, postponement of the case has occurred four times due to Mkalavishvili's mob, sometimes numbering in the hundreds, overrunning the Didube-Chugureti District Court. Mkalavishvili's marauding followers brought wooden and iron crosses, as well as banners with offensive slogans. Mkalavishvili himself even threatened the lawyers and victims while they were in the courtroom. With police refusing to provide adequate security, lawyers filed a motion asking for court assistance, but the judge ruled the maximum security allowed would be 10 policemen, while no limit was placed on the number of Mkalavishvili's followers permitted in the courtroom. In contrast, the Ministry of Interior has reportedly provided more than 200 police and a SWAT team to protect officials of its office when Mkalavishvili was brought to trial under different charges.

Certainly, the Georgian Government could provide adequate security so that its judicial system is not overruled by vigilante justice. Unfortunately for all Georgians, the anemic government response is indicative of its inability or worse yet, its unwillingness to enforce the law to protect minority religious groups.

As is clearly evident, Georgian authorities are not taking effective steps to deter individuals and groups from employing violence against Jehovah's Witnesses and other minority faiths. With the ineptitude of the justice system now well known, Mkalavishvili has brazenly and publicly warned that the attacks will not cease.

Religious intolerance is one of the most pernicious human rights problems in Georgia today. Therefore, I call upon President Eduard Shevardnadze to take action to end the violence against religious believers, and prevent attacks on minority religious communities. Despite the meetings he held with the various faith communities intended to demonstrate tolerance, Georgian Government inaction is sending a very different message. Tbilisi's pledge to uphold the rights of all believers and prosecute those who persecute the faithful must be followed by action.

As a member of the Commission on Security and Cooperation in Europe, I urge President Shevardnadze to do whatever is necessary to stop these attacks, and to honor Georgia's OSCE commitments to promote and ensure religious freedom without distinction. The Georgian Government should take concrete steps to punish the perpetrators through vigorous prosecution.●

TRIBUTE TO JACK CHURCH

● Mr. JOHNSON. Madam President, for 15 years, Jack Church has worked tirelessly on behalf of the citizens of Butte County as Emergency Management and Veterans' Service Officer. Over the years, Jack has completed and filed applications for disability, education, pension, and other benefits for the nearly 900 veterans living in Butte County. He has also provided assistance to the families of veterans and worked to obtain needed military and medical records, as well as medals and other decorations for veterans.

I have appreciated Jack's work on behalf of veterans over the years. He has been a great advocate for veterans in South Dakota, not only on issues that impact the individual veteran and his or her family, but also on issues that impact all veterans, such as maintaining access to health care services in the Department of Veterans Affairs. He has always recognized the particular issues affecting veterans who live in rural areas, whose access to VA health care and other services can be limited by distance or income. He has been active on issues such as prescription drug costs for veterans and senior citizens, has advocated concurrent receipt of disability and retiree compensation for military retirees, and worked hard to speed up the processing of claims filed by veterans. He has truly been a friend to the veterans of South Dakota over the years.

In 2000, Butte County veterans received $1.8 million in Federal benefits, compared to $900,000 in 1990. This represents Jack's work to ensure the veterans in Butte County get the benefits they deserve. When claims or requests for records or medals were delayed, Jack was not afraid to ''rattle the cages'' to get the necessary action on behalf of the veteran. At last resort, he would contact my office for assistance in some of these cases. Thanks to his efforts, countless veterans in Butte County and the surrounding region have benefitted from services provided by the Department of Veterans Affairs. His comments and insight on veterans issues have helped me over the years in my fight to bring more attention and action on health care, education, and other issues affecting veterans. I commend Jack for his dedication and commitment to forging relationships that have the best interests of the individual veteran in mind.

In addition to his great work with South Dakota veterans, I have appreciated Jack's involvement in other areas in his community. As emergency management officer for Butte County, Jack has helped develop and administer disaster plans for the citizens of Butte County. In times of crisis, Jack was always in the middle of the action, helping to coordinate relief efforts and provide assistance to individuals in time of need. Whether it was finding shelter during an evening storm, or providing food stuffs or even portapotties, Jack has always been dedicated to getting assistance and emergency help to victims. But Jack has also been very proactive, helping to educate the public on the importance of awareness in times of emergencies. Together with other emergency management officials in South Dakota, I was pleased with Jack's efforts to help me promote the need for, and importance of, weather radios to the citizens of South Dakota.

Jack Church richly deserves the thanks of his community. It is an honor for me to share his accomplishments with my colleagues and to publicly commend him for serving South Dakota and our country.●

HONORING STEPHEN H.T. LIN

• Mr. BUNNING. Madam President, I rise today to honor and congratulate Mr. Stephen H.T. Lin, a choral music teacher at Atherton High School in Louisville, KY, for being named the 2002 Teacher of the Year for the Commonwealth of Kentucky.

Stephen Lin conducted his first rehearsal and performance at the age of 10. From that moment on, he knew the joyous sounds of music would determine the direction his life would take. During his junior and senior years of high school, Stephen was named the director of the school choir and discovered that he had a special gift when it came to teaching music to others. Not only did he find that his fellow students responded to his methods, but he also realized how good it felt to share in the learning process with others. Although his father, a music professor at the Southern Baptist Theological Seminary-School of Church Music, tried to discourage him from pursuing a career teaching music because of the lack of financial reward, Stephen could not rightly deny his calling in life. For 26 years now, Stephen Lin has helped students of all ages appreciate the joys of music. He has excelled in his innate ability to make the learning process an enjoyable and exciting experience for all involved. His choirs, through active involvement with parents, students, fundraising and grants, have traveled and performed in Belgium, Brazil, Canada, the Czech Republic, France, Greece, Germany, Great Britain, Holland, Iceland, Japan, New Zealand, Russia and Switzerland. They have sung pieces in several African dialects, Chinese, Czech, French, Icelandic, German, Hebrew, Latin, Japanese, Krao, Maori, Portuguese, Romanian, Russian, Somoan, Spanish and Swedish. Under Lin's direction, Atherton's music department was designated a Grammy Signature School, one of only a hundred high school choral programs in the Nation chosen for this distinction. Throughout his teaching career, Lin has introduced his students not only to music but also to the world and all that it has to offer.

Winning this year's Teacher of the Year Award for the Commonwealth of Kentucky was not the first time Stephen Lin has been recognized for his diligent work in and outside of the classroom. He has been included in ''Who's Who Among American Teachers'' three times and has been listed in ''Who's Who in the South and Southwest.'' He has also been designated ''Music Teacher of the Year'' by Kentucky District 12 and an ''Outstanding Young Man of America.'' Lin is a recipient of the Ashland Inc. Golden Apple Achiever Award; the Governor's Scholars Program's Outstanding Educator Award; Atherton High School's Excellence in Teaching Award; the Jefferson County Sisterhood/Brotherhood Martin Luther King Award; and the WHAS-TV Golden Apple Award. To say the least, Stephen Lin has taken full advantage of his opportunities in teaching. He has been a teacher, mentor, and friend to all of his students throughout his career.

I would like to once more congratulate Stephen Lin on winning such a prestigious and important award. His work shapes the future leaders of Kentucky. I applaud his commitment to the educational community and thank him for not listening to his father so many years ago.•

IN RECOGNITION OF SISTER ADRIAN BARRETT

• Mr. SPECTER. Madam President, I seek recognition today to acknowledge the service of my constituent Sister Adrian Barrett, who will be the recipient of this year's Americanism Award at the Amos Lodge of B'nai B'rith's 50th annual awards dinner on May 5, 2002.

Sister Adrian is a native of Dunmore, PA, and after she graduated from Marywood Seminary, she entered the religious community of the Servants of the Immaculate Heart of Mary in Scranton, PA. She later earned a bachelor of arts degree from Marywood College and a master's degree in Afro-Asian history from St. John's University. In 1986, she was conferred an honorary Doctor of Social Science degree by the University of Scranton.

Through her work, Sister Adrian demonstrated her dedication to the service of the less fortunate. She is a co-founder of Project Hope at Camp St. Andrew. In 1985, she established Sisters of the IHM-Friends of the Poor to bring together, as she says, ''those who can give with those who have a need to receive.'' Sister Adrian facilitates one of the largest Thanksgiving dinners in the country, aimed not just at the impoverished and the homeless, but also senior citizens and residents of nursing and personal care homes. She also makes sure that during the December holiday season, children's gifts, Christmas trees and food baskets are available to parents who are unable to afford them.

Sister Adrian's extraordinary work was the subject of an award-winning PBS documentary depicting her various activities with youth, the elderly, and the underprivileged in Scranton. She was also honored with the Christopher Spirit Award, the Martha Brinton Wollerton Award, and the United Neighborhood Centers of America Award. Scholarships at Keystone College and the University of Scranton are named in her honor.

For her leadership and service on behalf of the less fortunate, I would like to extend the gratitude and recognition of the U.S. Senate to Sister Adrian Barrett.•

MESSAGE FROM THE HOUSE

ENROLLED BILL SIGNED

At 10:26 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 861. An act to make technical amendments to section 10 of title 9, United States Code.

At 12:50 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3839. An act to reauthorize the Child Abuse Prevention and Treatment Act, and for other purposes.

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

H. Con. Res. 378. Concurrent resolution commending the District of Columbia National Guard, the National Guard Bureau, and the entire Department of Defense for the assistance provided to the United States Capitol Police and the entire Congressional community in response to the terrorist and anthrax attacks of September and October 2001.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3829. An act to reauthorize the Child Abuse Prevention and Treatment Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

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

H. Con. Res. 3839. Concurrent resolution commending the District of Columbia National Guard, the National Guard Bureau, and the entire Department of Defense for the assistance provided to the United States Capitol Police and the entire Congressional community in response to the terrorist and anthrax attacks of September and October 2001; to the Committee on Armed Services.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY for the Committee on Health, Education, Labor, and Pensions.

*James R. Stoner, Jr., of Louisiana, to be a Member of the National Council on the Humanities for a term expiring January 26, 2006.

*Evelyn Dee Potter Rose, of Texas, to be a Member of the National Council on the Arts for a term expiring September 3, 2006.

*Kathleen M. Harrington, of the District of Columbia, to be an Assistant Secretary of Labor.

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

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first

and second times by unanimous consent, and referred as indicated:

By Mr. BREAUX:

S. 2235. A bill to provide clarity and consistency in certain country-of-origin markings; to the Committee on Finance.

By Mr. WELLSTONE:

S. 2236. A bill to amend title III of the Public Health Service Act to provide coverage for domestic violence screening and treatment, to authorize the Secretary of Health and Human Services to make grants to improve the response of health care systems to domestic violence, and train health care providers and federally qualified health centers regarding screening, identification, and treatment for families experiencing domestic violence; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ROCKEFELLER:

S. 2237. A bill to amend title 38, United States Code, to enhance compensation for veterans with hearing loss, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. LEVIN (for himself, Mr. THOMPSON, Mr. LIEBERMAN , and Mr. MCCONNELL):

S. 2238. A bill to permit reviews of criminal records of applicants for private security officer employment; to the Committee on the Judiciary.

By Mr. SARBANES (for himself, Mr. ENSIGN, Mr. SCHUMER, Mr. CORZINE, Mr. ALLARD, Mr. CARPER, Mr. BUNNING, Mrs. CLINTON, Mr. TORRICELLI, and Mr. SANTORUM):

S. 2239. A bill to amend the National Housing Act to simplify the downpayment requirements for FHA mortgage insurance for single family homebuyers; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LEAHY (for himself, Mr. DASCHLE, Mr. TORRICELLI, Mr. KENNEDY, Mr. HARKIN, Mr. BINGAMAN, Mr. FEINGOLD, and Mr. JOHNSON):

S. 2240. A bill to combat nursing home fraud and abuse, increase protections for victims of telemarketing fraud, enhance safeguards for pension plans and health care benefit programs, and enhance penalties for crimes against seniors, and for other purposes; to the Committee on the Judiciary.

By Mr. FEINGOLD:

S. 2241. A bill to amend the Harmonized Tariff Schedule of the United States to provide duty-free treatment for certain log forwarders used as motor vehicles for the transport of goods, and for other purposes; to the Committee on Finance.

By Mr. SMITH of New Hampshire:

S. 2242. A bill to amend title 23, United States Code, to prohibit the collection of tolls from vehicles or military equipment under the actual physical control of a uniformed member of the Armed Forces, and for other purposes; to the Committee on Environment and Public Works.

By Mr. HUTCHINSON:

S. 2243. A bill to specify the amount of Federal funds that may be expended for intake facilities for the benefit of Lonoke and White Counties, Arkansas, as part of the project for flood control, Greers Ferry Lake, Arkansas; to the Committee on Environment and Public Works.

By Mr. DORGAN (for himself, Mr. JEFFORDS, Ms. COLLINS, Ms. STABENOW, Ms. SNOWE, Mr. WELLSTONE, Mr. LEVIN, and Mr. DAYTON):

S. 2244. A bill to permit commercial importation of prescription drugs from Canada, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BURNS (for himself, Mr. CRAIG, and Mr. BAUCUS):

S. 2245. A bill to amend title 49, United States Code, to enhance competition between and among rail carriers, to provide for expedited alternative dispute resolution of disputes involving rail rates, rail service, or other matters of rail operations through arbitration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DODD (for himself, Mr. COCHRAN, Mr. HARKIN, and Mr. BUNNING):

S. 2246. A bill to improve access to printed instructional materials used by blind or other persons with print disabilities in elementary and secondary schools, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DURBIN:

S. 2247. A bill to provide for the regulation of public accounting firms for purposes of the Federal securities laws, to promote quality and transparency in financial reporting, to improve the quality of independent audits and accounting services through an Independent Public Accounting Oversight Board, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SARBANES:

S. 2248. A bill to extend the authority of the Export-Import Bank until May 31, 2002; considered and passed.

By Mrs. CLINTON (for herself and Mr. BINGAMAN):

S. 2249. A bill to amend the Public Health Service Act to establish a grant program regarding eating disorders, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

ADDITIONAL COSPONSORS

S. 540

At the request of Mr. DEWINE, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 540, a bill to amend the Internal Revenue Code of 1986 to allow as a deduction in determining adjusted gross income the deduction for expenses in connection with services as a member of a reserve component of the Armed Forces of the United States, to allow employers a credit against income tax with respect to employees who participate in the military reserve components, and to allow a comparable credit for participating reserve component self-employed individuals, and for other purposes.

S. 732

At the request of Mr. THOMPSON, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 732, a bill to amend the Internal Revenue Code of 1986 to reduce the depreciation recovery period for certain restaurant buildings, and for other purposes.

S. 1140

At the request of Mr. HATCH, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 1140, a bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process relating to motor vehicle franchise contracts.

S. 1355

At the request of Mr. DURBIN, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 1355, a bill to prevent children from having access to firearms.

S. 1408

At the request of Mr. ROCKEFELLER, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 1408, a bill to amend title 38, United States Code, to standardize the income threshold for copayment for outpatient medications with the income threshold for inability to defray necessary expense of care, and for other purposes.

S. 1572

At the request of Mr. BENNETT, his name was added as a cosponsor of S. 1572, a bill to endorse the vision of further enlargement of the NATO Alliance articulated by President George W. Bush on June 15, 2001, and by former President William J. Clinton on October 22, 1996, and for other purposes.

At the request of Mr. BOND, his name was added as a cosponsor of S. 1572, supra.

At the request of Mr. GRAMM, his name was added as a cosponsor of S. 1572, supra.

S. 1836

At the request of Mr. COCHRAN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1836, a bill to amend the Public Health Service Act to establish scholarship and loan repayment programs regarding the provision of veterinary services in veterinarian shortage areas.

S. 1940

At the request of Mr. LEVIN, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 1940, a bill to amend the Internal Revenue Code of 1986 to provide that corporate tax benefits from stock option compensation expenses are allowed only to the extent such expenses are included in a corporation's financial statements.

S. 2010

At the request of Mr. LEAHY, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2010, a bill to provide for criminal prosecution of persons who alter or destroy evidence in certain Federal investigations or defraud investors of publicly traded securities, to disallow debts incurred in violation of securities fraud laws from being discharged in bankruptcy, to protect whistleblowers against retaliation by their employers, and for other purposes.

S. 2026

At the request of Mr. LUGAR, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 2026, a bill to authorize the use of Cooperative Threat Reduction funds for projects and activities to address proliferation threats outside the states of the former Soviet Union, and for other purposes.

S. 2189

At the request of Mr. ROCKEFELLER, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2189, a bill to amend the Trade

Act of 1974 to remedy certain effects of injurious steel imports by protecting benefits of steel industry retirees and encouraging the strengthening of the American steel industry.

S. 2200

At the request of Mr. BAUCUS, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 2200, a bill to amend the Internal Revenue Code of 1986 to clarify that the parsonage allowance exclusion is limited to the fair rental value of the property.

S. 2215

At the request of Mrs. BOXER, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 2215, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and by so doing hold Syria accountable for its role in the Middle East, and for other purposes.

S. 2225

At the request of Mr. WARNER, his name was added as a cosponsor of S. 2225, a bill to authorize appropriations for fiscal year 2003 for military activities of Department of Defense, to prescribe military personnel strengths for fiscal year 2003, and for other purposes.

S. RES. 247

At the request of Mr. LIEBERMAN, the names of the Senator from Virginia (Mr. ALLEN), the Senator from New York (Mrs. CLINTON), the Senator from Idaho (Mr. CRAPO), and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. Res. 247, a resolution expressing solidarity with Israel in its fight against terrorism.

S. RES. 249

At the request of Mr. HATCH, the names of the Senator from Arkansas (Mr. HUTCHINSON) and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of S. Res. 249, a resolution designating April 30, 2002, as ''Dia de los Ninos: Celebrating Young Americans,'' and for other purposes.

AMENDMENT NO. 3197

At the request of Mr. CARPER, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of amendment No. 3197 proposed to S. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

AMENDMENT NO. 3198

At the request of Mr. CARPER, the names of the Senator from Maine (Ms. COLLINS), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Illinois (Mr. DURBIN), and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of amendment No. 3198 proposed to S. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

AMENDMENT NO. 3256

At the request of Mr. ALLEN, his name was added as a cosponsor of amendment No. 3256 proposed to S. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

AMENDMENT NO. 3269

At the request of Mrs. LINCOLN, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of amendment No. 3269 intended to be proposed to S. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

AMENDMENT NO. 3284

At the request of Mrs. LINCOLN, the names of the Senator from Virginia (Mr. ALLEN), the Senator from Georgia (Mr. MILLER), and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of amendment No. 3284 intended to be proposed to S. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WELLSTONE:

S. 2236. A bill to amend title III of the Public Health Service Act to provide coverage for domestic violence screening and treatment, to authorize the Secretary of Health and Human Services to make grants to improve the response of health care systems to domestic violence, and train health care providers and federally qualified health centers regarding screening, identification, and treatment for families experiencing domestic violence; to the Committee on Health, Education, Labor, and Pensions.

Mr. WELLSTONE. Madam President, I rise today to introduce the Domestic Violence Screening and Services Act of 2002, an act to improve the response of health care systems to domestic violence, and to train health care providers and federally qualified health centers regarding screening, identification, and treatment for families experiencing domestic violence.

Nearly one third of American women, 31 percent, report being physically or sexually abused by a husband or boyfriend at some point in their lives, and about 1200 women are murdered every year by their intimate partner, nearly 3 each day. 37 percent of all women who sought care in hospital emergency rooms for violence related injuries were injured by a current or former spouse, boyfriend, or girlfriend. In addition to injuries sustained during violent episodes, physical and psychological abuse are linked to numerous adverse health effects including arthritis, chronic neck or back pain, migraine and other frequent headaches, problems with vision, and sexually transmitted infections, including HIV/AIDS.

Each year, at least 6 percent of all pregnant women, about 240,000 pregnant women in this country, are battered by the men in their lives. This battering leads to complications in pregnancy, including low weight gain, anemia, infections, and first and second trimester bleeding. Pregnant women are more likely to die of homicide than to die of any other cause.

Currently, about 10 percent of primary care physicians routinely screen for intimate partner abuse during new patient visits and 9 percent routinely screen during periodic checkups. Recent clinical studies have shown the effectiveness of a 2-minute screening for early detection of abuse of pregnant women. Additional longitudinal studies have tested a 10-minute intervention that was highly effective in increasing the safety of pregnant abused women. 70 to 81 percent of patients studied reported that they would like their health care providers to ask them privately about intimate partner violence.

Medical services for abused women cost an estimated $857,300,000 every year. It is time for us to also authorize resources to promote the effort to make screening for domestic violence routine in health care settings. This bill would establish domestic violence prevention grants in the amount of $5 million dollars per year to improve screening and treatment for domestic violence in federally qualified health centers. Grants could be used for the implementation, dissemination, and evaluation of policies and procedures to guide health care professionals and staff to respond to domestic violence. Grants could also be used to provide training and follow-up technical assistance to health professionals and staff to screen for domestic violence, and then to appropriately assess, treat, and refer patients who are victims of domestic violence to domestic violence service providers. In addition, grants could be used for the development of onsite access to services to address, the safety, medical, and mental health needs of patients either by increasing the capacity of existing health professionals and staff to address these issues or by contracting with or hiring domestic violence advocates to provide the services.

This bill would also authorize the Secretary of Health and Human Services to award grants in the amount of $5 million per year to strengthen the response of State and local health care systems to domestic violence by building the capacity of health personnel to identify, address, and prevent domestic violence. Up to 10 grants would be utilized to design and implement comprehensive statewide strategies in clinical and public healthcare settings and to promote education and awareness about domestic violence at a statewide

level. Up to 10 additional grants would be used to design and implement comprehensive local strategies to improve the response of the health care system in hospitals, clinics, managed care settings, emergency medical services, and other health care settings.

Finally, this bill would also ensure that health care professionals working in the National Health Service Corps receiving training on how to screen, assess, treat and refer patients who are victims of domestic violence. Our health care system represents a potentially life saving point of intervention for those experiencing domestic violence. We need to support these efforts to improve the ability of our health care system to be a safe place for women to turn to when most in need.

Madam President, I ask unanimous consent that a summary of the bill be printed in the RECORD.

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

SUMMARY—THE DOMESTIC VIOLENCE SCREENING AND SERVICES ACT OF 2002

OVERVIEW

The Domestic Violence Screening and Services Act of 2002 would create domestic violence prevention grants to improve screening and treatment for patients at Federally Qualified Health Centers. The bill would also provide grants to strengthen the response of State and local health care systems to domestic violence and would ensure that health care professionals working in the National Health Service Corps receive training on how to screen, assess, treat, and render patients who are victims of domestic violence.

FEDERALLY QUALIFIED HEALTH CENTERS

In an effort to increase screening and access to services for these patients who are or may be experiencing domestic violence the bill amends Part P of title III of the Public Health Service Act by adding a new Sec. 3990 creating Domestic Violence Prevention Grants in the amount of 5 million dollars per year for four years.

Funds would be used to design and implement comprehensive local strategies to improve the health care response to domestic violence in federally qualified health centers. These strategies would include: the development, implementation, dissemination, and evaluation of policies and procedures to guide health care professionals and staff responding to domestic violence; the provision of training and follow-up technical assistance to health care professionals and staff to screen for domestic violence, and then to appropriately assess, record in medical records, treat, and refer patients who are victims of domestic violence to domestic violence services; the development of on-site access to services to address the safety, medical, mental health, and economic needs of patients either by increasing the capacity of existing health care professionals and staff to address these issues or by contracting with or hiring domestic violence advocates to provide the services.

GRANTS FOR DOMESTIC VIOLENCE SCREENING AND TREATMENT IN STATE AND LOCAL HEALTHCARE SYSTEMS

The Secretary of Health and Human Services acting through the Assistant Secretary for the Administration for Children and Families shall award grants to fund 10 demonstration projects at the state level and 10 demonstration grants on the local level to develop comprehensive strategies to improve the response of the healtcare system to domestic violence. Recommended authorization is $5 million/year for four years.

Eligible entities—would be: A. a State or local health department, nonprofit State domestic violence coalition or local service-based program, State professional medical society, State health professional association, or other nonprofit or State entity with a history of effective work in the field of domestic violence; that can B. demonstrate that it is representing a team of organizations and agencies working collaboratively to strengthen the health care system's response to domestic violence and that such team includes domestic violence and health care organizations.

Use of funds—Funds would be used to design and implement comprehensive statewide and local strategies to improve the health care response to domestic violence in hospitals, clinics, managed care settings, emergency medical services, and other health care settings. These strategies would include: the development, implementation, dissemination, and evaluation of policies and procedures to guide health care professionals and staff responding to domestic violence; the provision of training and follow-up technical assistance to health care professionals and staff to screen for domestic violence, and then to appropriately assess, record in medical records, treat, and refer patients who are victims of domestic violence the domestic violence services; the implementation of practice guidelines for routine screening and recording mechanisms to identify and document domestic violence; the development of on-site access to services to address the safety, medical, mental health, and economic needs of patients either by increasing the capacity of existing health care professionals and staff to address these issues or by contracting with or hiring domestic violence advocates to provide the services or other model appropriate to the geographic and cultural needs of a site.

In additional required that health care professionals trained through the National Health Service Corps receiving in domestic violence screening and treatment.

By Mr. ROCKEFELLER:

S. 2237. A bill to amend title 38, United States Code, to enhance compensation for veterans with hearing loss, and for other purposes; to the Committee on Veterans' Affairs.

Mr. ROCKEFELLER. Madam President, today I introduce legislation on behalf of American veterans whose hearing loss may have resulted from their military service. The Veterans Hearing Loss Compensation Act of 2002 would accomplish two goals: first, it would correct a long-standing inequity in compensating veterans for service-related hearing loss. Second, it would direct VA, with input from outside experts, to determine whether service in certain military occupations can be presumed to be associated with hearing loss.

Currently, section 1160 of title 38, United States Code, directs VA to extend special consideration when evaluating veterans' service-connected disabilities in ''paired organs or extremities,'' such as eyes, kidneys, or hands. If there is damage to both organs, even if only one resulted from military service, the disability of the non-service-connected organ may be considered.

For all listed disabilities except hearing loss, the law requires only ''loss'' or ''loss of use,'' whereas ''total deafness'' is required in rating hearing loss. If hearing loss in either ear is anything less than total, VA cannot even consider the loss in the non-service-connected ear. Section 2 of this bill would remove this requirement for total hearing loss in either ear, allowing VA to consider the effect of any non-service-connected disability when rating hearing loss.

Section 3 of this bill would require VA to contract with an independent scientific organization, such as the National Academy of Sciences, to review scientific evidence on occupational hearing loss, particularly acoustic trauma experienced during military service. This legislation would also require VA to review its own claims and record of medical treatment for hearing loss or tinnitus in veterans. Through these two avenues, VA should be better able to determine objectively whether service in certain military specialties might be associated with an increased risk of hearing loss later in life.

Once the outside scientific authority reports to VA, the Secretary would be required to determine whether the evidence warrants presuming an association between certain military occupations and hearing loss or tinnitus. If VA finds sufficient evidence linking noise exposure in these occupations to veterans' later hearing loss, the Secretary would be required to develop regulations for providing disability benefits to these veterans; if VA determines that no presumptive service-connection is appropriate, the Secretary would be required to publish this determination and report to Congress on the basis of that decision.

With the aging of the veterans population, the number of claims for hearing loss or tinnitus continues to climb. VA faces difficulties in determining whether certain veterans can attribute their hearing loss to damage suffered decades ago during military service, especially as many veterans received no appropriate hearing evaluation at discharge.

I realize that the proposed process is not an immediate fix, but it should provide VA, Congress, and veterans with a solid basis for tackling this difficult problem. I urge my colleagues to join me in supporting this important piece of legislation.

I request that the text of the bill be printed in the RECORD.

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

S. 2237

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 ''Veterans Hearing Loss Compensation Act of 2002''.

SEC. 2. COMPENSATION FOR HEARING LOSS IN PAIRED ORGANS.

(a) HEARING LOSS REQUIRED FOR COMPENSATION.—Section 1160(a)(3) of title 38, United

States Code, is amended by striking ''total'' both places it appears.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to months that begin on or after that date.

SEC. 3. AUTHORITY FOR PRESUMPTION OF SERVICE-CONNECTION FOR HEARING LOSS ASSOCIATED WITH PARTICULAR MILITARY OCCUPATIONAL SPECIALTIES.

(a) IN GENERAL.—(1) Subchapter II of chapter 11 of title 38, United States Code, is amended by adding at the end the following new section:

''§ 1119. Presumption of service connection for hearing loss associated with particular military occupational specialties

''(a) For purposes of section 1110 of this title, and subject to section 1113 of this title, hearing loss, tinnitus, or both of a veteran who while on active military, naval, or air service was assigned to a military occupational specialty or equivalent described in subsection (b) shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of evidence of such hearing loss or tinnitus, as the case may be, during the period of such service.

''(b) A military occupational specialty or equivalent referred to in subsection (a) is a military occupational specialty or equivalent, if any, that the Secretary determines in regulations prescribed under this section in which individuals assigned to such military occupational specialty or equivalent in the active military, naval, or air service are or were likely to be exposed to a sufficiently high level of acoustic trauma as to result in permanent hearing loss, tinnitus, or both.

''(c) In making determinations for purposes of subsection (b), the Secretary shall take into account the report submitted to the Secretary by the National Academy of Sciences under section 3(c) of the Veterans Hearing Loss Compensation Act of 2002.

''(d)(1) Not later than 60 days after the date on which the Secretary receives the report referred to in subsection (c), the Secretary shall determine whether or not a presumption of service connection for hearing loss, tinnitus, or both is warranted for the hearing loss, tinnitus, or both, as the case may be, of individuals assigned to each military occupational specialty or equivalent identified by the National Academy of Sciences in such report as a military occupational specialty or equivalent in which individuals are or were likely to be exposed to a sufficiently high level of acoustic trauma as to result in permanent hearing loss, tinnitus, or both to a degree which would be compensable as a service-connected disability under the laws administered by the Secretary.

''(2) If the Secretary determines under paragraph (1) that a presumption of service connection is warranted with respect to any military occupational specialty or equivalent described in that paragraph and hearing loss, tinnitus, or both, the Secretary shall, not later than 60 days after the date of the determination, issue proposed regulations setting forth the Secretary's determination.

''(3) If the Secretary determines under paragraph (1) that a presumption of service connection is not warranted with respect to any military occupational specialty or equivalent described in that paragraph and hearing loss, tinnitus, or both, the Secretary shall, not later than 60 days after the date of the determination—

''(A) publish the determination in the Federal Register; and

''(B) submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the determination, including a justification for the determination.

''(e) Any regulations issued under subsection (d)(2) shall take effect on the date provided for in such regulations. No benefit may be paid under this section for any month that begins before that date.''.

(2) The table of sections at the beginning of chapter 11 of that title is amended by inserting after the item relating to section 1118 the following new item:

''1119. Presumption of service connection for hearing loss associated with particular military occupational specialties.''.

(b) PRESUMPTION REBUTTABLE.—Section 1113 of title 38, United States Code, is amended by striking ''or 1118'' each place it appears and inserting ''1118, or 1119''.

(c) ASSESSMENT OF ACOUSTIC TRAUMA ASSOCIATED WITH VARIOUS MILITARY OCCUPATIONAL SPECIALTIES.—(1) The Secretary of Veterans Affairs shall seek to enter into an agreement with the National Academy of Sciences, or another appropriate scientific organization, for the Academy to perform the activities specified in this subsection. The Secretary shall seek to enter into the agreement not later than 60 days after the date of the enactment of this Act.

(2) Under the agreement under paragraph (1), the National Academy of Sciences shall—

(A) review and assess available data on occupational hearing loss;

(B) from such data, identify the forms of acoustic trauma that, if experienced by individuals in the active military, naval, or air service, could cause or contribute to hearing loss, hearing threshold shift, or tinnitus in such individuals;

(C) in the case of each form of acoustic trauma identified under subparagraph (B)—

(i) determine how much exposure to such form or acoustic trauma is required to cause or contribute to hearing loss, hearing threshold shift, or tinnitus, as the case may be, and at what noise level; and

(ii) determine whether or not such hearing loss, hearing threshold shift, or tinnitus, as the case may be, is—

(I) immediate or delayed onset;

(II) cumulative;

(III) progressive; or

(IV) any combination of subclauses (I) through (III);

(D) review and assess the completeness and accuracy of data of the Department of Veterans Affairs and the Department of Defense on hearing threshold shift in individuals who were discharged or released from service in the Armed Forces during the period beginning on December 7, 1941, and ending on the date of the enactment of this Act upon their discharge or release from such service; and

(E) identify each military occupational specialty or equivalent, if any, in which individuals assigned to such military occupational specialty or equivalent in the active military, naval, or air service are or were likely to be exposed to a sufficiently high level of acoustic trauma as to result in permanent hearing loss, tinnitus, or both to a degree which would be compensable as a service-connected disability under the laws administered by the Secretary of Veterans Affairs.

(3) Not later than 180 days after the date of the entry into the agreement referred to in paragraph (1), the National Academy of Sciences shall submit to the Secretary a report on the activities of the National Academy of Sciences under the agreement, including the results of the activities required by subparagraphs (A) through (F) of paragraph (2).

(d) REPORT ON ADMINISTRATION OF BENEFITS FOR HEARING LOSS AND TINNITUS.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the claims submitted to the Secretary for disability compensation or health care for hearing loss or tinnitus.

(2) The report under paragraph (1) shall include the following:

(A) The number of claims submitted to the Secretary in each of 1999, 2000, and 2001 for disability compensation for hearing loss, tinnitus, or both.

(B) Of the claims referred to in subparagraph (A)—

(i) the number of claims for which disability compensation was awarded, set forth by year;

(ii) the number of claims assigned each disability rating; and

(iii) the total amount of disability compensation paid on such claims during such years.

(C) The total cost to the Department of adjudicating the claims referred to in subparagraph (A), set forth in terms of full-time employee equivalents (FTEEs).

(D) The total number of veterans who sought treatment in Department of Veterans Affairs health facilities care in each of 1999, 2000, and 2001 for hearing-related disorders, set forth by—

(i) the number of veterans per year; and

(ii) the military occupational specialties or equivalents of such veterans during their active military, naval, or air service.

(E) The health care furnished to veterans referred to in subparagraph (D) for hearing-related disorders, including the number of veterans furnished hearing aids and the cost of furnishing such hearing aids.

By Mr. LEVIN (for himself, Mr. THOMPSON, Mr. LIEBERMAN, and Mr. MCCONNELL):

S. 2238. A bill to permit reviews of criminal records of applicants for private security officer employment; to the Committee on the Judiciary.

Mr. LEVIN. Madam President, I am introducing along with Senators THOMPSON, LIEBERMAN and MCCONNELL the Private Security Officer Employment Standards Act of 2002, a bill that would provide private security firms an opportunity to gain access to national criminal history information to determine whether or not employees or applicants for employment pose a threat to the facilities and persons they are supposed to protect.

Large numbers of critical non-governmental facilities, from power plants to schools to hospitals, are protected by private security firms and their civilian security officers. Keeping these facilities secure from terrorism or other forms of violent attack is critical to our national security. Yet currently most private security employers cannot obtain timely national criminal background check information on the very people they need to hire to protect these key facilities. This legislation seeks to correct that. This bill would authorize private security firms to request Federal background check information on current and prospective employees through the appropriate State agencies, thereby permitting firms to obtain relevant criminal history information they might not otherwise receive.

The Criminal Justice Information Services Division of the FBI maintains complete criminal history records for both Federal crimes and State crimes on individuals with criminal records in the United States. Searches are most efficiently conducted by using fingerprints to ensure efficiency and accuracy. We have already passed legislation specifically permitting other industries, the banking, nursing home, and child care industries, to name a few, to test their prospective employees against the FBI's comprehensive records. Many of the reasons that justified passage of those laws, especially the desire to ensure that those who provide certain important services have a background commensurate with their responsibilities, argues for passage of this bill as well.

This legislation will enhance our Nation's security. As an adjunct to our Nation's law enforcement officers, private security guards are responsible for the protection of numerous critical components of our Nation's infrastructure, including power generation facilities, hazardous materials manufacturing facilities, water supply and delivery facilities, oil and gas refineries, and food processing plants. The approximately 13,000 private security companies in the United States employ about 1.5 million persons nationwide. Given the critical nature of the facilities private security officers are hired to protect, it is imperative that we provide access to information that might disclose who is unsuitable for protecting these resources.

We understand that in about 40 States, private security companies are required to receive a State license in order to conduct business. Relying upon a Federal bill passed in the early 1970's, 37 States and the District of Columbia have passed legislation authorizing State agencies to request both State and Federal record searches. Despite this authorization, security firms report that searches of both State and Federal databases is the exception rather than the rule. That is because only one State, California, makes such reviews mandatory. In the other jurisdictions with authorizing statutes, reviews of the Federal database are conducted at the discretion of the States. I am told that in approximately half of the 36 States with authorizing statutes, typically only State databases are searched. An additional 13 States have not even authorized any form of Federal criminal background check. What that means is that in approximately 31 States, a private security employer typically has no access to any Federal criminal database information. In these 31 States, an employment applicant in 1 State could have a serious criminal conviction in another State and still be permitted to perform sensitive security work. The State conducting the search would have no idea such a conviction in another State existed without access to the Federal database.

Further, even in those few States that actually conduct Federal records searches, I am told that searches of the backgrounds of new employees in the Federal database often take 90 to 120 days. While checks are pending, security guards are often provided a temporary license. This 90 to 120 day period is more than enough time for a guard with a temporary license to perpetrate dangerous acts. In light of our urgent need to strengthen our homeland security, this lack of access to criminal checks and the time it takes to complete such checks is unacceptable. We need to act in order to make it easier for States and employers to gain timely access to this information.

The bill strikes the appropriate balance between the interests of all parties involved.

First, the bill permits private security employers to request that the FBI criminal history database be searched for prospective or existing employees. Requests must be made by the employers through their States' identification bureau or similar State agency designated by the Attorney General. Employers will not be granted direct access to the FBI records. Instead, States will serve as intermediaries between employers and the FBI to: one, ensure that employment suitability determinations are made pursuant to applicable State law; two, prevent disclosure of the raw FBI criminal history information to the employers and the public; and three, minimize the FBI's administrative burden of having to respond to background check requests from countless different sources. The program will not cost the Federal Government anything. The legislation allows the FBI, and States if they so choose, to charge reasonable fees to security firms to recover their costs of carrying out this act.

Second, the bill protects employee and prospective employee's privacy. Before an FBI background check can be conducted, the employee or applicant for employment must grant an employer written consent to request the FBI database search. In addition, the criminal history reports received by the States will not be disseminated to employers. Instead, in States that have laws regulating private security guard employment, designated State agencies will simply be required to use the information provided by the FBI in applying their State standards. For those States that have no standards, the States will be instructed to inform requesting employers whether or not employees or applicants have been convicted of either: one, a felony; two, a violent misdemeanor within the past 10 years; or, three, crime of dishonesty within the past 10 years. Thus, only the fact that a conviction exists or not will be provided by States to employers, and the privacy of the records themselves will be maintained. All information provided to employers pursuant to this act must be provided to the employees or prospective employees. Furthermore, the bill establishes strong criminal penalties for those who might falsely certify they are authorized security firms or otherwise use information obtained pursuant to this act beyond the act's intended purposes.

Third, the bill protects States' rights. The bill does not impose an unfunded mandate on the States. It reserves the right of States to charge reasonable fees to employers for their costs in administering this act. Moreover, if a State wishes to opt out of this statutory regime, it may do so at any time.

I believe that the time is right for us to enact this legislation. It strikes the right balance between the need for employers to gain access to this critical information and the privacy rights of current and prospective security guards. We have worked with the FBI to ease the administrative process, and it will cost the Federal Government nothing. There is no undue burden being placed on our States.

Passage of this act will plug a hole in our homeland security. I urge my colleagues to support the passage of this legislation.

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

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

S. 2238

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 ''Private Security Officer Employment Standards Act of 2002''.

SEC. 2. FINDINGS.

Congress finds that—

(1) employment of private security officers in the United States is growing rapidly;

(2) private security officers function as an adjunct to, but not a replacement for, public law enforcement by helping to reduce and prevent crime;

(3) such private security officers protect individuals, property, and proprietary information, and provide protection to such diverse operations as banks, hospitals, research and development centers, manufacturing facilities, defense and aerospace contractors, high technology businesses, nuclear power plants, chemical companies, oil and gas refineries, airports, communication facilities and operations, office complexes, schools, residential properties, apartment complexes, gated communities, and others;

(4) sworn law enforcement officers provide significant services to the citizens of the United States in its public areas, and are supplemented by private security officers;

(5) the threat of additional terrorist attacks requires cooperation between public and private sectors and demands professional security officers for the protection of people, facilities, and institutions;

(6) the trend in the Nation toward growth in such security services has accelerated rapidly;

(7) such growth makes available more public sector law enforcement officers to combat serious and violent crimes;

(8) the American public deserves the employment of qualified, well-trained private security personnel as an adjunct to sworn law enforcement officers;

(9) private security officers and applicants for private security officer positions should be thoroughly screened and trained; and

(10) standards are essential for the selection, training, and supervision of qualified security personnel providing security services.

SEC. 3. DEFINITIONS.

In this Act:

(1) EMPLOYEE.—The term ''employee'' includes both a current employee and an applicant for employment.

(2) AUTHORIZED EMPLOYER.—The term ''authorized employer'' means any person that—

(A) provides, as an independent contractor, for consideration, the services of private security officers; and

(B) is authorized by the Attorney General to obtain information provided by the State or other authorized entity pursuant to this section.

(3) PRIVATE SECURITY OFFICER.— The term ''private security officer''—

(A) means an individual who performs security services, full- or part-time, for consideration as an independent contractor or an employee, whether armed or unarmed and in uniform or plain clothes, whose primary duty is to perform security services; but

(B) does not include—

(i) sworn police officers who have law enforcement powers in the State;

(ii) employees whose duties are primarily internal audit or credit functions;

(iii) an individual on active duty in the military service;

(iv) employees of electronic security system companies acting as technicians or monitors; or

(v) employees whose duties primarily involve the secure movement of prisoners.

(4) SECURITY SERVICES.—The term ''security services'' means the performance of security services as such services are defined by regulations promulgated by the Attorney General.

SEC. 4. BACKGROUND CHECKS.

(a) IN GENERAL.—

(1) SUBMISSION OF FINGERPRINTS.—An authorized employer may submit fingerprints or other means of positive identification of an employee of such employer for purposes of a background check pursuant to this Act.

(2) EMPLOYEE RIGHTS.—

(A) PERMISSION.—An authorized employer shall obtain written consent from an employee to submit the request for a background check of the employee under this Act.

(B) ACCESS.—An employee shall be provided confidential access to information relating to the employee provided pursuant to this Act to the authorized employer.

(3) PROVIDING RECORDS.—Upon receipt of a background check request from an authorized employer, submitted through the State identification bureau or other entity authorized by the Attorney General, the Attorney General shall—

(A) search the appropriate records of the Criminal Justice Information Services Division of the Federal Bureau of Investigation; and

(B) promptly provide any identification and criminal history records resulting from the background checks to the submitting State identification bureau or other entity authorized by the Attorney General.

(4) FREQUENCY OF REQUESTS.—An employer may request a background check for an employee only once every 12 months of continuous employment by that employee unless the employer has good cause to submit additional requests.

(b) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall issue such final or interim final regulations as may be necessary to carry out this Act, including—

(1) measures relating to the security, confidentiality, accuracy, use, submission, dissemination, and destruction of information and audits, and recordkeeping;

(2) standards for qualification as an authorized employer; and

(3) the imposition of reasonable fees necessary for conducting the background checks.

(c) CRIMINAL PENALTY.—Whoever falsely certifies that he meets the applicable standards for an authorized employer or who knowingly and intentionally uses any information obtained pursuant to this Act other than for the purpose of determining the suitability of an individual for employment as a private security officer shall be fined not more than $50,000 or imprisoned for not more than 2 years, or both.

(d) USER FEES.—

(1) IN GENERAL.—The Director of the Federal Bureau of Investigation may—

(A) collect fees pursuant to regulations promulgated under subsection (b) to process background checks provided for by this Act;

(B) notwithstanding the provisions of section 3302 of title 31, United States Code, retain and use such fees for salaries and other expenses incurred in providing such processing; and

(C) establish such fees at a level to include an additional amount to remain available until expended to defray expenses for the automation of fingerprint identification and criminal justice information services and associated costs.

(2) STATE COSTS.—Nothing in this Act shall be construed as restricting the right of a State to assess a reasonable fee on an authorized employer for the costs to the State of administering this Act.

(e) STATE OPT OUT.—A State may decline to participate in the background check system authorized by this Act by enacting a law providing that the State is declining to participate pursuant to this subsection.

(f) STATE STANDARDS AND INFORMATION PROVIDED TO EMPLOYER.—

(1) ABSENCE OF STATE STANDARD.—If a State participates in the background check system authorized by this Act and has no State standard for qualification to be a private security officer, the State shall notify an authorized employer whether or not an employee has been convicted of a felony, an offense involving dishonesty or false statement if the conviction occurred during the previous 10 years, or an offense involving the use or attempted use of physical force against the person of another if the conviction occurred during the previous 10 years.

(2) STATE STANDARD.—If a State participates in the background check system authorized by this Act and has State standards for qualification to be a private security officer, the State shall use the information received pursuant to this Act in applying the State standard and shall notify the employer of the results.

By Mr. SARBANES (for himself, Mr. ENSIGN, Mr. SCHUMER, Mr. CORZINE, Mr. ALLARD, Mr. CARPER, Mr. BUNNING, Mrs. CLINTON, Mr. TORRICELLI, and Mr. SANTORUM):

S. 2239. A bill to amend the National Housing Act to simplify the downpayment requirements for FHA mortgage insurance for single family homebuyers; to the Committee on Banking, Housing, and Urban Affairs.

Mr. SARBANES. Madam President, today I am introducing the ''FHA Downpayment Simplification Act of 2002'' with a number of my colleagues. As the list of original cosponsors indicates, this piece of legislation has broad, bipartisan support. This is because the Federal Housing Administration, FHA, has long been a tool to increase homeownership in America.

Since its inception in 1934, the FHA has helped millions of American families achieve the dream of homeownership. Currently, FHA accounts for about 20 percent of the mortgage market. However, FHA is even more important to first time homebuyers, buyers with lower incomes, and minority homebuyers, many of whom have not been well served by the traditional marketplace. For these borrowers, FHA is the ticket to the American dream.

Indeed, the very strong economy helped raise overall homeownership rates through the 1990s to historically high levels, both for the population as a whole and among underserved buyers. By 1999, homeownership increased to 66.8 percent. But it was the FHA that helped ensure those benefits were widely available.

For example, according to data provided by the Department of Housing and Urban Development, HUD, first time homebuyers accounted for 82 percent of all FHA loans in the year 2000; almost half of FHA-insured loans went to low-income borrowers in metropolitan areas; and over one-third of FHA loans went to African-American and Hispanic borrowers. In each case, FHA played a more significant role than the conventional market.

The role played by FHA in spreading the benefits of homeownership to a broader range of Americans is the central reason my colleagues and I believe it is important to renew and make permanent the law authorizing the streamlined downpayment calculation for all FHA single family insured loans. The streamlined downpayment, which is current law, was initially tried as a pilot in Hawaii and Alaska in 1996 before being extended nationwide in 1998. It was subsequently reauthorized again until the end of this year. Without Congressional action, the law will expire, resulting in higher costs for millions of Americans seeking the benefits of homeownership.

The streamlined downpayment process, as its name implies, is relatively simple and straightforward. The buyer puts down at least 3 percent of the acquisition cost of the home. The acquisition cost includes both the sales price and the closing costs. The old system required different downpayment rates for each portion of a mortgage. This approach is complex, multi-step calculation that often confused consumers, realtors, and lenders alike, and resulted in higher overall closing costs for the consumer.

For example, for a property with a sales price of $150,000 and $3,000 in closing costs, the streamlined approach that would be continued by this legislation would save the borrower almost

$2,200 in closing costs. For a more modest home costing $100,000 with $2,000 in closing costs, the savings would be about $350 over the old system.

The streamlined FHA downpayment process has been working extremely well. That is why both the National Association of Realtors and the Mortgage Bankers Association of America support this legislation. Promoting homeownership is an important value that all of us have supported through the years. Passing this legislation is one way to help more and more Americans achieve this important goal.

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

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

S. 2239

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 ''FHA Downpayment Simplification Act of 2002''.

SEC. 2. DOWNPAYMENT SIMPLIFICATION.

Section 203 of the National Housing Act (12 U.S.C. 1709) is amended—

(1) in subsection (b)—

(A) by striking ''shall—'' and inserting ''shall comply with the following:'';

(B) in paragraph (2)—

(i) in subparagraph (A), in the matter that precedes clause (ii), by moving the margin 2 ems to the right;

(ii) in the undesignated matter immediately following subparagraph (B)(iii)—

(I) by striking the second and third sentences of such matter; and

(II) by striking the sixth sentence (relating to the increases for costs of solar energy systems) and all that follows through the end of the last undesignated paragraph (relating to disclosure notice); and

(iii) by striking subparagraph (B) and inserting the following:

''(B) not to exceed an amount equal to the sum of—

''(i) the amount of the mortgage insurance premium paid at the time the mortgage is insured; and

''(ii) in the case of—

''(I) a mortgage for a property with an appraised value equal to or less than $50,000, 98.75 percent of the appraised value of the property;

''(II) a mortgage for a property with an appraised value in excess of $50,000 but not in excess of $125,000, 97.65 percent of the appraised value of the property;

''(III) a mortgage for a property with an appraised value in excess of $125,000, 97.15 percent of the appraised value of the property; or

''(IV) notwithstanding subclauses (II) and (III), a mortgage for a property with an appraised value in excess of $50,000 that is located in an area of the State for which the average closing cost exceeds 2.10 percent of the average, for the State, of the sale price of properties located in the State for which mortgages have been executed, 97.75 percent of the appraised value of the property.'';

(C) by transferring and inserting the text of paragraph (10)(B) after the period at the end of the first sentence of the undesignated paragraph that immediately follows paragraph (2)(B) (relating to the definition of ''area''); and

(D) by striking paragraph (10); and

(2) by inserting after subsection (e), the following:

''(f) DISCLOSURE OF OTHER MORTGAGE PRODUCTS.—

''(1) IN GENERAL.—In conjunction with any loan insured under this section, an original lender shall provide to each prospective borrower a disclosure notice that provides a 1-page analysis of mortgage products offered by that lender and for which the borrower would qualify.

''(2) NOTICE.—The notice required under paragraph (1) shall include—

''(A) a generic analysis comparing the note rate (and associated interest payments), insurance premiums, and other costs and fees that would be due over the life of the loan for a loan insured by the Secretary under subsection (b) with the note rates, insurance premiums (if applicable), and other costs and fees that would be expected to be due if the mortgagor obtained instead other mortgage products offered by the lender and for which the borrower would qualify with a similar loan-to-value ratio in connection with a conventional mortgage (as that term is used in section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) or section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)), as applicable), assuming prevailing interest rates; and

''(B) a statement regarding when the requirement of the mortgagor to pay the mortgage insurance premiums for a mortgage insured under this section would terminate, or a statement that the requirement shall terminate only if the mortgage is refinanced, paid off, or otherwise terminated.''.

SEC. 3. CONFORMING AMENDMENTS.

Section 245 of the National Housing Act (12 U.S.C. 1715z–10) is amended—

(1) in subsection (a), by striking '', or if the mortgagor'' and all that follows through ''case of veterans''; and

(2) in subsection (b)(3), by striking '', or, if the'' and all that follows through ''for veterans,''.

Mr. ENSIGN. Madam President, I rise today, along with the senior Senator from Maryland, Mr. SARBANES, to introduce a bill that will help thousands of Americans achieve the dream of homeownership.

Homeownership is the primary source of a household's net worth and the fundamental first step toward accumulating personal wealth. It is also one of the greatest driving forces to a healthy economy for our Nation. Congress must work hard to produce public policies that promote homeownership to further America's growth and prosperity. This legislation does just that.

The legislation we are introducing today will make permanent an existing down payment simplification program that created a simplified formula to determine the proper down payment for FHA loans. This program has become an invaluable tool for helping thousands of families achieve the American dream of buying their first home. This bill will permanently eliminate the burdensome and unnecessary formulas previously used to determine the proper down payment for FHA loans, and will also lower the size of necessary down payments.

The simplified calculation was begun as a pilot program in 1996 in Hawaii and Alaska. It proved so easy and successful that it was temporarily extended nationwide in 1998. In 2000, the calculation was re-extended 27 months, to December 31, 2002. Unless Congress extends the program, home buyers will be required to use the old, complicated and confusing method of calculating the appropriate down payment amounts for all loans after December 31.

To help my colleagues understand the importance of making this program permanent, I should explain the basic difference between the two formulas.

Under the down payment simplification program, FHA borrowers must make cash contributions of at least 3 percent of the acquisition cost, including closing costs of the loan. It is that simple.

Under the old formula, different down payment rates were required for each portion of a mortgage. For example, if the acquisition cost of the home is $150,000, the borrower would have to pay 3 percent on the first $25,000, 5 percent on the next $100,000 and 10 percent on the final $25,000. And that's not all. There is also another set of calculations done based on the appraised value of the home to determine the maximum allowable mortgage in any transaction.

Clearly, the streamlined formula is a far more simple process. In the end, the down payment simplification process results in lowering the amount of the down payment necessary to purchase a FHA single-family home and simplifies the formula for the homebuyer in the process.

It is estimated that one-third of all FHA borrowers will have to make higher down payments if the simplification process is not made permanent. This could mean that without passage of this legislation, thousands of families that otherwise could afford to buy their homes will be denied the chance to do so because an unnecessarily complicated formula will create large, unaffordable down payments.

The effects would be particularly acute in states where over 40 percent of the buyers would be affected, such as California, Colorado, Maryland, New Jersey, New York, Virginia, Washington, Utah, Massachusetts, Minnesota, Nevada, Oregon, Connecticut, Alaska, Hawaii and New Hampshire.

In 2001, in my home State of Nevada alone, over 16,600 families purchased a home with a FHA insured loan. Of those, all benefitted by having a more simple process to follow, while 6,761 homebuyers benefitted from the streamlined formula process with a lower down payment. That is an amazing amount of homes that may not have been purchased had this program not been in place.

I ask my colleagues for their support of this important legislation. If passed, this legislation will help thousands of Americans throughout our country realize their dream of homeownership.

In closing, I would like to thank the Senator from Maryland, Mr. SARBANES, for all his hard work on this very important legislation. I appreciate his determination to make home ownership a reality for so many Americans.

By Mr. LEAHY (for himself, Mr. DASCHLE, Mr. TORRICELLI, Mr. KENNEDY, Mr. HARKIN, Mr. BINGAMAN, Mr. FEINGOLD, and Mr. JOHNSON):

S. 2240. A bill to combat nursing home fraud and abuse, increase protections for victims of telemarketing fraud, enhance safeguards for pension plans and health care benefit programs, and enhance penalties for crimes against seniors, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Madam President, today I am introducing the Seniors Safety Act of 2002, a bill to protect older Americans from crime. I am pleased to have Senators DASCHLE, KENNEDY, TORRICELLI, HARKIN, BINGAMAN, FEINGOLD, and JOHNSON as cosponsors for this anti-crime bill.

The Seniors Safety Act contains a comprehensive package of proposals to address the most prevalent crimes perpetrated against seniors, including proposals to reduce health care fraud and abuse, combat nursing home fraud and abuse, prevent telemarketing fraud, and safeguard pension and employee benefit plans from fraud, bribery, and graft. In addition, this legislation would help seniors obtain restitution if their pension plans are defrauded.

Older Americans are the most rapidly growing population group in our society, making them an even more attractive target for criminals. The Department of Health and Human Services has predicted that the number of older Americans will grow from 13 percent of the U.S. population in 2000 to 20 percent by 2030. In Vermont, seniors comprise about 12 percent of the population, and it is expected that that number will increase to 20 percent by 2025.

As the Nation's crime rates dropped dramatically during the 1990s, crime against seniors remained stubbornly resistant. This may be because elders are susceptible to more fraud crimes and fewer violent crimes than younger Americans. According to a 2000 Justice Department study, more than 9 out of 10 crimes committed against older Americans were property crimes, most especially theft. As our Nation addressed our violent crime problem, we did not take a comprehensive approach to deterring the crimes that so affect the elderly, like telemarketing fraud, health care fraud, and pension fraud. The Seniors Safety Act provides such a comprehensive approach, and I urge the Senate to do its part to make it law.

The Seniors Safety Act instructs the U.S. Sentencing Commission to review current sentencing guidelines and, if appropriate, amend the guidelines to include the age of a crime victim as a criterion for determining whether a sentencing enhancement is proper. The bill also requires the Commission to review sentencing guidelines for health care benefit fraud, increases statutory penalties both for fraud resulting in serious injury or death and for bribery and graft in connection with employee benefit plans, and increases criminal and civil penalties for defrauding pension plans.

One particular form of criminal activity, telemarketing fraud, disproportionately impacts Americans over the age of 50, who account for over a third of the estimated $40 billion lost to telemarketing fraud each year. The Seniors Safety Act continues the progress we made in the 105th Congress with passage of the Telemarketing Fraud Prevention Act and in the 106th Congress with the Protecting Seniors from Fraud Act, which included provisions from the Seniors Safety Act that I introduced in the last Congress. The legislation I introduce today addresses the problem of telemarketing fraud schemes that too often succeed in swindling seniors of their life savings. Some of these schemes are directed from outside the United States, making criminal prosecution more difficult.

The act would provide the Attorney General with a new, significant crime-fighting tool to prevent telemarketing fraud. Specifically, the act would authorize the Attorney General to block or terminate telephone service to telephone facilities that are being used to conduct such fraudulent activities. The Justice Department could use this authority to disrupt telemarketing fraud schemes directed from foreign sources by cutting off the swindlers' telephone service. Even if the criminals manage to acquire a new telephone number, temporary interruptions will prevent some seniors from being victimized.

The bill also establishes a ''Better Business Bureau''-style clearinghouse at the Federal Trade Commission to provide seniors, their families, and others who may be concerned about a telemarketer with information about prior fraud convictions and/or complaints against the particular company. In addition, the FTC would refer seniors and other consumers who believe they have been swindled to the appropriate law enforcement authorities.

Criminal activity that undermines the safety and integrity of pension plans and health benefit programs threatens all Americans, but most especially those seniors who have relied on promised benefits in planning their retirements. Seniors who have worked faithfully and honestly for years should not reach their retirement years only to find that the funds they relied upon were stolen. This is a significant problem. According to the Attorney General's 1997 Annual Report, an interagency working group on pension abuse brought 70 criminal cases representing more than $90 million in losses to pension plans in 29 districts around the country in 1997 alone.

The Seniors Safety Act would add to the arsenal that Federal prosecutors have to prevent and punish fraud against retirement plans. Specifically, the Act would create new criminal and civil penalties for defrauding pension plans or obtaining money or property from such plans by means of false or fraudulent pretenses. In addition, the act would enhance penalties for bribery and graft in connection with employee benefit plans. The only people enjoying the benefits of pension plans should be the people who have worked hard to fund those plans, not crooks who get the money by fraud.

Health care spending consists of about 15 percent of the gross national product, or more than $1 trillion each year. Estimated losses due to fraud and abuse are astronomical. A December 1998 report by the National Institute of Justice, NIJ, states that these losses ''may exceed 10 percent of annual health care spending, or $100 billion per year.''

As more health care claims are processed electronically, without human involvement, more sophisticated computer-generated fraud schemes are surfacing. Some of these schemes generate thousands of false claims designed to pass through automated claims processing to payment, and result in the theft of millions of dollars from Federal and private health care programs. Defrauding Medicare, Medicaid and private health plans increases the financial burden on taxpayers and beneficiaries alike. In addition, some forms of fraud may result in inadequate medical care, harming patients' health as well. Unfortunately, the NIJ reports that many health care fraud schemes ''deliberately target vulnerable populations, such as the elderly or Alzheimer's patients, who are less willing or able to complain or alert law enforcement.''

We saw a dramatic increase in criminal convictions for health care fraud cases during the 1990s. These cases included convictions for submitting false claims to Medicare, Medicaid, and private insurance plans; fake billings by foreign doctors; and needless prescriptions for durable medical equipment by doctors in exchange for kickbacks from manufacturers. In 1997 alone, $1.2 billion was awarded or negotiated as a result of criminal fines, civil settlements and judgments in health care fraud matters.

We can and must do more. The Seniors Safety Act would allow the Attorney General to bring injunctive actions to stop false claims and illegal kickback schemes involving Federal health care programs. The bill would also provide law enforcement authorities with additional investigatory tools to uncover, investigate, and prosecute health care offenses in both criminal and civil proceedings.

In addition, whistle-blowers who tip off law enforcement about health care fraud would be authorized under the Seniors Safety Act to seek court permission to review information obtained by the Government to enhance their assistance in False Claims Act lawsuits. Such qui tam, or whistle-blower, suits have dramatically enhanced the Government's ability to uncover health

care fraud. The act would allow whistle-blowers and their qui tam suits to become even more effective.

Finally, the act would extend anti-fraud and anti-kickback safeguards to the Federal Employees Health Benefits program. These are all important steps that will help cut down on the enormous health care fraud losses.

As life expectancies continue to increase, long-term care planning specialists estimate that over 40 percent of those turning 65 eventually will need nursing home care, and that 20 percent of those seniors will spend 5 years or more in homes. Indeed, many of us already have experienced having our parents, family members or other loved ones spend time in a nursing home. We owe it to them and to ourselves to give the residents of nursing homes the best care they can get.

The Justice Department has cited egregious examples of nursing homes that pocketed Medicare funds instead of providing residents with adequate care. In one case, five patients died as result of the inadequate provision of nutrition, wound care and diabetes management by three Pennsylvania nursing homes. Yet another death occurred when a patient, who was unable to speak, was placed in a scalding tub of 138-degree water.

This act provides additional peace of mind to residents of nursing homes and those of us who may have loved ones there by giving Federal law enforcement the authority to investigate and prosecute operators of nursing homes for willfully engaging in patterns of health and safety violations in the care of nursing home residents. The act also protects whistle-blowers from retaliation for reporting such violations.

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

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

S. 2240

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Seniors Safety Act of 2002''.

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

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) The number of older Americans is rapidly growing in the United States. According to the 2000 census, 21 percent of the United States population is 55 years of age or older.

(2) In 1997, 7 percent of victims of serious violent crime were 50 years of age or older.

(3) In 1997, 17.7 percent of murder victims were 55 years of age or older.

(4) According to the Department of Justice, persons 65 years of age and older experienced approximately 2,700,000 crimes a year between 1992 and 1997.

(5) Older victims of violent crime are almost twice as likely as younger victims to be raped, robbed, or assaulted at or in their own homes.

(6) Approximately half of all Americans who are 50 years of age or older are afraid to walk alone at night in their own neighborhoods.

(7) Seniors over 50 years of age reportedly account for 37 percent of the estimated $40,000,000,000 in losses each year due to telemarketing fraud.

(8) A 1996 American Association of Retired Persons survey of people 50 years of age and older showed that 57 percent were likely to receive calls from telemarketers at least once a week.

(9) In 1998, Congress enacted legislation to provide for increased penalties for telemarketing fraud that targets seniors.

(10) It has been estimated that—

(A) approximately 43 percent of persons turning 65 years of age can expect to spend some time in a long-term care facility; and

(B) approximately 20 percent can expect to spend 5 years or more in a such a facility.

(11) In 1997, approximately $82,800,000,000 was spent on nursing home care in the United States and over half of this amount was spent by the Medicaid and Medicare programs.

(12) Losses to fraud and abuse in health care reportedly cost the United States an estimated $100,000,000,000 in 1996.

(13) The Inspector General for the Department of Health and Human Services has estimated that about $12,600,000,000 in improper Medicare benefit payments, due to inadvertent mistake, fraud, and abuse were made during fiscal year 1998.

(14) Incidents of health care fraud and abuse remain common despite awareness of the problem.

(b) PURPOSES.—The purposes of this Act are to—

(1) combat nursing home fraud and abuse;

(2) enhance safeguards for pension plans and health care programs;

(3) develop strategies for preventing and punishing crimes that target or otherwise disproportionately affect seniors by collecting appropriate data—

(A) to measure the extent of crimes committed against seniors; and

(B) to determine the extent of domestic and elder abuse of seniors; and

(4) prevent and deter criminal activity, such as telemarketing fraud, that results in economic and physical harm against seniors, and ensure appropriate restitution.

SEC. 3. DEFINITIONS.

In this Act:

(1) CRIME.—The term ''crime'' means any criminal offense under Federal or State law.

(2) NURSING HOME.—The term ''nursing home'' means any institution or residential care facility defined as such for licensing purposes under State law, or if State law does not employ the term nursing home, the equivalent term or terms as determined by the Secretary of Health and Human Services, pursuant to section 1908(e) of the Social Security Act (42 U.S.C. 1396g(e)).

(3) SENIOR.—The term ''senior'' means an individual who is more than 55 years of age.

TITLE I—COMBATING CRIMES AGAINST SENIORS

SEC. 101. ENHANCED SENTENCING PENALTIES BASED ON AGE OF VICTIM.

(a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission (referred to in this section as the ''Commission'') shall review and, if appropriate, amend section 3A1.1(a) of the Federal sentencing guidelines to include the age of a crime victim as one of the criteria for determining whether the application of a sentencing enhancement is appropriate.

(b) REQUIREMENTS.—In carrying out this section, the Commission shall—

(1) ensure that the Federal sentencing guidelines and the policy statements of the Commission reflect the serious economic and physical harms associated with criminal activity targeted at seniors due to their particular vulnerability;

(2) consider providing increased penalties for persons convicted of offenses in which the victim was a senior in appropriate circumstances;

(3) consult with individuals or groups representing seniors, law enforcement agencies, victims organizations, and the Federal judiciary as part of the review described in subsection (a);

(4) ensure reasonable consistency with other Federal sentencing guidelines and directives;

(5) account for any aggravating or mitigating circumstances that may justify exceptions, including circumstances for which the Federal sentencing guidelines provide sentencing enhancements;

(6) make any necessary conforming changes to the Federal sentencing guidelines; and

(7) ensure that the Federal sentencing guidelines adequately meet the purposes of sentencing set forth in section 3553(a)(2) of title 18, United States Code.

(c) REPORT.—Not later than December 31, 2002, the Commission shall submit to Congress a report on issues relating to the age of crime victims, which shall include—

(1) an explanation of any changes to sentencing policy made by the Commission under this section; and

(2) any recommendations of the Commission for retention or modification of penalty levels, including statutory penalty levels, for offenses involving seniors.

SEC. 102. STUDY AND REPORT ON HEALTH CARE FRAUD SENTENCES.

(a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission (referred to in this section as the ''Commission'') shall review and, if appropriate, amend the Federal sentencing guidelines and the policy statements of the Commission with respect to persons convicted of offenses involving fraud in connection with a health care benefit program (as defined in section 24(b) of title 18, United States Code).

(b) REQUIREMENTS.—In carrying out this section, the Commission shall—

(1) ensure that the Federal sentencing guidelines and the policy statements of the Commission reflect the serious harms associated with health care fraud and the need for aggressive and appropriate law enforcement action to prevent such fraud;

(2) consider providing increased penalties for persons convicted of health care fraud in appropriate circumstances;

(3) consult with individuals or groups representing victims of health care fraud, law enforcement agencies, the health care industry, and the Federal judiciary as part of the review described in subsection (a);

(4) ensure reasonable consistency with other Federal sentencing guidelines and directives;

(5) account for any aggravating or mitigating circumstances that might justify exceptions, including circumstances for which the Federal sentencing guidelines provide sentencing enhancements;

(6) make any necessary conforming changes to the Federal sentencing guidelines; and

(7) ensure that the Federal sentencing guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

(c) REPORT.—Not later than December 31, 2002, the Commission shall submit to Congress a report on issues relating to offenses described in subsection (a), which shall include—

(1) an explanation of any changes to sentencing policy made by the Commission under this section; and

(2) any recommendations of the Commission for retention or modification of penalty levels, including statutory penalty levels, for those offenses.

SEC. 103. INCREASED PENALTIES FOR FRAUD RESULTING IN SERIOUS INJURY OR DEATH.

Sections 1341 and 1343 of title 18, United States Code, are each amended by inserting before the last sentence the following: ''If the violation results in serious bodily injury (as defined in section 1365), such person shall be fined under this title, imprisoned not more than 20 years, or both, and if the violation results in death, such person shall be fined under this title, imprisoned for any term of years or life, or both.''.

SEC. 104. SAFEGUARDING PENSION PLANS FROM FRAUD AND THEFT.

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

''§ 1348. Fraud in relation to retirement arrangements

''(a) DEFINITION.—

''(1) RETIREMENT ARRANGEMENT.—In this section, the term 'retirement arrangement' means—

''(A) any employee pension benefit plan subject to any provision of title I of the Employee Retirement Income Security Act of 1974;

''(B) any qualified retirement plan within the meaning of section 4974(c) of the Internal Revenue Code of 1986;

''(C) any medical savings account described in section 220 of the Internal Revenue Code of 1986; or

''(D) a fund established within the Thrift Savings Fund by the Federal Retirement Thrift Investment Board pursuant to subchapter III of chapter 84 of title 5.

''(2) CERTAIN ARRANGEMENTS INCLUDED.—The term 'retirement arrangement' shall include any arrangement that has been represented to be an arrangement described in any subparagraph of paragraph (1) (whether or not so described).

''(3) EXCEPTION FOR GOVERNMENTAL PLAN.—Except as provided in paragraph (1)(D), the term 'retirement arrangement' shall not include any governmental plan (as defined in section 3(32) of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(32))).

''(b) PROHIBITION AND PENALTIES.—Whoever executes, or attempts to execute, a scheme or artifice—

''(1) to defraud any retirement arrangement or other person in connection with the establishment or maintenance of a retirement arrangement; or

''(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any retirement arrangement or other person in connection with the establishment or maintenance of a retirement arrangement;

shall be fined under this title, imprisoned not more than 10 years, or both.

''(c) ENFORCEMENT.—

''(1) IN GENERAL.—Subject to paragraph (2), the Attorney General may investigate any violation of, and otherwise enforce, this section.

''(2) EFFECT ON OTHER AUTHORITY.—Nothing in this subsection may be construed to preclude the Secretary of Labor or the head of any other appropriate Federal agency from investigating a violation of this section in relation to a retirement arrangement subject to title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) or any other provision of Federal law.''.

(b) TECHNICAL AMENDMENT.—Section 24(a)(1) of title 18, United States Code, is amended by inserting ''1348,'' after ''1347,''.

(c) CONFORMING AMENDMENT.—The analysis for chapter 63 of title 18, United States Code, is amended by adding at the end the following:

''1348. Fraud in relation to retirement arrangements.''.

SEC. 105. ADDITIONAL CIVIL PENALTIES FOR DEFRAUDING PENSION PLANS.

(a) IN GENERAL.—

(1) ACTION BY ATTORNEY GENERAL.—Except as provided in subsection (b)—

(A) the Attorney General may bring a civil action in the appropriate district court of the United States against any person who engages in conduct constituting an offense under section 1348 of title 18, United States Code, or conspiracy to violate such section 1348; and

(B) upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty in an amount equal to the greatest of—

(i) the amount of pecuniary gain to that person;

(ii) the amount of pecuniary loss sustained by the victim; or

(iii) not more than—

(I) $50,000 for each such violation in the case of an individual; or

(II) $100,000 for each such violation in the case of a person other than an individual.

(2) NO EFFECT ON OTHER REMEDIES.—The imposition of a civil penalty under this subsection does not preclude any other statutory, common law, or administrative remedy available by law to the United States or any other person.

(b) EXCEPTION.—No civil penalty may be imposed pursuant to subsection (a) with respect to conduct involving a retirement arrangement that—

(1) is an employee pension benefit plan subject to title I of the Employee Retirement Income Security Act of 1974; and

(2) for which the civil penalties may be imposed under section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132).

(c) DETERMINATION OF PENALTY AMOUNT.—In determining the amount of the penalty under subsection (a), the district court may consider the effect of the penalty on the violator or other person's ability to—

(1) restore all losses to the victims; or

(2) provide other relief ordered in another civil or criminal prosecution related to such conduct, including any penalty or tax imposed on the violator or other person pursuant to the Internal Revenue Code of 1986.

SEC. 106. PUNISHING BRIBERY AND GRAFT IN CONNECTION WITH EMPLOYEE BENEFIT PLANS.

(a) IN GENERAL.—Section 1954 of title 18, United States Code, is amended to read as follows:

''§ 1954. Bribery and graft in connection with employee benefit plans

''(a) DEFINITIONS.—In this section—

''(1) the term 'employee benefit plan' means any employee welfare benefit plan or employee pension benefit plan subject to any provision of title I of the Employee Retirement Income Security Act of 1974;

''(2) the terms 'employee organization', 'administrator', and 'employee benefit plan sponsor' mean any employee organization, administrator, or plan sponsor, as defined in title I of the Employment Retirement Income Security Act of 1974; and

''(3) the term 'applicable person' means—

''(A) an administrator, officer, trustee, custodian, counsel, agent, or employee of any employee benefit plan;

''(B) an officer, counsel, agent, or employee of an employer or an employer any of whose employees are covered by such plan;

''(C) an officer, counsel, agent, or employee of an employee organization any of whose members are covered by such plan;

''(D) a person who, or an officer, counsel, agent, or employee of an organization that, provides benefit plan services to such plan; or

''(E) a person with actual or apparent influence or decisionmaking authority in regard to such plan.

''(b) BRIBERY AND GRAFT.—Whoever—

''(1) being an applicable person, receives or agrees to receive or solicits, any fee, kickback, commission, gift, loan, money, or thing of value, personally or for any other person, because of or with the intent to be corruptly influenced with respect to any action, decision, or duty of that applicable person relating to any question or matter concerning an employee benefit plan;

''(2) directly or indirectly, gives or offers, or promises to give or offer, any fee, kickback, commission, gift, loan, money, or

thing of value, to any applicable person, because of or with the intent to be corruptly influenced with respect to any action, decision, or duty of that applicable person relating to any question or matter concerning an employee benefit plan; or

''(3) attempts to give, accept, or receive any thing of value with the intent to be corruptly influenced in violation of this section;

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

''(c) EXCEPTIONS.—Nothing in this section may be construed to apply to any—

''(1) payment to, or acceptance by, any person of bona fide salary, compensation, or other payments made for goods or facilities actually furnished or for services actually performed in the regular course of his duties as an applicable person; or

''(2) payment to, or acceptance in good faith by, any employee benefit plan sponsor, or person acting on behalf of the sponsor, of anything of value relating to the decision or action of the sponsor to establish, terminate, or modify the governing instruments of an employee benefit plan in a manner that does not violate—

''(A) title I of the Employee Retirement Income Security Act of 1974;

''(B) any regulation or order promulgated under title I of the Employee Retirement Income Security Act of 1974; or

''(C) any other provision of law governing the plan.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 95 of title 18, United States Code, is amended by striking the item relating to section 1954 and inserting the following:

''1954. Bribery and graft in connection with employee benefit plans.''.

TITLE II—PREVENTING TELEMARKETING FRAUD

SEC. 201. CENTRALIZED COMPLAINT AND CONSUMER EDUCATION SERVICE FOR VICTIMS OF TELEMARKETING FRAUD.

(a) CENTRALIZED SERVICE.—

(1) REQUIREMENT.—The Federal Trade Commission shall, after consultation with the Attorney General, establish procedures to—

(A) log and acknowledge the receipt of complaints by individuals who certify that they have a reasonable belief that they have been the victim of fraud in connection with the conduct of telemarketing (as that term is defined in section 2325 of title 18, United States Code, as amended by section 202(a) of this Act);

(B) provide to individuals described in subparagraph (A), and to any other persons, information on telemarketing fraud, including—

(i) general information on telemarketing fraud, including descriptions of the most common telemarketing fraud schemes;

(ii) information on means of referring complaints on telemarketing fraud to appropriate law enforcement agencies, including the Director of the Federal Bureau of Investigation, the attorneys general of the States, and the national toll-free telephone number on telemarketing fraud established by the Attorney General; and

(iii) information, if available, on the number of complaints of telemarketing fraud against particular companies and any record of convictions for telemarketing fraud by particular companies for which a specific request has been made; and

(C) refer complaints described in subparagraph (A) to appropriate entities, including State consumer protection agencies or entities and appropriate law enforcement agencies, for potential law enforcement action.

(2) CENTRAL LOCATION.—The service under the procedures under paragraph (1) shall be provided at and through a single site selected by the Commission for that purpose.

(3) COMMENCEMENT.—The Federal Trade Commission shall commence carrying out the service not later than 1 year after the date of enactment of this Act.

(b) CREATION OF FRAUD CONVICTION DATABASE.—

(1) ESTABLISHMENT.—The Attorney General shall establish and maintain a computer database containing information on the corporations and companies convicted of offenses for telemarketing fraud under Federal and State law.

(2) DATABASE.—The database established under paragraph (1) shall include a description of the type and method of the fraud scheme for which each corporation or company covered by the database was convicted.

(3) USE OF DATABASE.—The Attorney General shall make information in the database available to the Federal Trade Commission for purposes of providing information as part of the service under subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 202. BLOCKING OF TELEMARKETING SCAMS.

(a) EXPANSION OF SCOPE OF TELEMARKETING FRAUD SUBJECT TO ENHANCED CRIMINAL PENALTIES.—Section 2325(1) of title 18, United States Code, is amended by striking ''telephone calls'' and inserting ''wire communications utilizing a telephone service''.

(b) BLOCKING OR TERMINATION OF TELEPHONE SERVICE ASSOCIATED WITH TELEMARKETING FRAUD.—

(1) IN GENERAL.—Chapter 113A of title 18, United States Code, is amended by adding at the end the following:

''§ 2328. Blocking or termination of telephone service

''(a) DEFINITIONS.—In this section:

''(1) REASONABLE NOTICE TO THE SUBSCRIBER.—

''(A) IN GENERAL.—The term 'reasonable notice to the subscriber', in the case of a subscriber of a common carrier, means any information necessary to provide notice to the subscriber that—

''(i) the wire communications facilities furnished by the common carrier may not be used for the purpose of transmitting, receiving, forwarding, or delivering a wire communication in interstate or foreign commerce for the purpose of executing any scheme or artifice to defraud in connection with the conduct of telemarketing; and

''(ii) such use constitutes sufficient grounds for the immediate discontinuance or refusal of the leasing, furnishing, or maintaining of the facilities to or for the subscriber.

''(B) INCLUDED MATTER.—The term includes any tariff filed by the common carrier with the Federal Communications Commission that contains the information specified in subparagraph (A).

''(2) WIRE COMMUNICATION.—The term 'wire communication' has the same meaning given that term in section 2510(1).

''(3) WIRE COMMUNICATIONS FACILITY.—The term 'wire communications facility' means any facility (including instrumentalities, personnel, and services) used by a common carrier for purposes of the transmission, receipt, forwarding, or delivery of wire communications.

''(b) BLOCKING OR TERMINATING TELEPHONE SERVICE.—If a common carrier subject to the jurisdiction of the Federal Communications Commission is notified in writing by the Attorney General, acting within the jurisdiction of the Attorney General, that any wire communications facility furnished by that common carrier is being used or will be used by a subscriber for the purpose of transmitting or receiving a wire communication in interstate or foreign commerce for the purpose of executing any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, in connection with the conduct of telemarketing, the common carrier shall discontinue or refuse the leasing, furnishing, or maintaining of the facility to or for the subscriber after reasonable notice to the subscriber.

''(c) PROHIBITION ON DAMAGES.—No damages, penalty, or forfeiture, whether civil or criminal, shall be found or imposed against any common carrier for any act done by the common carrier in compliance with a notice received from the Attorney General under this section.

''(d) RELIEF.—

''(1) IN GENERAL.—Nothing in this section may be construed to prejudice the right of any person affected thereby to secure an appropriate determination, as otherwise provided by law, in a Federal court, that—

''(A) the leasing, furnishing, or maintaining of a facility should not be discontinued or refused under this section; or

''(B) the leasing, furnishing, or maintaining of a facility that has been so discontinued or refused should be restored.

''(2) SUPPORTING INFORMATION.—In any action brought under this subsection, the court may direct that the Attorney General present evidence in support of the notice made under subsection (b) to which such action relates.''.

(2) CONFORMING AMENDMENT.—The analysis for chapter 113A of title 18, United States Code, is amended by adding at the end the following:

''2328. Blocking or termination of telephone service.''.

TITLE III—PREVENTING HEALTH CARE FRAUD

SEC. 301. INJUNCTIVE AUTHORITY RELATING TO FALSE CLAIMS AND ILLEGAL KICKBACK SCHEMES INVOLVING FEDERAL HEALTH CARE PROGRAMS.

(a) IN GENERAL.—Section 1345(a) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking '', or'' and inserting a semicolon;

(B) in subparagraph (C), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(D) committing or about to commit an offense under section 1128B of the Social Security Act (42 U.S.C. 1320a–7b),''; and

(2) in paragraph (2), by inserting ''a violation of paragraph (1)(D), or'' before ''a banking''.

(b) CIVIL ACTIONS.—

(1) IN GENERAL.—Section 1128B of the Social Security Act (42 U.S.C. 1320a–7b) is amended by adding at the end the following:

''(g) CIVIL ACTIONS.—

''(1) IN GENERAL.—The Attorney General may bring an action in the appropriate district court of the United States to impose upon any person who carries out any activity in violation of this section with respect to a Federal health care program a civil penalty of not more than $50,000 for each such violation, or damages of 3 times the total remuneration offered, paid, solicited, or received, whichever is greater.

''(2) EXISTENCE OF VIOLATION.—A violation exists under paragraph (1) if 1 or more purposes of the remuneration is unlawful, and the damages shall be the full amount of such remuneration.

''(3) PROCEDURES.—An action under paragraph (1) shall be governed by—

''(A) the procedures with regard to subpoenas, statutes of limitations, standards of proof, and collateral estoppel set forth in section 3731 of title 31, United States Code; and

''(B) the Federal Rules of Civil Procedure.

''(4) NO EFFECT ON OTHER REMEDIES.—Nothing in this section may be construed to affect the availability of any other criminal or civil remedy.

''(h) INJUNCTIVE RELIEF.—The Attorney General may commence a civil action in an appropriate district court of the United States to enjoin a violation of this section, as provided in section 1345 of title 18, United States Code.''.

(2) CONFORMING AMENDMENT.—The heading of section 1128B of the Social Security Act (42 U.S.C. 1320a–7b) is amended by inserting ''AND CIVIL'' after ''CRIMINAL''.

SEC. 302. AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.

Section 3486 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting '', or any allegation of fraud or false claims (whether criminal or civil) in connection with a Federal health care program (as defined in section 1128B(f) of the Social Security Act (42 U.S.C. 1320a–7b(f))),'' after ''Federal health care offense'' each place it appears; and

(2) by adding at the end the following:

''(f) PRIVACY PROTECTION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), any record (including any book, paper, document, electronic medium, or other object or tangible thing) produced pursuant to a subpoena issued under this section that contains personally identifiable health information may not be disclosed to any person, except pursuant to a court order under subsection (e)(1).

''(2) EXCEPTIONS.—A record described in paragraph (1) may be disclosed—

''(A) to an attorney for the Government for use in the performance of the official duty of the attorney (including presentation to a Federal grand jury);

''(B) to government personnel (including personnel of a State or subdivision of a State) as are determined to be necessary by an attorney for the Government to assist an attorney for the Government in the performance of the official duty of that attorney to enforce Federal criminal law;

''(C) as directed by a court preliminarily to, or in connection with, a judicial proceeding;

''(D) as permitted by a court at the request of a defendant in an administrative, civil, or criminal action brought by the United States, upon a showing that grounds may exist for a motion to exclude evidence obtained under this section; or

''(E) at the request of an attorney for the Government, upon a showing that such matters may disclose a violation of State criminal law, to an appropriate official of a State or subdivision of a State for the purpose of enforcing such law.

''(3) MANNER OF COURT ORDERED DISCLOSURES.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), if a court orders the disclosure of any record described in paragraph (1), the disclosure—

''(i) shall be made in such manner, at such time, and under such conditions as the court may direct; and

''(ii) shall be undertaken in a manner that preserves the confidentiality and privacy of individuals who are the subject of the record.

''(B) EXCEPTION.—If disclosure is required by the nature of the proceedings, the attorney for the Government shall request that the presiding judicial or administrative officer enter an order limiting the disclosure of the record to the maximum extent practicable, including redacting the personally identifiable health information from publicly disclosed or filed pleadings or records.

''(4) DESTRUCTION OF RECORDS.—Any record described in paragraph (1), and all copies of that record, in whatever form (including electronic), shall be destroyed not later than 90 days after the date on which the record is produced, unless otherwise ordered by a court of competent jurisdiction, upon a showing of good cause.

''(5) EFFECT OF VIOLATION.—Any person who knowingly fails to comply with this subsection may be punished as in contempt of court.

''(g) PERSONALLY IDENTIFIABLE HEALTH INFORMATION DEFINED.—In this section, the term 'personally identifiable health information' means any information, including genetic information, demographic information, and tissue samples collected from an individual, whether oral or recorded in any form or medium, that—

''(1) relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual; and

''(2) either—

''(A) identifies an individual; or

''(B) with respect to which there is a reasonable basis to believe that the information can be used to identify an individual.''.

SEC. 303. EXTENDING ANTIFRAUD SAFEGUARDS TO THE FEDERAL EMPLOYEE HEALTH BENEFITS PROGRAM.

Section 1128B(f)(1) of the Social Security Act (42 U.S.C. 1320a–7b(f)(1)) is amended by striking ''(other than the health insurance program under chapter 89 of title 5, United States Code)''.

SEC. 304. GRAND JURY DISCLOSURE.

Section 3322 of title 18, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

''(c) GRAND JURY DISCLOSURE.—Subject to section 3486(f), upon ex parte motion of an attorney for the Government showing that a disclosure in accordance with that subsection would be of assistance to enforce any provision of Federal law, a court may direct the disclosure of any matter occurring before a grand jury during an investigation of a Federal health care offense (as defined in section 24(a) of this title) to an attorney for the Government to use in any investigation or civil proceeding relating to fraud or false claims in connection with a Federal health care program (as defined in section 1128B(f) of the Social Security Act (42 U.S.C. 1320a–7b(f))).''.

SEC. 305. INCREASING THE EFFECTIVENESS OF CIVIL INVESTIGATIVE DEMANDS IN FALSE CLAIMS INVESTIGATIONS.

Section 3733 of title 31, United States Code, is amended—

(1) in subsection (a)(1), in the second sentence, by inserting '', except to the Deputy Attorney General or to an Assistant Attorney General'' before the period at the end; and

(2) in subsection (i)(2)(C), by adding at the end the following: ''Disclosure of information to a person who brings a civil action under section 3730, or the counsel of that person, shall be allowed only upon application to a United States district court showing that such disclosure would assist the Department of Justice in carrying out its statutory responsibilities.''.

TITLE IV—PROTECTING RESIDENTS OF NURSING HOMES

SEC. 401. SHORT TITLE.

This title may be cited as the ''Nursing Home Resident Protection Act of 2002''.

SEC. 402. NURSING HOME RESIDENT PROTECTION.

(a) PROTECTION OF RESIDENTS IN NURSING HOMES AND OTHER RESIDENTIAL HEALTH CARE FACILITIES.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

''§ 1349. Pattern of violations resulting in harm to residents of nursing homes and related facilities

''(a) DEFINITIONS.—In this section:

''(1) ENTITY.—The term 'entity' means—

''(A) any residential health care facility (including facilities that do not exclusively provide residential health care services);

''(B) any entity that manages a residential health care facility; or

''(C) any entity that owns, directly or indirectly, a controlling interest or a 50 percent or greater interest in 1 or more residential health care facilities including States, localities, and political subdivisions thereof.

''(2) FEDERAL HEALTH CARE PROGRAM.—The term 'Federal health care program' has the same meaning given that term in section 1128B(f) of the Social Security Act.

''(3) PATTERN OF VIOLATIONS.—The term 'pattern of violations' means multiple violations of a single Federal or State law, regulation, or rule or single violations of multiple Federal or State laws, regulations, or rules, that are widespread, systemic, repeated, similar in nature, or result from a policy or practice.

''(4) RESIDENTIAL HEALTH CARE FACILITY.—The term 'residential health care facility' means any facility (including any facility that does not exclusively provide residential health care services), including skilled and unskilled nursing facilities and mental health and mental retardation facilities, that—

''(A) receives Federal funds, directly from the Federal Government or indirectly from a third party on contract with or receiving a grant or other monies from the Federal Government, to provide health care; or

''(B) provides health care services in a residential setting and, in any calendar year in which a violation occurs, is the recipient of benefits or payments in excess of $10,000 from a Federal health care program.

''(5) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

''(b) PROHIBITION AND PENALTIES.—Whoever knowingly and willfully engages in a pattern of violations that affects the health, safety, or care of individuals residing in a residential health care facility or facilities, and that results in significant physical or mental harm to 1 or more of such residents, shall be punished as provided in section 1347, except that any organization shall be fined not more than $2,000,000 per residential health care facility.

''(c) CIVIL PROVISIONS.—

''(1) IN GENERAL.—The Attorney General may bring an action in a district court of the United States to impose on any individual or entity that engages in a pattern of violations that affects the health, safety, or care of individuals residing in a residential health care facility, and that results in physical or mental harm to 1 or more such residents—

''(A) a civil penalty; or

''(B) in the case of—

''(i) an individual (other than an owner, operator, officer, or manager of such a residential health care facility), not more than $10,000;

''(ii) an individual who is an owner, operator, officer, or manager of such a residential health care facility, not more than $100,000 for each separate facility involved in the pattern of violations under this section;

''(iii) a residential health care facility, not more than $1,000,000 for each pattern of violations; or

''(iv) an entity, not more than $1,000,000 for each separate residential health care facility involved in the pattern of violations owned or managed by that entity.

''(2) OTHER APPROPRIATE RELIEF.—If the Attorney General has reason to believe that an individual or entity is engaging in or is about to engage in a pattern of violations that would affect the health, safety, or care of individuals residing in a residential health care facility, and that results in or has the potential to result in physical or mental harm to 1 or more such residents, the Attorney General may petition an appropriate district court of the United States for appropriate equitable and declaratory relief to eliminate the pattern of violations.

''(3) PROCEDURES.—In any action under this subsection—

''(A) a subpoena requiring the attendance of a witness at a trial or hearing may be served at any place in the United States;

''(B) the action may not be brought more than 6 years after the date on which the violation occurred;

''(C) the United States shall be required to prove each charge by a preponderance of the evidence;

''(D) the civil investigative demand procedures set forth in the Antitrust Civil Process Act (15 U.S.C. 1311 et seq.) and regulations promulgated pursuant to that Act shall apply to any investigation; and

''(E) the filing or resolution of a matter shall not preclude any other remedy that is available to the United States or any other person.

''(d) PROHIBITION AGAINST RETALIATION.—Any person who is the subject of retaliation, either directly or indirectly, for reporting a condition that may constitute grounds for relief under this section may bring an action in an appropriate district court of the United States for damages, attorneys' fees, and other relief.''.

(b) AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.—Section 3486(a)(1) of title 18, United States Code, as amended by section 402 of this Act, is amended by inserting '', act or activity involving section 1349 of this title'' after ''Federal health care offense''.

(c) CONFORMING AMENDMENT.—The analysis for chapter 63 of title 18, United States Code, is amended by adding at the end the following:

''1349. Pattern of violations resulting in harm to residents of nursing homes and related facilities.''.

TITLE V—PROTECTING THE RIGHTS OF ELDERLY CRIME VICTIMS

SEC. 501. USE OF FORFEITED FUNDS TO PAY RESTITUTION TO CRIME VICTIMS AND REGULATORY AGENCIES.

Section 981(e) of title 18, United States Code, is amended—

(1) in each of paragraphs (3), (4), and (5), by striking ''in the case of property referred to in subsection (a)(1)(C)'' and inserting ''in the case of property forfeited in connection with an offense resulting in a pecuniary loss to a financial institution or regulatory agency,''; and

(2) in paragraph (7), by striking ''In the case of property referred to in subsection (a)(1)(D)'' and inserting ''in the case of property forfeited in connection with an offense relating to the sale of assets acquired or held by any Federal financial institution or regulatory agency, or person appointed by such agency, as receiver, conservator, or liquidating agent for a financial institution''.

SEC. 502. VICTIM RESTITUTION.

Section 413 of the Controlled Substances Act (21 U.S.C. 853) is amended by adding at the end the following:

''(r) VICTIM RESTITUTION.—

''(1) SATISFACTION OF ORDER OF RESTITUTION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a defendant may not use property subject to forfeiture under this section to satisfy an order of restitution.

''(B) EXCEPTION.—If there are 1 or more identifiable victims entitled to restitution from a defendant, and the defendant has no assets other than the property subject to forfeiture with which to pay restitution to the victim or victims, the attorney for the Government may move to dismiss a forfeiture allegation against the defendant before entry of a judgment of forfeiture in order to allow the property to be used by the defendant to pay restitution in whatever manner the court determines to be appropriate if the court grants the motion. In granting a motion under this subparagraph, the court shall include a provision ensuring that costs associated with the identification, seizure, management, and disposition of the property are recovered by the United States.

''(2) RESTORATION OF FORFEITED PROPERTY.—

''(A) IN GENERAL.—If an order of forfeiture is entered pursuant to this section and the defendant has no assets other than the forfeited property to pay restitution to 1 or more identifiable victims who are entitled to restitution, the Government shall restore the forfeited property to the victims pursuant to subsection (i)(1) once the ancillary proceeding under subsection (n) has been completed and the costs of the forfeiture action have been deducted.

''(B) DISTRIBUTION OF PROPERTY.—On a motion of the attorney for the Government, the court may enter any order necessary to facilitate the distribution of any property restored under this paragraph.

''(3) VICTIM DEFINED.—In this subsection, the term 'victim'—

''(A) means a person other than a person with a legal right, title, or interest in the forfeited property sufficient to satisfy the standing requirements of subsection (n)(2) who may be entitled to restitution from the forfeited funds pursuant to section 9.8 of part 9 of title 28, Code of Federal Regulations (or any successor to that regulation); and

''(B) includes any person who is the victim of the offense giving rise to the forfeiture, or of any offense that was part of the same scheme, conspiracy, or pattern of criminal activity, including, in the case of a money laundering offense, any offense constituting the underlying specified unlawful activity.''.

SEC. 503. BANKRUPTCY PROCEEDINGS NOT USED TO SHIELD ILLEGAL GAINS FROM FALSE CLAIMS.

(a) CERTAIN ACTIONS NOT STAYED BY BANKRUPTCY PROCEEDINGS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the commencement or continuation of an action under section 3729 of title 31, United States Code, does not operate as a stay under section 105(a) or 362(a)(1) of title 11, United States Code.

(2) CONFORMING AMENDMENT.—Section 362(b) of title 11, United States Code, is amended—

(A) in paragraph (17), by striking ''or'' at the end;

(B) in paragraph (18), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(19) the commencement or continuation of an action under section 3729 of title 31.''.

(b) CERTAIN DEBTS NOT DISCHARGEABLE IN BANKRUPTCY.—Section 523 of title 11, United States Code, is amended by adding at the end the following:

''(f) A discharge under section 727, 1141, 1228(a), 1228(b), or 1328(b) does not discharge a debtor from a debt owed for violating section 3729 of title 31.''.

(c) REPAYMENT OF CERTAIN DEBTS CONSIDERED FINAL.—

(1) IN GENERAL.—Chapter 1 of title 11, United States Code, is amended by adding at the end the following:

''§ 111. False claims

''No transfer on account of a debt owed to the United States for violating section 3729 of title 31, or under a compromise order or other agreement resolving such a debt may be avoided under section 544, 545, 547, 548, 549, 553(b), or 742(a).''.

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 11, United States Code, is amended by adding at the end the following:

''111. False claims.''.

SEC. 504. FORFEITURE FOR RETIREMENT OFFENSES.

(a) CRIMINAL FORFEITURE.—Section 982(a) of title 18, United States Code, is amended by adding at the end the following:

''(9) CRIMINAL FORFEITURE.—

''(A) IN GENERAL.—The court, in imposing a sentence on a person convicted of a retirement offense, shall order the person to forfeit property, real or personal, that constitutes or that is derived, directly or indirectly, from proceeds traceable to the commission of the offense.

''(B) RETIREMENT OFFENSE DEFINED.—In this paragraph, if a violation, conspiracy, or solicitation relates to a retirement arrangement (as defined in section 1348 of title 18, United States Code), the term 'retirement offense' means a violation of—

''(i) section 664, 1001, 1027, 1341, 1343, 1348, 1951, 1952, or 1954 of title 18, United States Code; or

''(ii) section 411, 501, or 511 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1111, 1131, 1141).''.

(b) CIVIL FORFEITURE.—Section 981(a)(1) of title 18, United States Code, is amended by adding at the end the following:

''(H) Any property, real or personal, that constitutes or is derived, directly or indirectly, from proceeds traceable to the commission of, criminal conspiracy to violate, or solicitation to commit a crime of violence involving, a retirement offense (as defined in section 982(a)(9)(B)).''.

Mr. TORRICELLI. Madam President, I am pleased to join Senators LEAHY and DASCHLE today as an original cosponsor of the Seniors Safety Act, legislation that has been referred to as ''a new safety net for seniors.'' It is that, but it is also much more. Indeed, this bill is a potent weapon designed to track down and punish those criminals who would prey on the trust and good will of America's seniors. This bill puts crooks on notice that crimes against seniors, from violent assaults in the streets, to abuses in nursing homes, to frauds perpetrated over the telephone lines, will not be tolerated.

Seniors represent the most rapidly growing sector of our population. In the next 50 years, the number of Americans over the age of 65 will more than double. Unless we take action now, the frequency and sophistication of crimes against seniors will likewise skyrocket. The Seniors Safety Act was developed to address, head-on, the crimes which most directly affect the senior community, including telemarketing fraud, and abuse and fraud in the health care and nursing home industries. It increases penalties and provides enhancements to the sentencing guidelines for criminals who target seniors. It protects seniors against the

illegal depletion of precious pension and employee benefit plan funds through fraud, graft, and bribery, and helps victimized seniors obtain restitution. And finally, this bill authorizes the Attorney General to study the problem of crime against seniors, and design new techniques to fight it.

Criminal enterprises that engage in telemarketing fraud are some of the most insidious predators out there. Americans are fleeced out of over $40 billion dollars every year, and the effect on seniors is grossly disproportionate. According to the American Association of Retired Persons, ''The repeated victimization of the elderly is the cornerstone of illegal telemarketing.'' A study has found that 56 percent of the names on the target lists of fraudulent telemarketers are those of Americans aged 50 or older. Of added concern is the fact that many of the perpetrators have migrated out of the United States for fear of prosecution, and continue to conduct their illegal activities from abroad.

In one heartbreaking story, a recently-widowed New Jersey woman was bilked out of $200,000 by a deceitful telemarketing firm from Canada, who claimed that the woman had won a $150,000 sweepstakes, the prize could be hers, for a fee. A series of these calls followed, convincing this poor woman, already in a fragile mind-state after her husband's death, to send more and more money for what they claimed was an increasingly large prize, which, of course, never materialized.

Our bill authorizes the Attorney General to effectively put these vultures, even the international criminals, out of business by blocking or terminating their U.S. telephone service. In addition, it authorizes the FTC to create a consumer clearinghouse which would provide seniors, and others who might have questions about the legitimacy of a telephone sales pitch, with information regarding prior complaints about a particular telemarketing company or prior fraud convictions. Furthermore, this clearinghouse would give seniors who may have been cheated an open channel to the appropriate law enforcement authorities.

In 1997, older Americans were victimized by violent crime over 680,000 times. The crimes against them range from simple assault, to armed robbery, to rape. While national crime rates in general are falling, seniors have not shared in the benefits of that drop.

This Act singles out criminals who prey on the senior population and penalizes them for the physical and economic harm they cause. In addition, we intend to place this growing problem in the spotlight, and urge Congress and Federal and State law enforcement agencies to continue to develop solutions. To this end, we have authorized a comprehensive examination of crimes against seniors, and the inclusion of data on seniors in the National Crime Victims Survey.

Seniors across the country have worked their entire lives, secure in the belief that their pensions and health benefits would be there to provide for them in their retirement years. Unfortunately, far too often, seniors wake up one morning to find that their hard-earned benefits have been stolen. In 1997 alone, $90 million in losses to pension funds were uncovered. Older Americans who depend on that money to live are left out in the cold, while criminals enjoy the fruits of a lifetime of our seniors' labor. The Seniors Safety Act gives Federal prosecutors another powerful weapon to punish pension fund thieves. The Act creates new civil and criminal penalties for defrauding pension of benefit plans, or obtaining money from them under false or fraudulent pretenses.

The defrauding of Medicare, Medicaid, and private health insurers has become big business for criminals who prey on the elderly. According to a National Institutes of Health study, losses from fraud and abuse may exceed $100 billion per year. Overbilling and false claims filing have become rampant as automated claims processing is more prevalent. Similarly, the Department of Justice has noted numerous cases where unscrupulous nursing home operators have simply pocketed Medicare funds, rather than providing adequate care for their residents. In one horrendous case, five diabetic patient died from malnutrition and lack of medical care. In another, a patient was burned to death when a mute patient was placed by untrained staff in a tub of scalding water. These terrible abuses would never have occurred had the facilities spent the Federal funds they received to implement proper health and safety procedures. This bill goes after fraud and abuse by providing resources and tools for authorities to investigate and prosecute offenses in civil and criminal courts, and enhances the ability of the Justice Department to use evidence brought in by qui tam, whistleblower, plaintiffs.

Together these provisions bring much-needed protections to our seniors. It sends a message to the cowardly perpetrators of fraud and other crimes against older Americans, that their actions will be fiercely prosecuted, whether they be here or abroad. And it clearly states that we refuse to allow seniors to be victimized by this most heinous form of predation.

By Mr. DORGAN (for himself, Mr. JEFFORDS, Ms. COLLINS, Ms. STABENOW, Ms. SNOWE, Mr. WELLSTONE, Mr. LEVIN, and Mr. DAYTON):

S. 2244. A bill to permit commercial importation of prescription drugs from Canada, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DORGAN. Madam President, today I am introducing the Prescription Drug Price Parity for Americans Act, along with my colleagues Senators JEFFORDS, COLLINS, STABENOW, SNOWE, WELLSTONE, LEVIN, and DAYTON. I intend to come to the floor later in the week to speak about this legislation at greater length, but I wanted to go ahead and introduce the bill today.

This bill addresses a growing problem with prescription drug spending in our country. Spending on prescription drugs rose 17 percent in 2001, following on the heels of a nearly 19 percent increase in 2000 and a 16 percent increase in 1999. Unfortunately, many Americans, especially senior citizens and the uninsured, cannot afford the substantially higher prices that they are being charged for their medicines. A prescription drug that costs $1 in the United States costs only 62 cents in Canada, and that is just not fair.

The bill I am introducing today would address this unfair pricing by injecting some price competition into the prescription drug marketplace. This legislation builds on the Medicine Equity and Drug Safety, MEDS, Act, which the Senate passed overwhelmingly in 2000 and was enacted into law. Like the MEDS Act, this bill would allow U.S.-licensed pharmacists and drug wholesalers to import FDA-approved medicines, but unlike the 2000 law, this year's bill will be limited to approved drugs coming only from Canada. Canada has a drug approval and distribution system similarly strong to the U.S. system. I am very confident that this bill can be implemented immediately while ensuring the safety of our Nation's drug supply and significant cost savings for American consumers.

Again, I look forward to coming back to the floor to describe this legislation at length at some later opportunity.

I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 2244

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 ''Prescription Drug Price Parity for Americans Act''.

SEC. 2. IMPORTATION OF PRESCRIPTION DRUGS.

(a) IN GENERAL.—Chapter VIII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381 et seq.) is amended by striking section 804 and inserting the following:

''SEC. 804. IMPORTATION OF PRESCRIPTION DRUGS.

''(a) DEFINITIONS.—In this section:

''(1) IMPORTER.—The term 'importer' means a pharmacist or wholesaler.

''(2) PHARMACIST.—The term 'pharmacist' means a person licensed by a State to practice pharmacy, including the dispensing and selling of prescription drugs.

''(3) PRESCRIPTION DRUG.—The term 'prescription drug' means a drug subject to section 503(b), other than—

''(A) a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

''(B) a biological product (as defined in section 351 of the Public Health Service Act (42 U.S.C. 262));

''(C) an infused drug (including a peritoneal dialysis solution);

''(D) an intravenously injected drug; or

''(E) a drug that is inhaled during surgery.

''(4) QUALIFYING LABORATORY.—The term 'qualifying laboratory' means a laboratory in the United States that has been approved by the Secretary for the purposes of this section.

''(5) WHOLESALER.—

''(A) IN GENERAL.—The term 'wholesaler' means a person licensed as a wholesaler or distributor of prescription drugs in the United States under section 503(e)(2)(A).

''(B) EXCLUSION.—The term 'wholesaler' does not include a person authorized to import drugs under section 801(d)(1).

''(b) REGULATIONS.—The Secretary, after consultation with the United States Trade Representative and the Commissioner of Customs, shall promulgate regulations permitting pharmacists and wholesalers to import prescription drugs from Canada into the United States.

''(c) LIMITATION.—The regulations under subsection (b) shall—

''(1) require that safeguards be in place to ensure that each prescription drug imported under the regulations complies with section 505 (including with respect to being safe and effective for the intended use of the prescription drug), with sections 501 and 502, and with other applicable requirements of this Act;

''(2) require that an importer of a prescription drug under the regulations comply with subsections (d)(1) and (e); and

''(3) contain any additional provisions determined by the Secretary to be appropriate as a safeguard to protect the public health or as a means to facilitate the importation of prescription drugs.

''(d) INFORMATION AND RECORDS.—

''(1) IN GENERAL.—The regulations under subsection (b) shall require an importer of a prescription drug under subsection (b) to submit to the Secretary the following information and documentation:

''(A) The name and quantity of the active ingredient of the prescription drug.

''(B) A description of the dosage form of the prescription drug.

''(C) The date on which the prescription drug is shipped.

''(D) The quantity of the prescription drug that is shipped.

''(E) The point of origin and destination of the prescription drug.

''(F) The price paid by the importer for the prescription drug.

''(G) Documentation from the foreign seller specifying—

''(i) the original source of the prescription drug; and

''(ii) the quantity of each lot of the prescription drug originally received by the seller from that source.

''(H) The lot or control number assigned to the prescription drug by the manufacturer of the prescription drug.

''(I) The name, address, telephone number, and professional license number (if any) of the importer.

''(J)(i) In the case of a prescription drug that is shipped directly from the first foreign recipient of the prescription drug from the manufacturer:

''(I) Documentation demonstrating that the prescription drug was received by the recipient from the manufacturer and subsequently shipped by the first foreign recipient to the importer.

''(II) Documentation of the quantity of each lot of the prescription drug received by the first foreign recipient demonstrating that the quantity being imported into the United States is not more than the quantity that was received by the first foreign recipient.

''(III)(aa) In the case of an initial imported shipment, documentation demonstrating that each batch of the prescription drug in the shipment was statistically sampled and tested for authenticity and degradation.

''(bb) In the case of any subsequent shipment, documentation demonstrating that a statistically valid sample of the shipment was tested for authenticity and degradation.

''(ii) In the case of a prescription drug that is not shipped directly from the first foreign recipient of the prescription drug from the manufacturer, documentation demonstrating that each batch in each shipment offered for importation into the United States was statistically sampled and tested for authenticity and degradation.

''(K) Certification from the importer or manufacturer of the prescription drug that the prescription drug—

''(i) is approved for marketing in the United States; and

''(ii) meets all labeling requirements under this Act.

''(L) Laboratory records, including complete data derived from all tests necessary to ensure that the prescription drug is in compliance with established specifications and standards.

''(M) Documentation demonstrating that the testing required by subparagraphs (J) and (L) was conducted at a qualifying laboratory.

''(N) Any other information that the Secretary determines is necessary to ensure the protection of the public health.

''(2) MAINTENANCE BY THE SECRETARY.—The Secretary shall maintain information and documentation submitted under paragraph (1) for such period of time as the Secretary determines to be necessary.

''(e) TESTING.—The regulations under subsection (b) shall require—

''(1) that testing described in subparagraphs (J) and (L) of subsection (d)(1) be conducted by the importer or by the manufacturer of the prescription drug at a qualified laboratory;

''(2) if the tests are conducted by the importer—

''(A) that information needed to—

''(i) authenticate the prescription drug being tested; and

''(ii) confirm that the labeling of the prescription drug complies with labeling requirements under this Act;

be supplied by the manufacturer of the prescription drug to the pharmacist or wholesaler; and

''(B) that the information supplied under subparagraph (A) be kept in strict confidence and used only for purposes of testing or otherwise complying with this Act; and

''(3) may include such additional provisions as the Secretary determines to be appropriate to provide for the protection of trade secrets and commercial or financial information that is privileged or confidential.

''(f) REGISTRATION OF FOREIGN SELLERS.—Any establishment within Canada engaged in the distribution of a prescription drug that is imported or offered for importation into the United States shall register with the Secretary the name and place of business of the establishment.

''(g) SUSPENSION OF IMPORTATION.—The Secretary shall require that importations of a specific prescription drug or importations by a specific importer under subsection (b) be immediately suspended on discovery of a pattern of importation of the prescription drugs or by the importer that is counterfeit or in violation of any requirement under this section, until an investigation is completed and the Secretary determines that the public is adequately protected from counterfeit and violative prescription drugs being imported under subsection (b).

''(h) APPROVED LABELING.—The manufacturer of a prescription drug shall provide an importer written authorization for the importer to use, at no cost, the approved labeling for the prescription drug.

''(i) PROHIBITION OF DISCRIMINATION.—

''(1) IN GENERAL.—It shall be unlawful for a manufacturer of a prescription drug to discriminate against, or cause any other person to discriminate against, a pharmacist or wholesaler that purchases or offers to purchase a prescription drug from the manufacturer or from any person that distributes a prescription drug manufactured by the drug manufacturer.

''(2) DISCRIMINATION.—For the purposes of paragraph (1), a manufacturer of a prescription drug shall be considered to discriminate against a pharmacist or wholesaler if the manufacturer enters into a contract for sale of a prescription drug, places a limit on supply, or employs any other measure, that has the effect of—

''(A) providing pharmacists or wholesalers access to prescription drugs on terms or conditions that are less favorable than the terms or conditions provided to a foreign purchaser (other than a charitable or humanitarian organization) of the prescription drug; or

''(B) restricting the access of pharmacists or wholesalers to a prescription drug that is permitted to be imported into the United States under this section.

''(j) CHARITABLE CONTRIBUTIONS.—Notwithstanding any other provision of this section, section 801(d)(1) continues to apply to a prescription drug that is donated or otherwise supplied at no charge by the manufacturer of the drug to a charitable or humanitarian organization (including the United Nations and affiliates) or to a government of a foreign country.

''(k) WAIVER AUTHORITY FOR IMPORTATION BY INDIVIDUALS.—

''(1) DECLARATIONS.—Congress declares that in the enforcement against individuals of the prohibition of importation of prescription drugs and devices, the Secretary should—

''(A) focus enforcement on cases in which the importation by an individual poses a significant threat to public health; and

''(B) exercise discretion to permit individuals to make such importations in circumstances in which—

''(i) the importation is clearly for personal use; and

''(ii) the prescription drug or device imported does not appear to present an unreasonable risk to the individual.

''(2) WAIVER AUTHORITY.—

''(A) IN GENERAL.—The Secretary may grant to individuals, by regulation or on a case-by-case basis, a waiver of the prohibition of importation of a prescription drug or device or class of prescription drugs or devices, under such conditions as the Secretary determines to be appropriate.

''(B) GUIDANCE ON CASE-BY-CASE WAIVERS.—The Secretary shall publish, and update as necessary, guidance that accurately describes circumstances in which the Secretary will consistently grant waivers on a case-by-case basis under subparagraph (A), so that individuals may know with the greatest practicable degree of certainty whether a particular importation for personal use will be permitted.

''(3) DRUGS IMPORTED FROM CANADA.—In particular, the Secretary shall by regulation grant individuals a waiver to permit individuals to import into the United States a prescription drug that—

''(A) is imported from a licensed pharmacy for personal use by an individual, not for resale, in quantities that do not exceed a 90-day supply;

''(B) is accompanied by a copy of a valid prescription;

''(C) is imported from Canada, from a seller registered with the Secretary;

''(D) is a prescription drug approved by the Secretary under chapter V;

''(E) is in the form of a final finished dosage that was manufactured in an establishment registered under section 510; and

''(F) is imported under such other conditions as the Secretary determines to be necessary to ensure public safety.

''(l) STUDIES; REPORTS.—

''(1) BY THE INSTITUTE OF MEDICINE OF THE NATIONAL ACADEMY OF SCIENCES.—

''(A) STUDY.—

''(i) IN GENERAL.—The Secretary shall request that the Institute of Medicine of the National Academy of Sciences conduct a study of—

''(I) importations of prescription drugs made under the regulations under subsection (b); and

''(II) information and documentation submitted under subsection (d).

''(ii) REQUIREMENTS.—In conducting the study, the Institute of Medicine shall—

''(I) evaluate the compliance of importers with the regulations under subsection (b);

''(II) compare the number of shipments under the regulations under subsection (b) during the study period that are determined to be counterfeit, misbranded, or adulterated, and compare that number with the number of shipments made during the study period within the United States that are determined to be counterfeit, misbranded, or adulterated; and

''(III) consult with the Secretary, the United States Trade Representative, and the Commissioner of Patents and Trademarks to evaluate the effect of importations under the regulations under subsection (b) on trade and patent rights under Federal law.

''(B) REPORT.—Not later than 2 years after the effective date of the regulations under subsection (b), the Institute of Medicine shall submit to Congress a report describing the findings of the study under subparagraph (A).

''(2) BY THE COMPTROLLER GENERAL.—

''(A) STUDY.—The Comptroller General of the United States shall conduct a study to determine the effect of this section on the price of prescription drugs sold to consumers at retail.

''(B) REPORT.—Not later than 18 months after the effective date of the regulations under subsection (b), the Comptroller General of the United States shall submit to Congress a report describing the findings of the study under subparagraph (A).

''(m) CONSTRUCTION.—Nothing in this section limits the authority of the Secretary relating to the importation of prescription drugs, other than with respect to section 801(d)(1) as provided in this section.

''(n) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.''.

(b) CONFORMING AMENDMENTS.—The Federal Food, Drug, and Cosmetic Act is amended—

(1) in section 301(aa) (21 U.S.C. 331(aa)), by striking ''covered product in violation of section 804'' and inserting ''prescription drug in violation of section 804'';

(2) in section 303(a)(6) (21 U.S.C. 333(a)(6), by striking ''covered product pursuant to section 804(a)'' and inserting ''prescription drug under section 804(b)''.

Mr. WELLSTONE. Madam President, I am glad we have the opportunity today to introduce legislation that corrects a sad injustice. This injustice makes American consumers the least likely of any in the industrialized world to be able to afford drugs manufactured by the American pharmaceutical industry. That's because of the unconscionable prices the industry charges only here in the United States.

When I return to Minnesota which I do frequently, I meet with many constituents, but none with more compelling stories than senior citizens struggling to make ends meet because of the high cost of prescription drugs, lifesaving drugs that are not covered under the Medicare program. Ten or twenty years ago these same senior citizens were going to work everyday, in the stores, and factories, and mines in Minnesota, earning an honest paycheck, and paying their taxes without protest. Now they wonder, how can this government, their government, stand by, when the medicines they need are out of reach.

And it is not just that Medicare won't pay for these drugs. The unfairness which Minnesotans feel is exacerbated of course by the high cost of prescription drugs here in the United States, the same drugs that can be purchased for frequently half the price in Canada. These are the exact same drugs, manufactured in the exact same facilities with the exact same safety precautions.

All the legislators speaking today have heard the first-hand stores from our constituents back home. Our constituents are justifiably frustrated and discouraged when they can't afford to buy prescription drugs that are made in the United States, unless they go across the border to Canada where those same drugs, manufactured in the same facilities are available for about half the price.

Senior citizens have lost their patience in waiting for answers, and so have I. Driving to Canada every few months to buy prescription drugs at affordable prices isn't the solution; it's a symptom of how broken parts of our health care system are. Americans regardless of political party have a fundamental belief in fairness, and we know a rip-off when we see one. It is time to end that rip-off.

While we can be proud of both American scientific research that produces new miracle cures and the high standards of safety and efficacy that we expect to be followed at the FDA, it is shameful that America's most vulnerable citizens, the chronically ill and the elderly, are being asked to pay the highest prices in the world here in the U.S. for the exact same medicines that are manufactured here but sold more cheaply in other countries.

That is why I am introducing with my colleagues today the Medicine Equity and Drug Safety Act of 2002. This bill will amend the Food, Drug, and Cosmetic Act to allow American pharmacists and wholesalers to import prescription drugs from Canada into the United States, as long as the drugs meet FDA's strict safety standards. Pharmacists and wholesalers will be able to purchase these drugs, often manufactured right here in the U.S., at much lower prices and then pass those savings on to consumers. In addition, the bill would give individuals a waiver to import prescription drugs from Canada as long as the medicine is for their own personal use and the amount of medicine imported is a 90-day supply or less. This provision will give consumers confidence that, if they follow the rules for personal importation, they won't have to worry about their medicines being stopped at the border.

Our bill addresses the absurd situation by which American consumers are paying substantially higher prices for their prescription drugs than are the citizens of Canada. The bill does not create any new Federal programs. Instead, it uses principles frequently cited in both houses of the Congress, principles of free trade and competition, the help make it possible for American consumers to purchase the prescription drugs they need.

And the need is clear. A recent informal survey by the Minnesota Senior Federation on the price of six commonly used prescription medications showed that Minnesota consumers pay, on average, nearly double, 196 percent, what their Canadian counterparts pay. These excessive prices apply to drugs manufactured by U.S. pharmaceutical firms, the same drugs that are sold in Canada for a fraction of the U.S. price.

Pharmacists could sell prescription drugs for less here in the United States, if they could buy and import these same drugs from Canada at lower prices than the pharmaceutical companies charge here.

Now, however, Federal law allows only the manufacturer of a drug to import it into the U.S. Thus American pharmacists and wholesalers must pay the exorbitant prices charged by the pharmaceutical industry in the U.S. market and pass along those high prices to consumers. It is time to stop protecting the pharmaceutical industry's outrageous profits, and they are outrageous.

Let's take a look at the numbers, so there can be no mistake:

Where the average Fortune 500 industry in the United States returned 2.2 percent profits as a percentage of revenue, the pharmaceutical industry returned 18.5 percent.

Where the average Fortune 500 industry returned 2.5 percent profits as a percentage of their assets, the pharmaceutical industry returned 16.5 percent.

Where the average Fortune 500 industry returned less than 10 percent profits as a percentage of shareholders equity, the pharmaceutical industry returned 33.2 percent.

Those huge profits are no surprise to America's senior citizens because they know where those profits come from, they come from their own pocketbooks. It is time to end the price gouging.

We need legislation that can assure our senior citizens and all Americans

that safe and affordable prescription medications at last will be as available in the United States of America as they are in Canada. The bill we are introducing today accomplishes that end.

I also want to point out that our bill includes important safety precautions to make sure we are not sacrificing safety for price. The safety measures provide strong protection for the American public. These protections include: Strict FDA oversight; importation from Canada only; strict handling requirements for importers, like those already in place for manufacturers; registration of Canadian pharmacists and wholesalers with the HHS Secretary; lab testing to screen out counterfeits; lab testing to ensure purity, potency, and safety of medications and; authority for the HHS Secretary to immediately suspend importation of prescription drugs that appear counterfeit or otherwise violate the law.

The only thing that is not protected in this bill is the excessive profits of the pharmaceutical industry. My job as a United States Senator is not to protect profits but to protect the people. Colleagues, please join us and support this thoughtful and important bill that will help make prescription drugs affordable to the American people.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3332. Mr. KYL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table.

SA 3333. Mr. KYL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3334. Mr. KYL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3335. Mr. SESSIONS (for himself, Mr. SHELBY, Mr. SPECTER, and Mr. SANTORUM) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3336. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3337. Mr. WELLSTONE submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3338. Mr. REID submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3339. Mr. DURBIN (for himself and Mr. HARKIN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3340. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3341. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3342. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 3343. Mrs. LINCOLN (for herself, Mr. HAGEL, Mr. BOND, Mr. KERRY, Mrs. CARNAHAN, Mr. NELSON of Nebraska, and Mr. MILLER) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3344. Mrs. LINCOLN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3345. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3346. Mr. KOHL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3347. Mr. INOUYE (for himself and Mr. AKAKA) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3348. Mr. INOUYE (for himself and Mr. AKAKA) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3349. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3350. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3351. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3352. Mr. BAUCUS (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3353. Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. BINGAMAN, and Mr. MURKOWSKI) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3354. Mr. CONRAD (for himself and Mr. DORGAN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3355. Mr. CONRAD (for himself, Mr. SMITH of New Hampshire, and Mr. DORGAN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3356. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3357. Mr. ROCKEFELLER (for himself, Mrs. CARNAHAN, and Mr. BOND) submitted an amendment intended to be proposed by him to the bill S. 517, supra; which was ordered to lie on the table.

SA 3358. Mr. ROCKEFELLER (for himself, Mr. ALLEN, Mr. SPECTER, and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill S. 517, supra; which was ordered to lie on the table.

SA 3359. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 3360. Mr. TORRICELLI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3361. Mr. KERRY (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3362. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3363. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3364. Mr. THOMAS submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3365. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 517, supra; which was ordered to lie on the table.

SA 3366. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 517, supra; which was ordered to lie on the table.

SA 3367. Mr. HAGEL submitted an amendment intended to be proposed by him to the bill S. 517, supra; which was ordered to lie on the table.

SA 3368. Mr. CARPER submitted an amendment intended to be proposed by him to the bill S. 517, supra; which was ordered to lie on the table.

SA 3369. Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3370. Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3371. Mr. GRAHAM submitted an amendment intended to be proposed to

amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3372. Mr. GRAHAM (for himself and Mr. FEINGOLD) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3373. Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3374. Mrs. LINCOLN submitted an amendment intended to be proposed to amendment SA 3344 submitted by Mrs. LINCOLN and intended to be proposed to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3375. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 3336 submitted by Mr. GRAMM and intended to be proposed to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

REPRINT OF AMENDMENT NO. 3325 SUBMITTED ON TUESDAY, APRIL 23, 2002

SA 3325. Mr. SHELBY (for himself, Mr. AKAKA, Mr. SCHUMER, and Mrs. CLINTON) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 205, between lines 8 and 9, insert the following:

(____) ESTABLISHMENT OF A PROGRAM FOR THE PRODUCTION OF FUEL ETHANOL FROM MUNICIPAL SOLID WASTE.—

(1) DEFINITION OF MUNICIPAL SOLID WASTE.—In this section, the term ''municipal solid waste'' has the meaning given the term ''solid waste'' in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

(2) ESTABLISHMENT OF PROGRAM.—The Secretary of Energy shall establish a program that promotes expedited construction of facilities for the processing and conversion of municipal solid waste into fuel ethanol to supplement fossil fuels.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out programs that promote expedited construction of commercially viable facilities for the processing and conversion of municipal solid waste to fuel ethanol to supplement fossil fuels including, but not limited to, loan guarantees to private institutions.

(4) REQUIREMENTS.—The Secretary may provide a loan guarantee under paragraph (2) to an applicant if—

(A) without a loan guarantee, credit is not available to the applicant under reasonable terms or conditions sufficient to finance the construction of a facility described in paragraph (2);

(B) the prospective earning power of the applicant and the character and value of the security pledged provide a reasonable assurance of repayment of the loan to be guaranteed in accordance with the terms of the loan; and

(C) the loan bears interest at a rate determined by the Secretary to be reasonable, taking into account the current average yield on outstanding obligations of the United States with remaining periods of maturity comparable to the maturity of the loan.

(5) CRITERIA.—In selecting recipients of loan guarantees from among applicants, the Secretary shall give preference to proposals that—

(A) meet all applicable Federal and State permitting requirements;

(B) are most likely to be successful; and

(C) are located in local markets that have the greatest need for the facility because of—

(i) the limited availability of land for waste disposal; or

(ii) a high level of demand for fuel ethanol or other commercial byproducts of the facility.

(6) MATURITY.—A loan guaranteed under paragraph (2) shall have a maturity of not more than 20 years.

(7) TERMS AND CONDITIONS.—The loan agreement for a loan guaranteed under paragraph (2) shall provide that no provision of the loan agreement may be amended or waived without the consent of the Secretary.

(8) ASSURANCE OF REPAYMENT.—The Secretary shall require that an applicant for a loan guarantee under paragraph (2) provide an assurance of repayment in the form of a performance bond, insurance, collateral, or other means acceptable to the Secretary in an amount equal to not less than 20 percent of the amount of the loan.

(9) GUARANTEE FEE.—The recipient of a loan guarantee under paragraph (2) shall pay the Secretary an amount determined by the Secretary to be sufficient to cover the administrative costs of the Secretary relating to the loan guarantee.

(10) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all guarantees made under this section. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the loan for the guarantee with respect to principal and interest. The validity of the guarantee shall be incontestable in the hands of a holder of the guaranteed loan.

(11) REPORTS.—Until each guaranteed loan under this section has been repaid in full, the Secretary shall annually submit to Congress an report on the activities of the Secretary under this section.

(12) TERMINATION OF AUTHORITY.—The authority of the Secretary to issue a loan guarantee under paragraph (2) terminates on the date that is 10 years after the date of enactment of this Act.

TEXT OF AMENDMENTS

SA 3332. Mr. KYL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 4, line 8, strike ''subparagraphs (A) and'' and insert ''Subparagraph''.

SA 3333. Mr. KYL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, beginning on page 17, line 9, strike all through page 55, line 7.

SA 3334. Mr. KYL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, beginning on page 17, line 9, strike all through page 55, line 7, and insert the following:

SEC. 2001. PERMANENT EXTENSION OF ABOVE-THE-LINE DEDUCTION FOR TEACHER CLASSROOM EXPENSES.

Section 62(a)(2)(D) is amended by striking ''In the case of taxable years beginning during 2002 or 2003, the'' and inserting ''The''.

SA 3335. Mr. SESSIONS (for himself, Mr. SHELBY, Mr. SPECTER, and Mr. SANTORUM) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 202, between lines 22 and 23, insert the following:

(b) EXTENSION FOR CERTAIN FUEL PRODUCED AT EXISTING FACILITIES.—Paragraph (2) of section 29(f) (relating to application of section) is amended by inserting ''(January 1, 2005, in the case of any coke or coke gas produced in a facility described in paragraph (1)(B))'' after ''January 1, 2003''.

SA 3336. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 216, after line 21, add the following:

SEC. ___. TREATMENT OF DAIRY PROPERTY.

(a) QUALIFIED DISPOSITION OF DAIRY PROPERTY TREATED AS INVOLUNTARY CONVERSION.—

(1) IN GENERAL.—Section 1033 (relating to involuntary conversions) is amended by designating subsection (k) as subsection (l) and inserting after subsection (j) the following new subsection:

''(k) QUALIFIED DISPOSITION TO IMPLEMENT BOVINE TUBERCULOSIS ERADICATION PROGRAM.—

''(1) IN GENERAL.—For purposes of this subtitle, if a taxpayer elects the application of this subsection to a qualified disposition:

''(A) TREATMENT AS INVOLUNTARY CONVERSION.—Such disposition shall be treated as an involuntary conversion to which this section applies.

''(B) MODIFICATION OF SIMILAR PROPERTY REQUIREMENT.—Property to be held by the taxpayer either for productive use in a trade or business or for investment shall be treated as property similar or related in service or use to the property disposed of.

''(C) EXTENSION OF PERIOD FOR REPLACING PROPERTY.—Subsection (a)(2)(B)(i) shall be applied by substituting '4 years' for '2 years'.

''(D) WAIVER OF UNRELATED PERSON REQUIREMENT.—Subsection (i) (relating to replacement property must be acquired from unrelated person in certain cases) shall not apply.

''(E) EXPANDED CAPITAL GAIN FOR CATTLE AND HORSES.—Section 1231(b)(3)(A) shall be applied by substituting '1 month' for '24 months'.

''(2) QUALIFIED DISPOSITION.—

''(A) IN GENERAL.—For purposes of this subsection, the term 'qualified disposition' means the disposition of dairy property which is certified by the Secretary of Agriculture as having been the subject of an agreement under the bovine tuberculosis eradication program, as implemented pursuant to the Declaration of Emergency Because of Bovine Tuberculosis (65 Federal Register 63,227 (2000)).

''(B) PAYMENTS RECEIVED IN CONNECTION WITH THE BOVINE TUBERCULOSIS ERADICATION PROGRAM.—For purposes of this subsection, any amount received by a taxpayer in connection with an agreement under such bovine tuberculosis eradication program shall be treated as received in a qualified disposition.

''(C) TRANSMITTAL OF CERTIFICATIONS.—The Secretary of Agriculture shall transmit copies of certifications under this paragraph to the Secretary.

''(3) ALLOWANCE OF THE ADJUSTED BASIS OF CERTIFIED DAIRY PROPERTY AS A DEPRECIATION DEDUCTION.—The adjusted basis of any property certified under paragraph (2)(A) shall be allowed as a depreciation deduction under section 167 for the taxable year which includes the date of the certification described in paragraph (2)(A).

''(4) DAIRY PROPERTY.—For purposes of this subsection, the term 'dairy property' means all tangible or intangible property used in connection with a dairy business or a dairy processing plant.

''(5) SPECIAL RULES FOR CERTAIN BUSINESS ORGANIZATIONS.—

''(A) S CORPORATIONS.—In the case of an S corporation, gain on a qualified disposition shall not be treated as recognized for the purposes of section 1374 (relating to tax imposed on certain built-in gains).

''(B) PARTNERSHIPS.—In the case of a partnership which dissolves in anticipation of a qualified disposition (including in anticipation of receiving the amount described in paragraph (2)(B)), the dairy property owned by the partners of such partnership at the time of such disposition shall be treated, for the purposes of this section and notwithstanding any regulation or rule of law, as owned by such partners at the time of such disposition.

''(6) TERMINATION.—This subsection shall not apply to dispositions made after December 31, 2006.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to dispositions made and amounts received in taxable years ending after May 22, 2001.

(b) DEDUCTION OF QUALIFIED RECLAMATION EXPENDITURES.—

(1) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by adding at the end the following new section:

''SEC. 199B. EXPENSING OF DAIRY PROPERTY RECLAMATION COSTS.

''(a) IN GENERAL.—Notwithstanding section 280B (relating to demolition of structures), a taxpayer may elect to treat any qualified reclamation expenditure which is paid or incurred by the taxpayer as an expense which is not chargeable to capital account. Any expenditure which is so treated shall be allowed as a deduction for the taxable year in which it is paid or incurred.

''(b) QUALIFIED RECLAMATION EXPENDITURE.—

''(1) IN GENERAL.—For purposes of this subparagraph, the term 'qualified reclamation expenditure' means amounts otherwise chargeable to capital account and paid or incurred to convert any real property certified under section 1033(k)(2) (relating to qualified disposition) into unimproved land.

''(2) SPECIAL RULE FOR EXPENDITURES FOR DEPRECIABLE PROPERTY.—A rule similar to the rule of section 198(b)(2) (relating to special rule for expenditures for depreciable property) shall apply for purposes of paragraph (1).

''(c) DEDUCTION RECAPTURED AS ORDINARY INCOME.—Rules similar to the rules of section 198(e) (relating to deduction recaptured as ordinary income on sale, etc.) shall apply with respect to any qualified reclamation expenditure.

''(d) TERMINATION.—This section shall not apply to expenditures paid or incurred after December 31, 2006.''.

(2) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

''Sec. 199B. Expensing of dairy property reclamation costs.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to expenditures paid or incurred in taxable years ending after May 22, 2001.

SA 3337. Mr. WELLSTONE submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

SEC. ___. FOREIGN CORPORATIONS CREATED THROUGH INVERSION TRANSACTIONS TAXED AS DOMESTIC CORPORATIONS.

(a) IN GENERAL.—Paragraph (4) of section 7701(a) (defining domestic) is amended to read as follows:

''(4) DOMESTIC.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'domestic' when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

''(B) INVERSION TRANSACTIONS DISREGARDED.—

''(i) IN GENERAL.—A corporation which would (but for this subparagraph) be treated as a foreign corporation shall be treated as a domestic corporation if such corporation is an inverted domestic corporation.

''(ii) INVERTED DOMESTIC CORPORATION.—For purposes of clause (i), a foreign corporation is an inverted domestic corporation if, immediately after a transaction in which—

''(I) property is directly or indirectly transferred by a domestic corporation to such foreign corporation, or

''(II) stock in a domestic corporation is transferred directly or indirectly by its shareholders to such foreign corporation,

more than 50 percent of the stock (by vote or value) of such foreign corporation is held by former shareholders of the domestic corporation by reason of holding stock in such domestic corporation.

''(iii) REGULATIONS RELATING TO INVERTED DOMESTIC CORPORATIONS.—The Secretary may by regulations provide that clause (i) shall not apply to a foreign corporation which is an inverted domestic corporation if, immediately before the transaction described in clause (ii), such foreign corporation was engaged in the active conduct of 1 or more trades or businesses which are substantial in relation to the trades or businesses which the domestic corporation described in clause (ii) was engaged in the active conduct of at such time.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of any inverted domestic corporation beginning after December 31, 2002, without regard to whether the corporation became an inverted domestic corporation before, on, or after such date.

SA 3338. Mr. REID submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 123, after line 25, add the following:

''(v) NONAPPLICATION OF CERTAIN RULES.—For purposes of determining if the term 'combined heat and power system property' includes technologies which generate electricity or mechanical power using back-pressure steam turbines in place of existing pressure-reducing valves or which make use of waste heat from industrial processes such as by using organic rankin, stirling, or kalina heat engine systems, subparagraph (A) shall be applied without regard to clauses (iii) and (iv) thereof.

SA 3339. Mr. DURBIN (for himself and Mr. HARKIN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in Division H, insert the following:

SEC. ___. ENERGY CREDIT FOR WIND ENERGY PROPERTY.

(a) IN GENERAL.—Subparagraph (A) of section 48(a)(3) (defining energy property), as amended by this Act, is amended by striking ''or'' at the end of clause (iii), by adding ''or''

at the end of clause (iv), and by inserting after clause (iv) the following new clause:

''(v) qualified wind energy property,''.

(b) QUALIFIED WIND ENERGY PROPERTY.—Subsection (a) of section 48, as amended by this Act, is amended by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

''(6) QUALIFIED WIND ENERGY PROPERTY.—For purposes of this subsection—

''(A) QUALIFIED WIND ENERGY PROPERTY.—The term 'qualified wind energy property' means a qualifying wind turbine if the property carries at least a 5-year limited warranty covering defects in design, material, or workmanship, and, for property that is not installed by the taxpayer, at least a 5-year limited warranty covering defects in installation.

''(B) QUALIFYING WIND TURBINE.—The term 'qualifying wind turbine' means a wind turbine of 75 kilowatts of rated capacity or less which meets the latest performance rating standards published by the American Wind Energy Association or the International Electrotechnical Commission and which is used to generate electricity.''.

(c) NO CARRYBACK OF ENERGY CREDIT BEFORE EFFECTIVE DATE.—Subsection (d) of section 39, as amended by this Act, is amended by adding at the end the following new paragraph:

''(20) NO CARRYBACK OF ENERGY CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the energy credit with respect to property described in section 48(a)(6) may be carried back to a taxable year ending before January 1, 2003.''.

(d) CONFORMING AMENDMENTS.—

(A) Section 25C(e)(6), as added by this Act, is amended by striking ''section 48(a)(6)(C)'' and inserting ''section 48(a)(7)(C)''.

(B) Section 29(b)(3)(A)(i)(III), as amended by this Act, is amended by striking ''section 48(a)(6)(C)'' and inserting ''section 48(a)(7)(C)''.

(C) Section 48(a)(3)(C) is amended by inserting ''(other than property described in subparagraph (A)(v)),'' before ''with respect''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service or installed after December 31, 2002, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SA 3340. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 94, lines 18 and 19, strike ''for use in such a dwelling unit''.

SA 3341. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 91, strike lines 7 and 8.

SA 3342. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2971 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

In Division H, on page 98, line 16, strike ''If'' and insert ''Except in the case of qualified wind energy property expenditures, if''.

SA 3343. Mrs. LINCOLN (for herself, Mr. HAGEL, Mr. BOND, Mr. KERRY, Mrs. CARNAHAN, Mr. NELSON of Nebraska, and Mr. MILLER) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 202, between lines 17 and 18, insert the following:

''(5) FACILITIES PRODUCING FUELS FROM AGRICULTURAL AND ANIMAL WASTE.—

''(A) IN GENERAL.—In the case of facility for producing liquid, gaseous, or solid fuels from qualified agricultural and animal wastes, including such fuels when used as feedstocks, which was placed in service after the date of the enactment of this subsection and before January 1, 2005, this section shall apply with respect to fuel produced at such facility not later than the close of the 3-year period beginning on the date such facility is placed in service.

''(B) QUALIFIED AGRICULTURAL AND ANIMAL WASTE.—For purposes of this paragraph, the term 'qualified agricultural and animal waste' means agriculture and animal waste, including by-products, packaging, and any materials associated with the processing, feeding, selling, transporting, or disposal of agricultural or animal products or wastes, including wood shavings, straw, rice hulls, and other bedding for the disposition of manure.

SA 3344. Mrs. LINCOLN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 216, after line 21, add the following:

SEC. ____. CLARIFICATION OF EXCISE TAX EXEMPTIONS FOR AGRICULTURAL AERIAL APPLICATORS.

(a) NO WAIVER BY FARM OWNER, TENANT, OR OPERATOR NECESSARY.—Subparagraph (B) of section 6420(c)(4) (relating to certain farming use other than by owner, etc.) is amended to read as follows:

''(B) if the person so using the gasoline is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes.''.

(b) EXEMPTION INCLUDES FUEL USED BETWEEN AIRFIELD AND FARM.—Section 6420(c)(4), as amended by subsection (a), is amended by adding at the end the following new flush sentence:

''For purposes of this paragraph, in the case of an aerial applicator, gasoline shall be treated as used on a farm for farming purposes if the gasoline is used for the direct flight between the airfield and 1 or more farms.''.

(c) EXEMPTION FROM TAX ON AIR TRANSPORTATION OF PERSONS FOR FORESTRY PURPOSES EXTENDED TO FIXED-WING AIRCRAFT.—Subsection (f) of section 4261 (relating to tax on air transportation of persons) is amended to read as follows:

''(f) EXEMPTION FOR CERTAIN USES.—No tax shall be imposed under subsection (a) or (b) on air transportation—

''(1) by helicopter for the purpose of transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas, or

''(2) by helicopter or by fixed-wing aircraft for the purpose of the planting, cultivation, cutting, or transportation of, or caring for, trees (including logging operations),

but only if the helicopter or fixed-wing aircraft does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to section 44509 or 44913(b) or subchapter I of chapter 471 of title 49, United States Code, during such use. In the case of helicopter transportation described in paragraph (1), this subsection shall be applied by treating each flight segment as a distinct flight.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel use or air transportation after December 31, 2001, and before January 1, 2003.

SA 3345. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

(a) EXTENSION TO SMALL SYSTEMS.—On page 121, strike lines 12 through 16 and insert the following:

''(ii) which has an electrical capacity of no more than 15 megawatts or a mechanical energy capacity of no more than 2,000 horsepower or an equivalent combination of electrical and mechanical energy capacities,''

(b) DEPRECIATION SCHEDULE.—

(1) On page 122, line 2, strike ''(70 percent'' and all that follows through ''capacities)'' on page 122, line 8; and

(2) On page 124, strike lines 1 through 8.

SA 3346. Mr. KOHL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 17, between lines 8 and 9, insert the following:

SEC. ___. CREDIT FOR ELECTRICITY PRODUCED FROM MUNICIPAL BIOSOLIDS AND RECYCLED SLUDGE.

(a) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources), as amended by this Act, is amended by striking ''and'' at the end of subparagraph (G), by striking the period at the end of subparagraph (H), and by adding at the end the following new subparagraphs:

''(I) municipal biosolids, and

''(J) recycled sludge.''.

(b) QUALIFIED FACILITIES.—Section 45(c)(3) (relating to qualified facility), as amended by this Act, is amended by adding at the end the following new subparagraphs:

''(H) MUNICIPAL BIOSOLIDS FACILITY.—In the case of a facility using municipal biosolids to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 2001, and before January 1, 2007.

''(I) RECYCLED SLUDGE FACILITY.—

''(i) IN GENERAL.—In the case of a facility using recycled sludge to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service before January 1, 2007.

''(ii) SPECIAL RULE.—In the case of a qualified facility described in clause (i), the 10-year period referred to in subsection (a) shall be treated as beginning no earlier than the date of the enactment of this subparagraph.''.

(c) DEFINITIONS.—Section 45(c), as amended by this Act, is amended by redesignating paragraph (9) as paragraph (11) and by inserting after paragraph (8) the following new paragraphs:

''(9) MUNICIPAL BIOSOLIDS.—The term 'municipal biosolids' means the residue or solids removed by a municipal wastewater treatment facility.

''(10) RECYCLED SLUDGE.—

''(A) IN GENERAL.—The term 'recycled sludge' means the recycled residue byproduct created in the treatment of commercial, industrial, municipal, or navigational wastewater.

''(B) RECYCLED.—The term 'recycled' means the processing of residue into a marketable product, but does not include incineration for the purpose of volume reduction.''.

(d) EXEMPTION FROM CREDIT REDUCTION.—The last sentence of section 45(b)(3), as added by this Act, is amended by inserting '', (c)(3)(H), or (c)(3)(I)'' after ''(c)(3)(B)(i)(II)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

SA 3347. Mr. INOUYE (for himself and Mr. AKAKA) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 216, after line 21, add the following:

SEC. ___. TREATMENT OF FACILITIES USING BAGASSE TO PRODUCE ENERGY AS SOLID WASTE DISPOSAL FACILITIES ELIGIBLE FOR TAX-EXEMPT FINANCING.

(a) IN GENERAL.—Section 142 (relating to exempt facility bond) is amended by adding at the end the following:

''(l) SOLID WASTE DISPOSAL FACILITIES.—For purposes of subsection (a)(6), the term 'solid waste disposal facilities' includes property located in Hawaii and used for the disposal of bagasse.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after the date of the enactment of this Act.

SA 3348. Mr. INOUYE (for himself and Mr. AKAKA) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 216, after line 21, add the following:

SEC. ___. TREATMENT OF FACILITIES USING BAGASSE TO PRODUCE ENERGY AS SOLID WASTE DISPOSAL FACILITIES ELIGIBLE FOR TAX-EXEMPT FINANCING.

(a) IN GENERAL.—Section 142 (relating to exempt facility bond) is amended by adding at the end the following:

''(l) SOLID WASTE DISPOSAL FACILITIES.—For purposes of subsection (a)(6), the term 'solid waste disposal facilities' includes property located in Hawaii and used for the disposal of bagasse which has been used in the manufacture of ethanol.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after the date of the enactment of this Act.

SA 3349. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 199, lines 5 through 7, strike ''at least 20 percent of the emissions of sulfur dioxide and nitrogen oxide'' and insert ''at least 20 percent of the emissions of nitrogen oxide and either sulfur dioxide or mercury''.

SA 3350. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 17, between lines 8 and 9, insert the following:

SEC. 1905. CREDIT FOR ELECTRICITY PRODUCED FROM SMALL IRRIGATION POWER.

(a) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources), as amended by this Act, is amended by striking ''and'' at the end of subparagraph (F), by striking the period at the end of subparagraph (G) and inserting '', and'', and by adding at the end the following new subparagraph:

''(H) small irrigation power.''.

(b) QUALIFIED FACILITY.—Section 45(c)(3) (relating to qualified facility), as amended by this Act, is amended by adding at the end the following new subparagraph:

''(G) SMALL IRRIGATION POWER FACILITY.—In the case of a facility using small irrigation power to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after date of the enactment of this subparagraph and before January 1, 2007.''.

(c) DEFINITION.—Section 45(c), as amended by this Act, is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

''(8) SMALL IRRIGATION POWER.—The term 'small irrigation power' means power—

''(A) generated without any dam or impoundment of water through an irrigation system canal or ditch, and

''(B) the installed capacity of which is less than 5 megawatts.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

SA 3351. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, beginning on page 91, line 15, strike all through page 95, line 17, and insert the following:

''(iii) $250 for each advanced natural gas furnace,

''(iv) $250 for each central air conditioner,

''(v) $75 for each natural gas water heater, and

''(vi) $250 for each geothermal heat pump.

''(2) SAFETY CERTIFICATIONS.—No credit shall be allowed under this section for an item of property unless—

''(A) in the case of solar water heating property, such property is certified for performance and safety by the non-profit Solar Rating Certification Corporation or a comparable entity endorsed by the government of the State in which such property is installed,

''(B) in the case of a photovoltaic property, a fuel cell property, or a wind energy property, such property meets appropriate fire and electric code requirements, and

''(C) in the case of property described in subsection (d)(6), such property meets the performance and quality standards, and the certification requirements (if any), which—

''(i) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy or the Administrator of the Environmental Protection Agency, as appropriate),

''(ii) in the case of the energy efficiency ratio (EER)—

''(I) require measurements to be based on published data which is tested by manufacturers at 95 degrees Fahrenheit, and

''(II) do not require ratings to be based on certified data of the Air Conditioning and Refrigeration Institute, and

''(iii) are in effect at the time of the acquisition of the property.

''(c) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and section 25D), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

''(d) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED SOLAR WATER HEATING PROPERTY EXPENDITURE.—The term 'qualified solar water heating property expenditure' means an expenditure for property to heat water for use in a dwelling unit located in the United States and used as a residence by the taxpayer if at least half of the energy used by such property for such purpose is derived from the sun.

''(2) QUALIFIED PHOTOVOLTAIC PROPERTY EXPENDITURE.—The term 'qualified photovoltaic property expenditure' means an expenditure for property that uses solar energy to generate electricity for use in such a dwelling unit.

''(3) SOLAR PANELS.—No expenditure relating to a solar panel or other property installed as a roof (or portion thereof) shall fail to be treated as property described in paragraph (1) or (2) solely because it constitutes a structural component of the structure on which it is installed.

''(4) QUALIFIED FUEL CELL PROPERTY EXPENDITURE.—The term 'qualified fuel cell property expenditure' means an expenditure for qualified fuel cell property (as defined in section 48(a)(4)) installed on or in connection with such a dwelling unit.

''(5) QUALIFIED WIND ENERGY PROPERTY EXPENDITURE.—The term 'qualified wind energy property expenditure' means an expenditure for property which uses wind energy to generate electricity for use in such a dwelling unit.

''(6) QUALIFIED TIER 2 ENERGY EFFICIENT BUILDING PROPERTY EXPENDITURE.—

''(A) IN GENERAL.—The term 'qualified Tier 2 energy efficient building property expenditure' means an expenditure for any Tier 2 energy efficient building property.

''(B) TIER 2 ENERGY EFFICIENT BUILDING PROPERTY.—The term 'Tier 2 energy efficient building property' means—

''(i) an electric heat pump water heater which yields an energy factor of at least 1.7 in the standard Department of Energy test procedure,

''(ii) an electric heat pump which has a heating seasonal performance factor (HSPF) of at least 9, a seasonal energy efficiency ratio (SEER) of at least 15, and an energy efficiency ratio (EER) of at least 12.5,

''(iii) an advanced natural gas furnace which achieves at least 95 percent annual fuel utilization efficiency (AFUE),''.

SA 3352. Mr. BAUCUS (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, beginning on page 64, line 1, strike all through page 73, line 2, and insert the following:

SEC. 2008. INCENTIVES FOR BIODIESEL.

(a) CREDIT FOR BIODIESEL USED AS A FUEL.—

(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by inserting after section 40A the following new section:

''SEC. 40B. BIODIESEL USED AS FUEL.

''(a) GENERAL RULE.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the biodiesel mixture credit.

''(b) DEFINITION OF BIODIESEL MIXTURE CREDIT.—For purposes of this section—

''(1) BIODIESEL MIXTURE CREDIT.—

''(A) IN GENERAL.—The biodiesel mixture credit of any taxpayer for any taxable year is the sum of the products of the biodiesel mixture rate for each qualified biodiesel mixture and the number of gallons of such mixture of the taxpayer for the taxable year.

''(B) BIODIESEL MIXTURE RATE.—For purposes of subparagraph (A), the biodiesel mixture rate for each qualified biodiesel mixture shall be—

''(i) in the case of a mixture with only biodiesel V, 1 cent for each whole percentage point (not exceeding 20 percentage points) of biodiesel V in such mixture, and

''(ii) in the case of a mixture with biodiesel NV, or a combination of biodiesel V and biodiesel NV, 0.5 cent for each whole percentage point (not exceeding 20 percentage points) of such biodiesel in such mixture.

''(2) QUALIFIED BIODIESEL MIXTURE.—

''(A) IN GENERAL.—The term 'qualified biodiesel mixture' means a mixture of diesel and biodiesel V or biodiesel NV which—

''(i) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

''(ii) is used as a fuel by the taxpayer producing such mixture.

''(B) SALE OR USE MUST BE IN TRADE OR BUSINESS, ETC.—

''(i) IN GENERAL.—Biodiesel V or biodiesel NV used in the production of a qualified biodiesel mixture shall be taken into account—

''(I) only if the sale or use described in subparagraph (A) is in a trade or business of the taxpayer, and

''(II) for the taxable year in which such sale or use occurs.

''(ii) CERTIFICATION FOR BIODIESEL V.—Biodiesel V used in the production of a qualified biodiesel mixture shall be taken into account only if the taxpayer described in subparagraph (A) obtains a certification from the producer of the biodiesel V which identifies the product produced.

''(C) CASUAL OFF-FARM PRODUCTION NOT ELIGIBLE.—No credit shall be allowed under this section with respect to any casual off-farm production of a qualified biodiesel mixture.

''(c) COORDINATION WITH EXEMPTION FROM EXCISE TAX.—The amount of the credit determined under this section with respect to any biodiesel V shall, under regulations prescribed by the Secretary, be properly reduced to take into account any benefit provided with respect to such biodiesel V solely by reason of the application of section 4041(n) or section 4081(f).

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) BIODIESEL V DEFINED.—The term 'biodiesel V' means the monoalkyl esters of long chain fatty acids derived solely from virgin vegetable oils for use in compressional-ignition (diesel) engines. Such term shall include esters derived from vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, and mustard seeds.

''(2) BIODIESEL NV DEFINED.—The term 'biodiesel nv' means the monoalkyl esters of long chain fatty acids derived from non-virgin vegetable oils or animal fats for use in compressional-ignition (diesel) engines.

''(3) REGISTRATION REQUIREMENTS.—The terms 'biodiesel V' and 'biodiesel NV' shall only include a biodiesel which meets—

''(i) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

''(ii) the requirements of the American Society of Testing and Materials D6751.

''(2) BIODIESEL MIXTURE NOT USED AS A FUEL, ETC.—

''(A) IMPOSITION OF TAX.—If—

''(i) any credit was determined under this section with respect to biodiesel V or biodiesel NV used in the production of any qualified biodiesel mixture, and

''(ii) any person—

''(I) separates such biodiesel from the mixture, or

''(II) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the biodiesel mixture rate applicable under subsection (b)(1)(B) and the number of gallons of the mixture.

''(B) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A) as if such tax were imposed by section 4081 and not by this chapter.

''(3) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(e) ELECTION TO HAVE BIODIESEL FUELS CREDIT NOT APPLY.—

''(1) IN GENERAL.—A taxpayer may elect to have this section not apply for any taxable year.

''(2) TIME FOR MAKING ELECTION.—An election under paragraph (1) for any taxable year may be made (or revoked) at any time before the expiration of the 3-year period beginning on the last date prescribed by law for filing the return for such taxable year (determined without regard to extensions).

''(3) MANNER OF MAKING ELECTION.—An election under paragraph (1) (or revocation thereof) shall be made in such manner as the Secretary may by regulations prescribe.''.

''(f) TERMINATION.—This section shall not apply to any fuel sold after December 31, 2005.''.

(2) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting '', plus'', and by adding at the end the following new paragraph:

''(17) the biodiesel fuels credit determined under section 40B(a).''.

(3) CONFORMING AMENDMENTS.—

(A) Section 39(d), as amended by this Act, is amended by adding at the end the following new paragraph:

''(12) NO CARRYBACK OF BIODIESEL FUELS CREDIT BEFORE JANUARY 1, 2003.—No portion of the unused business credit for any taxable year which is attributable to the biodiesel fuels credit determined under section 40B may be carried back to a taxable year beginning before January 1, 2003.''.

(B) Section 196(c) is amended by striking ''and'' at the end of paragraph (9), by striking the period at the end of paragraph (10), and by adding at the end the following new paragraph:

''(11) the biodiesel fuels credit determined under section 40B(a).''.

(C) Section 6501(m), as amended by this Act, is amended by inserting ''40B(e),'' after ''40(f),''.

(D) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding after the item relating to section 40A the following new item:

''Sec. 40B. Biodiesel used as fuel.''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2002.

(b) REDUCTION OF MOTOR FUEL EXCISE TAXES ON BIODIESEL V MIXTURES.—

(1) IN GENERAL.—Section 4081 (relating to manufacturers tax on petroleum products) is amended by adding at the end the following new subsection:

''(f) BIODIESEL V MIXTURES.—Under regulations prescribed by the Secretary—

''(1) IN GENERAL.—In the case of the removal or entry of a qualified biodiesel mixture with biodiesel V, the rate of tax under subsection (a) shall be the otherwise applicable rate reduced by the biodiesel mixture rate (if any) applicable to the mixture.

''(2) TAX PRIOR TO MIXING.—

''(A) IN GENERAL.—In the case of the removal or entry of diesel fuel for use in producing at the time of such removal or entry a qualified biodiesel mixture with biodiesel V, the rate of tax under subsection (a) shall be the rate determined under subparagraph (B).

''(B) DETERMINATION OF RATE.—For purposes of subparagraph (A), the rate determined under this subparagraph is the rate determined under paragraph (1), divided by a percentage equal to 100 percent minus the percentage of biodiesel V which will be in the mixture.

''(3) DEFINITIONS.—For purposes of this subsection, any term used in this subsection which is also used in section 40B shall have the meaning given such term by section 40B.

''(4) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (6) and (7) of subsection (c) shall apply for purposes of this subsection.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 4041 is amended by adding at the end the following new subsection:

''(n) BIODIESEL V MIXTURES.—Under regulations prescribed by the Secretary, in the case of the sale or use of a qualified biodiesel mixture (as defined in section 40B(b)(2)) with biodiesel V, the rates under paragraphs (1) and (2) of subsection (a) shall be the otherwise applicable rates, reduced by any applicable biodiesel mixture rate (as defined in section 40B(b)(1)(B)).''.

(B) Section 6427 is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

''(p) BIODIESEL V MIXTURES.—Except as provided in subsection (k), if any diesel fuel on which tax was imposed by section 4081 at a rate not determined under section 4081(f) is used by any person in producing a qualified biodiesel mixture (as defined in section 40B(b)(2)) with biodiesel V which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the per gallon applicable biodiesel mixture rate (as defined in section 40B(b)(1)(B)) with respect to such fuel.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to any fuel sold after December 31, 2002, and before January 1, 2006.

(c) HIGHWAY TRUST FUND HELD HARMLESS.—There are hereby transferred (from time to time) from the funds of the Commodity Credit Corporation amounts determined by the Secretary of the Treasury to be equivalent to the reductions that would occur (but for this subsection) in the receipts of the Highway Trust Fund by reason of the amendments made by this section.

SA 3353. Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. BINGAMAN, and Mr. MURKOWSKI) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 215, between lines 10 and 11, insert the following:

SEC. 2404. SALES OR DISPOSITIONS TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.

(a) IN GENERAL.—Section 451 (relating to general rule for taxable year of inclusion) is amended by adding at the end the following new subsection:

''(i) SPECIAL RULE FOR SALES OR DISPOSITIONS TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.—

''(1) IN GENERAL.—For purposes of this subtitle, if a taxpayer elects the application of this subsection to a qualifying electric transmission transaction in any taxable year—

''(A) any ordinary income derived from such transaction which would be required to be recognized under section 1245 or 1250 for such taxable year (determined without regard to this subsection), and

''(B) any income derived from such transaction in excess of such ordinary income which is required to be included in gross income for such taxable year,

shall be so recognized and included ratably over the 8-taxable year period beginning with such taxable year.

''(2) QUALIFYING ELECTRIC TRANSMISSION TRANSACTION.—For purposes of this subsection, the term 'qualifying electric transmission transaction' means any sale or other disposition before January 1, 2007, of—

''(A) property used by the taxpayer in the trade or business of providing electric transmission services, or

''(B) any stock or partnership interest in a corporation or partnership, as the case may be, whose principal trade or business consists of providing electric transmission services,

but only if such sale or disposition is to an independent transmission company.

''(3) INDEPENDENT TRANSMISSION COMPANY.—For purposes of this subsection, the term 'independent transmission company' means—

''(A) a regional transmission organization approved by the Federal Energy Regulatory Commission,

''(B) a person—

''(i) who the Federal Energy Regulatory Commission determines in its authorization of the transaction under section 203 of the Federal Power Act (16 U.S.C. 824b) is not a market participant within the meaning of such Commission's rules applicable to regional transmission organizations, and

''(ii) whose transmission facilities to which the election under this subsection applies are under the operational control of a Federal Energy Regulatory Commission-approved regional transmission organization before the close of the period specified in such authorization, but not later than the close of the period applicable under paragraph (1), or

''(C) in the case of facilities subject to the exclusive jurisdiction of the Public Utility Commission of Texas, a person which is approved by that Commission as consistent with Texas State law regarding an independent transmission organization.

''(4) ELECTION.—An election under paragraph (1), once made, shall be irrevocable.

''(5) NONAPPLICATION OF INSTALLMENT SALES TREATMENT.—Section 453 shall not apply to any qualifying electric transmission transaction with respect to which an election to apply this subsection is made.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions occurring after the date of the enactment of this Act.

SA 3354. Mr. CONRAD (for himself and Mr. DORGAN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 202, between lines 23 and 23, insert the following:

(b) EXTENSION FOR CERTAIN FUEL PRODUCED AT EXISTING FACILITIES.—Paragraph (2) of section 29(f) (relating to application of section) is amended by inserting ''(January 1, 2008, in the case of qualified fuel described in subsection (c)(1)(C))'' after ''January 1, 2003''.

SA 3355. Mr. CONRAD (for himself, Mr. SMITH of New Hampshire, and Mr. DORGAN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, beginning on page 103, line 1, strike all through page 105, line 12, and insert the following:

SEC. 2104. CREDIT FOR BUSINESS INSTALLATION OF QUALIFIED FUEL CELLS AND STATIONARY MICROTURBINE POWER PLANTS.

(a) IN GENERAL.—Subparagraph (A) of section 48(a)(3) (defining energy property) is amended by striking ''or'' at the end of clause (i), by adding ''or'' at the end of clause (ii), and by inserting after clause (ii) the following new clause:

''(iii) qualified fuel cell property or qualified microturbine property,''.

(b) QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.—Subsection (a) of section 48 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

''(4) QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.—For purposes of this subsection—

''(A) QUALIFIED FUEL CELL PROPERTY.—

''(i) IN GENERAL.—The term 'qualified fuel cell property' means a fuel cell power plant that—

''(I) generates at least 1 kilowatt of electricity using an electrochemical process, and

''(II) has an electricity-only generation efficiency greater than 30 percent.

''(ii) LIMITATION.—In the case of qualified fuel cell property placed in service during the taxable year, the credit determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to the lesser of—

''(I) 30 percent of the basis of such property, or

''(II) $1,000 for each kilowatt of capacity of such property.

''(iii) FUEL CELL POWER PLANT.—The term 'fuel cell power plant' means an integrated system comprised of a fuel cell stack assembly and associated balance of plant components that converts a fuel into electricity using electrochemical means.

''(iv) TERMINATION.—Such term shall not include any property placed in service after December 31, 2007.

''(B) QUALIFIED MICROTURBINE PROPERTY.—

''(i) IN GENERAL.—The term ''qualified microturbine property' means a stationary microturbine power plant which has an electricity-only generation efficiency not less than 26 percent at International Standard Organization conditions.

''(ii) LIMITATION.—In the case of qualified microturbine property placed in service during the taxable year, the credit determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to the lesser of—

''(I) 10 percent of the basis of such property, or

''(II) $200 for each kilowatt of capacity of such property.

''(iii) STATIONARY MICROTURBINE POWER PLANT.—The term 'stationary microturbine power plant means a system comprising of a rotary engine which is actuated by the aerodynamic reaction or impulse or both on radial or axial curved full-circumferential-admission airfoils on a central axial rotating spindle. Such system—

''(I) commonly includes an air compressor, combustor, gas pathways which lead compressed air to the combustor and which lead hot combusted gases from the combustor to 1 or more rotating turbine spools, which in turn drive the compressor and power output shaft,

''(II) includes a fuel compressor, recuperator/regenerator, generator or alternator, integrated combined cycle equipment, cooling-heating-and-power equipment, sound attenuation apparatus, and power conditioning equipment, and

''(III) includes all secondary components located between the existing infrastructure for fuel delivery and the existing infrastructure for power distribution, including equipment and controls for meeting relevant power standards, such as voltage, frequency, and power factors.

''(iv) TERMINATION.—Such term shall not include any property placed in service after December 31, 2006.''.

(c) LIMITATION.—Section 48(a)(2)(A) (relating to energy percentage) is amended to read as follows:

''(A) IN GENERAL.—The energy percentage is—

''(i) in the case of qualified fuel cell property, 30 percent, and

''(ii) in the case of any other energy property, 10 percent.''.

(d) CONFORMING AMENDMENTS.—

(A) Section 29(b)(3)(A)(i)(III) is amended by striking ''section 48(a)(4)(C)'' and inserting ''section 48(a)(5)(C)''.

(B) Section 48(a)(1) is amended by inserting ''except as provided in subparagraph (A)(ii) or (B)(ii) of paragraph (4),'' before ''the energy''.

(e) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after December 31, 2002, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SA 3356. Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 215, between lines 10 and 11, insert the following:

SEC. 2405. APPLICATION OF TEMPORARY REGULATIONS TO CERTAIN OUTPUT CONTRACTS.

In the application of section 1–141–7(c)(4) of the Treasury Temporary Regulations to output contracts entered into after February 22, 1998, with respect to an issuer participating in open access with respect to the issuer's transmission facilities, an output contract in existence on or before such date that is amended after such date shall be treated as a contract entered into after such date only if the amendment increases the amount of output sold under such contract by extending the term of the contract or increasing the amount of output sold, but such treatment as a contract entered into after such date shall begin on the effective date of the amendment and shall apply only with respect to the increased output to be provided under such contract.

SA 3357. Mr. ROCKEFELLER (for himself, Mrs. CARNAHAN, and Mr. BOND) submitted an amendment intended to be proposed by him to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. ___. CREDIT FOR ENERGY EFFICIENT VENDING MACHINES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following new section:

''SEC. 45K. ENERGY EFFICIENT VENDING MACHINE CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the energy efficient vending machine credit determined under this section for the taxable year is an amount equal to $75, multiplied by the number of qualified energy efficient vending machines purchased by the taxpayer during the calendar year ending with or within the taxable year.

''(b) QUALIFIED ENERGY EFFICIENT VENDING MACHINE.—For purposes of this section, the term 'qualified energy efficient vending machine' means a refrigerated bottled or canned beverage vending machine which—

''(1) has a capacity of at least 500 bottles or cans, and

''(2) consumes not more than 8.66 kWh per day of electricity based on ASHRAE Standard 32.1-1997.

''(c) VERIFICATION.—The taxpayer shall submit such information or certification as the Secretary determines necessary to claim the credit amount under subsection (a).

''(d) TERMINATION.—This section shall not apply with respect to vending machines purchased in calendar years beginning after December 31, 2005.''.

(b) LIMITATION ON CARRYBACK.—Section 39(d) (relating to transition rules), as amended by this Act, is amended by adding at the end the following new paragraph:

''(20) NO CARRYBACK OF ENERGY EFFICIENT VENDING MACHINE CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the energy efficient vending machine credit determined under section 45K may be carried to a taxable year ending before January 1, 2003.''.

(c) CONFORMING AMENDMENT.—Section 38(b) (relating to general business credit), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (22), by striking the period at the end of paragraph (23) and inserting '', plus'', and by adding at the end the following new paragraph:

''(24) the energy efficient vending machine credit determined under section 45K(a).''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

''Sec. 45K. Energy efficient vending machine credit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SA 3358. Mr. ROCKEFELLER (for himself, Mr. ALLEN, Mr. SPECTER, and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. ___. CREDIT FOR RECYCLING CERTAIN COAL COMBUSTION WASTE MATERIALS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

''SEC. 45K. CREDIT FOR RECYCLING CERTAIN COAL COMBUSTION WASTE MATERIALS.

''(a) ALLOWANCE OF CREDIT.—For purposes of section 38, the credit for recycling certain coal combustion waste materials used by the taxpayer in qualifying production under this section for any taxable year is equal to the sum of—

''(1) $6.00 for each wet ton of—

''(A) wet flue gas desulfurization sludge cake, and

''(B) any other wet waste material identified by the Secretary of Energy, plus

''(2) $4.00 for each dry ton of—

''(A) dry flue gas desulfurization and fluidized bed combustion waste material, and

''(B) any other dry waste material identified by the Secretary of Energy.

''(b) CERTAIN COAL COMBUSTION WASTE MATERIALS DEFINED.—For purposes of this section, the term 'certain coal combustion waste materials' means any solid waste material generated using a sulfur dioxide emission control system and derived from the combustion of coal in connection with the generation of electricity or steam, including—

''(1) wet flue gas desulfurization sludge cake,

''(2) dry flue gas desulfurization and fluidized bed combustion waste material, and

''(3) any other coal combustion waste material identified by the Secretary of Energy as wet waste or dry waste material attributable to the use of a sulfur dioxide emission control system.

''(c) QUALIFYING PRODUCTION.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying production' means the use of certain coal combustion waste materials by the taxpayer as substantial raw materials in the manufacture of commercially saleable products which are—

''(A) manufactured in a qualifying facility,

''(B) sold by the taxpayer, and

''(C) not used in a landfill application.

''(2) SUBSTANTIAL USE AND MANUFACTURING REQUIREMENT.—Certain coal combustion waste materials shall not be deemed to constitute substantial raw materials used in the manufacture of commercially saleable products unless such waste materials—

''(A) constitute at least 35 percent of the weight of the commercially saleable manufactured products, determined on a dry weight basis, and

''(B) undergo a physical and chemical change in the course of the manufacturing process.

''(3) UNRELATED PERSON SALE OR USE REQUIREMENT.—The taxpayer shall not be deemed to have engaged in qualifying production with respect to certain coal combustion waste materials used in manufacturing a product until—

''(A) the taxable year in which the taxpayer sells such product to an unrelated person, or

''(B) if such product is sold to a related person, the taxable year in which the related person—

''(i) resells such product to an unrelated person, or

''(ii) consumes or provides such product in the performance of services to an unrelated person.

''(4) QUALIFYING FACILITY.—

''(A) IN GENERAL.—The term 'qualifying facility' means a manufacturing facility which—

''(i) is located within the United States (within the meaning of section 638(1)) or within a possession of the United States (within the meaning of section 638(2)), and

''(ii) is placed in service after December 31, 2001.

''(B) 10 YEAR LIMIT.—A facility shall cease to be a qualifying facility on the date which is the tenth anniversary of the date on which the facility was placed in service.

''(5) DRY WEIGHT MEASUREMENT.—For purposes of paragraph (2)(A), dry weight shall be determined by excluding the weight of all water in the materials used in the manufacture of the products.

''(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section —

''(1) WET TON.—The term 'wet ton' shall mean the weight of the desulfurization sludge cake (and any other wet waste material) after adjusting the water content of the cake (and other wet waste material) to not greater than 50 percent of the total weight.

''(2) DRY TON.—The term 'dry ton' shall mean the weight of the dry flue gas desulfurization and fluidized bed combustion waste material (and any other dry waste material) after adjusting the water content of the material (and other dry waste material) to not greater than 2 percent of the total weight.

''(3) RELATED PERSONS.—Persons shall be treated as related to each other if such persons would be treated as a single employer under the regulations prescribed under section 52(b).

''(4) PASS-THROUGH IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.''.

(b) CREDIT TREATED AS A BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (22), by striking the period at the end of paragraph (23) and inserting '', plus'', and by adding at the end the following new paragraph:

''(24) the credit for recycling certain coal combustion waste materials determined under section 45K(a).''.

(c) TRANSITIONAL RULE.—Section 39(d), as amended by this Act, is amended by adding at the end the following new paragraph:

''(20) NO CARRYBACK OF SECTION 45K CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit for recycling certain coal combustion waste materials determined under section 45K may be carried back to a taxable year ending before January 1, 2002.''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end of the following new item:

''Sec. 45K. Credit for recycling certain coal combustion waste materials.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SA 3359. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

In Division H, on page 74, line 16, strike ''Code'' and insert ''Code, or a qualifying new home which is a manufactured home which meets the applicable standards of the Energy Star program managed jointly by the Environmental Protection Agency and the Department of Energy''.

SA 3360. Mr. TORRICELLI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 137, between lines 7 and 8, insert the following:

SEC. ___. ALLOWANCE OF DEDUCTION FOR QUALIFIED NEW OR RETROFITTED WATER SUBMETERING DEVICES.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by inserting after section 179D the following new section:

''SEC. 179E. DEDUCTION FOR QUALIFIED NEW OR RETROFITTED WATER SUBMETERING DEVICES.

''(a) ALLOWANCE OF DEDUCTION.—In the case of a taxpayer who is an eligible resupplier, there shall be allowed as a deduction an amount equal to the cost of each qualified water submetering device placed in service during the taxable year.

''(b) MAXIMUM DEDUCTION.—The deduction allowed by this section with respect to each qualified water submetering device shall not exceed $30.

''(c) ELIGIBLE RESUPPLIER.—For purposes of this section, the term 'eligible resupplier' means any taxpayer who purchases and installs qualified water submetering devices in every unit in any multi-unit property.

''(d) QUALIFIED WATER SUBMETERING DEVICE.—The term 'qualified water submetering device' means any tangible property to which section 168 applies if such property is a submetering device (including ancillary equipment)—

''(1) which is purchased and installed by the taxpayer to enable consumers to manage their purchase or use of water in response to water price and usage signals, and

''(2) which permits reading of water price and usage signals on at least a daily basis.

''(e) PROPERTY USED OUTSIDE THE UNITED STATES NOT QUALIFIED.—No deduction shall be allowed under subsection (a) with respect to property which is used predominantly outside the United States or with respect to the portion of the cost of any property taken into account under section 179.

''(f) BASIS REDUCTION.—

''(1) IN GENERAL.—For purposes of this title, the basis of any property shall be reduced by the amount of the deduction with respect to such property which is allowed by subsection (a).

''(2) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a) with respect to any property that is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.

''(g) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2007.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1), as amended by this Act, is amended by striking ''or'' at the end of subparagraph (J), by striking the period at the end of subparagraph (K) and inserting '', or'', and by inserting after subparagraph (K) the following new subparagraph:

''(L) expenditures for which a deduction is allowed under section 179E.''.

(2) Section 312(k)(3)(B), as amended by this Act, is amended by striking ''or 179D'' each place it appears in the heading and text and inserting '', 179D, or 179E''.

(3) Section 1016(a), as amended by this Act, is amended by striking ''and'' at the end of paragraph (34), by striking the period at the end of paragraph (35) and inserting '', and'', and by adding at the end the following new paragraph:

''(36) to the extent provided in section 179E(f)(1).''.

(4) Section 1245(a), as amended by this Act, is amended by inserting ''179E,'' after ''179D,'' both places it appears in paragraphs (2)(C) and (3)(C).

(5) The table of contents for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 179D the following new item:

''Sec. 179E. Deduction for qualified new or retrofitted water submetering devices.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified water submetering devices placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. ___. THREE-YEAR APPLICABLE RECOVERY PERIOD FOR DEPRECIATION OF QUALIFIED WATER SUBMETERING DEVICES.

(a) IN GENERAL.—Subparagraph (A) of section 168(e)(3) (relating to classification of

property) is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by adding at the end the following new clause:

''(v) any qualified water submetering device.''.

(b) DEFINITION OF QUALIFIED WATER SUBMETERING DEVICE.—Section 168(i) (relating to definitions and special rules), as amended by this Act, is amended by inserting at the end the following new paragraph:

''(16) QUALIFIED WATER SUBMETERING DEVICE.—The term 'qualified water submetering device' means any qualified water submetering device (as defined in section 179E(d)) which is placed in service before January 1, 2008, by a taxpayer who is an eligible resupplier (as defined in section 179E(c)).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SA 3361. Mr. KERRY (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, beginning on page 91, line 9, strike all through page 96, line 3, and insert the following:

''(E) for property described in subsection (d)(6)—

''(i) $150 for each electric heat pump water heater,

''(ii) $250 for each electric heat pump,

''(iii) $125 for each natural gas or propane furnace,

''(iv) $250 for each central air conditioner,

''(v) $150 for each advanced natural gas water heater,

''(vi) $250 for each geothermal heat pump,

''(vii) $50 for each main air circulating fan in a natural gas, propane, or oil-fired furnace,

''(viii) $50 for each natural gas water heater,

''(ix) $150 for each advanced combination space and water heating system, and

''(x) $50 for each combination space and water heating system.

''(2) SAFETY CERTIFICATIONS.—No credit shall be allowed under this section for an item of property unless—

''(A) in the case of solar water heating property, such property is certified for performance and safety by the non-profit Solar Rating Certification Corporation or a comparable entity endorsed by the government of the State in which such property is installed,

''(B) in the case of a photovoltaic property, a fuel cell property, or a wind energy property, such property meets appropriate fire and electric code requirements, and

''(C) in the case of property described in subsection (d)(6), such property meets the performance and quality standards, and the certification requirements (if any), which—

''(i) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy or the Administrator of the Environmental Protection Agency, as appropriate),

''(ii) in the case of the energy efficiency ratio (EER)—

''(I) require measurements to be based on published data which is tested by manufacturers at 95 degrees Fahrenheit, and

''(II) do not require ratings to be based on certified data of the Air Conditioning and Refrigeration Institute, and

''(iii) are in effect at the time of the acquisition of the property.

''(c) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and section 25D), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

''(d) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED SOLAR WATER HEATING PROPERTY EXPENDITURE.—The term 'qualified solar water heating property expenditure' means an expenditure for property to heat water for use in a dwelling unit located in the United States and used as a residence by the taxpayer if at least half of the energy used by such property for such purpose is derived from the sun.

''(2) QUALIFIED PHOTOVOLTAIC PROPERTY EXPENDITURE.—The term 'qualified photovoltaic property expenditure' means an expenditure for property that uses solar energy to generate electricity for use in such a dwelling unit.

''(3) SOLAR PANELS.—No expenditure relating to a solar panel or other property installed as a roof (or portion thereof) shall fail to be treated as property described in paragraph (1) or (2) solely because it constitutes a structural component of the structure on which it is installed.

''(4) QUALIFIED FUEL CELL PROPERTY EXPENDITURE.—The term 'qualified fuel cell property expenditure' means an expenditure for qualified fuel cell property (as defined in section 48(a)(4)) installed on or in connection with such a dwelling unit.

''(5) QUALIFIED WIND ENERGY PROPERTY EXPENDITURE.—The term 'qualified wind energy property expenditure' means an expenditure for property which uses wind energy to generate electricity for use in such a dwelling unit.

''(6) QUALIFIED TIER 2 ENERGY EFFICIENT BUILDING PROPERTY EXPENDITURE.—

''(A) IN GENERAL.—The term 'qualified Tier 2 energy efficient building property expenditure' means an expenditure for any Tier 2 energy efficient building property.

''(B) TIER 2 ENERGY EFFICIENT BUILDING PROPERTY.—The term 'Tier 2 energy efficient building property' means—

''(i) an electric heat pump water heater which yields an energy factor of at least 1.7 in the standard Department of Energy test procedure,

''(ii) an electric heat pump which has a heating seasonal performance factor (HSPF) of at least 9, a seasonal energy efficiency ratio (SEER) of at least 15, and an energy efficiency ratio (EER) of at least 12.5,

''(iii) a natural gas or propane furnace which achieves at least 95 percent annual fuel utilization efficiency (AFUE),

''(iv) a central air conditioner which has a seasonal energy efficiency ratio (SEER) of at least 15 and an energy efficiency ratio (EER) of at least 12.5,

''(v) an advanced natural gas water heater which has an energy factor of at least 0.80 in the standard Department of Energy test procedure,

''(vi) a geothermal heat pump which has an energy efficiency ratio (EER) of at least 21,

''(vii) a main air circulating fan in a natural gas, propane, or oil-fired furnace using a brushless permanent motor, or another type of motor which achieves similar or greater efficiency at half and full speed, as determined by the Secretary,

''(viii) a natural gas water heater which is not described in clause (v) and which has an energy factor of at least 0.65 in the standard Department of Energy test procedure,

''(ix) an advanced combination space and water heating system which has a combined energy factor of at least .80 in the standard Department of Energy test procedure, and

''(x) a combination space and water heating system which is not described in clause (ix) and which has a combined energy factor of at least .65 in the standard Department of Energy test procedure and achieves at least 78 percent combined annual fuel utilization efficiency (AFUE).''.

SA 3362. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. . MODIFICATION OF RURAL AIRPORT DEFINITION.

(a) IN GENERAL.—Clause (ii) of section 4261(e)(1(B) (defining rural airport) is amended by striking the period at the end of subclause (II) and inserting '', or'' and by adding at the end the following new subclause:

''(III) is not connected by paved roads to another airport''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after 2002.

SA 3363. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. . EXEMPTION FROM TICKET TAXES FOR TRANSPORTATION PROVIDED BY SEA PLANES.

(a) The taxes imposed by sections 4261 and 4271 shall not apply to transportation by a seaplane with respect to any segment consisting of a takeoff from, and a landing on, water.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after 2002.

SA 3364. Mr. THOMAS submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 215, between lines 10 and 11, insert the following:

SEC. ___. TREATMENT OF CERTAIN DEVELOPMENT INCOME OF COOPERATIVES.

(a) IN GENERAL.—Subparagraph (C) of section 501(c)(12), as amended by this Act, is amended by striking ''or'' at the end of clause (iv), by striking the period at the end of clause (v) and insert '', or'', and by adding at the end the following new clause:

''(vi) from the receipt before January 1, 2007, of any money, property, capital, or any other contribution in aid of construction or connection charge intended to facilitate the provision of electric service for the purpose of developing qualified fuels from nonconventional sources (within the meaning of section 29).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SA 3365. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 202, between lines 17 and 18, insert the following:

''(5) FACILITIES PRODUCING OIL OR GAS ON INDIAN LANDS, INCLUDING LANDS OWNED AND HELD BY ALASKA NATIVE VILLAGE CORPORATIONS AND REGIONAL CORPORATIONS UNDER THE ALASKA NATIVE CLAIMS SETTLEMENT ACT.—

''(A) IN GENERAL.—In the case of facility for producing Indian oil or gas which was placed in service after the date of the enactment of this subsection and before January 1, 2007, this section shall apply with respect to Indian oil or gas produced at such facility not later than the close of the 5-year period beginning on the date such facility is placed in service.

''(B) INDIAN OIL OR GAS.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'Indian oil or gas' means oil or gas which is produced from Indian lands.

''(ii) INDIAN LANDS.—The term 'Indian lands' means—

''(I) land held in trust by, or restricted against alienation by, the United States for the benefit of an individual Indian or an Indian tribe, or

''(II) land owned and held by any Alaska Native Village Corporation or Regional Corporation organized under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

''(iii) INDIVIDUAL INDIAN.—The term 'individual Indian' means any individual member of an Indian tribe.

''(iv) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)), including any Native village (as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c), whether organized traditionally or pursuant to the Act of June 18, 1934 (commonly known as the Indian Reorganization Act (25 U.S.C. 461 et seq.)).

''(C) APPLICATION OF PARAGRAPH.—This paragraph shall not apply with respect to any Indian oil or gas for which a credit is allowed under any other provision of this section.''

SA 3366. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 73, between lines 2 and 3, insert the following:

SEC. ___. MODIFICATIONS TO THE INCENTIVES FOR ALTERNATIVE VEHICLES AND FUELS.

(a) MODIFICATION TO NEW QUALIFIED HYBRID MOTOR VEHICLE CREDIT.—The table in section 30B(c)(2)(A) of the Internal Revenue Code of 1986, as added by this Act, is amended by striking ''5 percent'' and inserting ''4 percent''.

(b) MODIFICATIONS TO EXTENSION OF DEDUCTION FOR CERTAIN REFUELING PROPERTY.—

(1) IN GENERAL.—Subsection (f) of section 179A of the Internal Revenue Code of 1986 is amended to read as follows:

''(f) TERMINATION.—This section shall not apply to any property placed in service—

''(1) in the case of property relating to hydrogen, after December 31, 2011, and

''(2) in the case of any other property, after December 31, 2007.''.

(2) EXTENSION OF PHASEOUT.—Section 179A(b)(1)(B) of such Code, as amended by section 606(a) of the Job Creation and Worker Assistance Act of 2002, is amended—

(A) by striking ''calendar year 2004'' in clause (i) and inserting ''calendar years 2004 and 2005 (calendar years 2004 through 2009 in the case of property relating to hydrogen) '',

(B) by striking ''2005'' in clause (ii) and inserting ''2006 (calendar year 2010 in the case of property relating to hydrogen)'', and

(C) by striking ''2006'' in clause (iii) and inserting ''2007 (calendar year 2011 in the case of property relating to hydrogen)''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after December 31, 2003, in taxable years ending after such date.

(c) MODIFICATION TO CREDIT FOR INSTALLATION OF ALTERNATIVE FUELING STATIONS.—Subsection (l) of section 30C of the Internal Revenue Code of 1986, as added by this Act, is amended to read as follows:

''(l) TERMINATION.—This section shall not apply to any property placed in service—

''(1) in the case of property relating to hydrogen, after December 31, 2011, and

''(2) in the case of any other property, after December 31, 2007.''.

(d) EFFECTIVE DATE.—Except as provided in subsection (b)(3), the amendments made by this section shall apply to property placed in service after September 30, 2002, in taxable years ending after such date.

SA 3367. Mr. HAGEL submitted an amendment intended to be proposed by him to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the end of Division H, insert the following:

SEC. ___. PERMANENT TAX CREDIT FOR RESEARCH AND DEVELOPMENT REGARDING GREENHOUSE GAS EMISSIONS REDUCTION, AVOIDANCE, OR SEQUESTRATION.

Section 41(h) (relating to termination) is amended by adding at the end the following:

''(3) EXCEPTION FOR CERTAIN RESEARCH.—Paragraph (1)(B) shall not apply in the case of any qualified research expenses if the research—

''(A) has as one of its purposes the reducing, avoiding, or sequestering of greenhouse gas emissions, and

''(B) has been reported to the Department of Energy under section 1605(b) of the Energy Policy Act of 1992 or under the national greenhouse gas emissions register established in Division I of this Act.''.

SEC. ___. TAX CREDIT FOR GREENHOUSE GAS EMISSIONS FACILITIES.

(a) ALLOWANCE OF GREENHOUSE GAS EMISSIONS FACILITIES CREDIT.—Section 46 (relating to amount of credit), as amended by this Act, is amended by striking ''and'' at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting '', and'', and by adding at the end the following:

''(5) the greenhouse gas emissions facilities credit.''.

(b) AMOUNT OF CREDIT.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit), as amended by this Act, is amended by inserting after section 48A the following:

''SEC. 48B. CREDIT FOR GREENHOUSE GAS EMISSIONS FACILITIES.

''(a) IN GENERAL.—For purposes of section 46, the greenhouse gas emissions facilities credit for any taxable year is the applicable percentage of the qualified investment in a greenhouse gas emissions facility for such taxable year.

''(b) GREENHOUSE GAS EMISSIONS FACILITY.—For purposes of subsection (a), the term 'greenhouse gas emissions facility' means a facility of the taxpayer—

''(1)(A) the construction, reconstruction, or erection of which is completed by the taxpayer, or

''(B) which is acquired by the taxpayer if the original use of such facility commences with the taxpayer,

''(2) the operation of which—

''(A) replaces the operation of a facility of the taxpayer,

''(B) reduces, avoids, or sequesters greenhouse gas emissions on a per unit of output basis as compared to such emissions of the replaced facility, and

''(C) uses the same type of fuel (or combination of the same type of fuel and biomass fuel) as was used in the replaced facility,

''(3) with respect to which depreciation (or amortization in lieu of depreciation) is allowable, and

''(4) which meets the performance and quality standards (if any) which—

''(A) have been jointly prescribed by the Secretary and the Secretary of Energy by regulations,

''(B) are consistent with regulations prescribed under section 1605(b) of the Energy Policy Act of 1992, and

''(C) are in effect at the time of the acquisition of the facility.

''(c) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage is one-half of the percentage reduction, avoidance, or sequestration of greenhouse gas emissions described in subsection (b)(2) and reported and certified under section 1605(b) of the Energy Policy Act of 1992.

''(d) QUALIFIED INVESTMENT.—For purposes of subsection (a), the term 'qualified investment' means, with respect to any taxable year, the basis of a greenhouse gas emissions facility placed in service by the taxpayer during such taxable year, but only with respect to that portion of the investment attributable to providing production capacity not greater than the production capacity of the facility being replaced.

''(e) QUALIFIED PROGRESS EXPENDITURES.—

''(1) INCREASE IN QUALIFIED INVESTMENT.—In the case of a taxpayer who has made an election under paragraph (5), the amount of the qualified investment of such taxpayer for the taxable year (determined under subsection (d) without regard to this subsection)

shall be increased by an amount equal to the aggregate of each qualified progress expenditure for the taxable year with respect to progress expenditure property.

''(2) PROGRESS EXPENDITURE PROPERTY DEFINED.—For purposes of this subsection, the term 'progress expenditure property' means any property being constructed by or for the taxpayer and which it is reasonable to believe will qualify as a greenhouse gas emissions facility which is being constructed by or for the taxpayer when it is placed in service.

''(3) QUALIFIED PROGRESS EXPENDITURES DEFINED.—For purposes of this subsection—

''(A) SELF-CONSTRUCTED PROPERTY.—In the case of any self-constructed property, the term 'qualified progress expenditures' means the amount which, for purposes of this subpart, is properly chargeable (during such taxable year) to capital account with respect to such property.

''(B) NON-SELF-CONSTRUCTED PROPERTY.—In the case of non-self-constructed property, the term 'qualified progress expenditures' means the amount paid during the taxable year to another person for the construction of such property.

''(4) OTHER DEFINITIONS.—For purposes of this subsection—

''(A) SELF-CONSTRUCTED PROPERTY.—The term 'self-constructed property' means property for which it is reasonable to believe that more than half of the construction expenditures will be made directly by the taxpayer.

''(B) NON-SELF-CONSTRUCTED PROPERTY.—The term 'non-self-constructed property' means property which is not self-constructed property.

''(C) CONSTRUCTION, ETC.—The term 'construction' includes reconstruction and erection, and the term 'constructed' includes reconstructed and erected.

''(D) ONLY CONSTRUCTION OF GREENHOUSE GAS EMISSIONS FACILITY TO BE TAKEN INTO ACCOUNT.—Construction shall be taken into account only if, for purposes of this subpart, expenditures therefor are properly chargeable to capital account with respect to the property.

''(5) ELECTION.—An election under this subsection may be made at such time and in such manner as the Secretary may by regulations prescribe. Such an election shall apply to the taxable year for which made and to all subsequent taxable years. Such an election, once made, may not be revoked except with the consent of the Secretary.''.

(c) RECAPTURE.—Section 50(a) (relating to other special rules), as amended by this Act, is amended by adding at the end the following:

''(7) SPECIAL RULES RELATING TO GREENHOUSE GAS EMISSIONS FACILITY.—For purposes of applying this subsection in the case of any credit allowable by reason of section 48B, the following shall apply:

''(A) GENERAL RULE.—In lieu of the amount of the increase in tax under paragraph (1), the increase in tax shall be an amount equal to the investment tax credit allowed under section 38 for all prior taxable years with respect to a greenhouse gas emissions facility (as defined by section 48B(b)) multiplied by a fraction whose numerator is the number of years remaining to fully depreciate under this title the greenhouse gas emissions facility disposed of, and whose denominator is the total number of years over which such facility would otherwise have been subject to depreciation. For purposes of the preceding sentence, the year of disposition of the greenhouse gas emissions facility property shall be treated as a year of remaining depreciation.

''(B) PROPERTY CEASES TO QUALIFY FOR PROGRESS EXPENDITURES.—Rules similar to the rules of paragraph (2) shall apply in the case of qualified progress expenditures for a greenhouse gas emissions facility under section 48B, except that the amount of the increase in tax under subparagraph (A) of this paragraph shall be substituted in lieu of the amount described in such paragraph (2).

''(C) APPLICATION OF PARAGRAPH.—This paragraph shall be applied separately with respect to the credit allowed under section 38 regarding a greenhouse gas emissions facility.''.

(d) TECHNICAL AMENDMENTS.—

(1) Section 49(a)(1)(C), as amended by this Act, is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by adding at the end the following:

''(v) the portion of the basis of any greenhouse gas emissions facility attributable to any qualified investment (as defined by section 48B(d)).''.

(2) Section 50(a)(4), as amended by this Act, is amended by striking ''and (6)'' and inserting '', (6), and (7)''.

(3) The table of sections for subpart E of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 48A the following:

''Sec. 48B. Credit for greenhouse gas emissions facilities.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

(f) STUDY OF ADDITIONAL INCENTIVES FOR VOLUNTARY REDUCTION, AVOIDANCE, OR SEQUESTRATION OF GREENHOUSE GAS EMISSIONS.—

(1) IN GENERAL.—The Secretary of the Treasury and the Secretary of Energy shall jointly study possible additional incentives for, and removal of barriers to, voluntary, non recoupable expenditures for the reduction, avoidance, or sequestration of greenhouse gas emissions. For purposes of this subsection, an expenditure shall be considered voluntary and non recoupable if the expenditure is not recoupable—

(A) from revenues generated from the investment, determined under generally accepted accounting standards (or under the applicable rate-of-return regulation, in the case of a taxpayer subject to such regulation), or

(B) from any tax or other financial incentive program established under Federal, State, or local law.

(2) REPORT.—Within 6 months of the date of enactment of this Act, the Secretary of the Treasury and the Secretary of Energy shall jointly report to Congress on the results of the study described in paragraph (1), along with any recommendations for legislative action.

(g) SCOPE AND IMPACT.—

(1) POLICY.—In order to achieve the broadest response for reduction, avoidance, or sequestration of greenhouse gas emissions and to ensure that the incentives established by or pursuant to this Act do not advantage one segment of an industry to the disadvantage of another, it is the sense of Congress that such incentives should be available for individuals, organizations, and entities, including both for-profit and non-profit institutions.

(2) LEVEL PLAYING FIELD STUDY AND REPORT.—

(A) IN GENERAL.—The Secretary of the Treasury and the Secretary of Energy shall jointly study possible additional measures that would provide non-profit entities (such as municipal utilities and energy cooperatives) with economic incentives for greenhouse gas emissions facilities comparable to those incentives provided to taxpayers under the amendments made to the Internal Revenue Code of 1986 by this Act.

(B) REPORT.—Within 6 months after the date of enactment of this Act, the Secretary of the Treasury and the Secretary of Energy shall jointly report to Congress on the results of the study described in subparagraph (A), along with any recommendations for legislative action.

DIVISION I—CLIMATE CHANGE MITIGATION

TITLE —NATIONAL GREENHOUSE GAS REGISTRY

SECTION. . SHORT TITLE.

This title may be cited as the ''National Climate Registry Initiative of 2002''.

SEC. . PURPOSE.

The purpose of this title is to establish a new national greenhouse gas registry—

(1) to further encourage voluntary efforts, by persons and entities conducting business and other operations in the United States, to implement actions, projects and measures that reduce greenhouse gas emissions;

(2) to encourage such persons and entities to monitor and voluntarily report greenhouse gas emissions, direct or indirect, from their facilities, and to the extent practicable, from other types of sources;

(3) to adopt a procedure and uniform format for such persons and entities to establish and report voluntarily greenhouse gas emission baselines in connection with, and furtherance of, such reductions;

(4) to provide verification mechanisms to ensure for participants and the public a high level of confidence in accuracy and verifiability of reports made to the national registry;

(5) to encourage persons and entities, through voluntary agreement with the Secretary, to report annually greenhouse gas emissions from their facilities;

(6) to provide to persons or entities that engage in such voluntary agreements and reduce their emissions transferable credits which, inter alia, shall be available for use by such persons or entities for any incentive, market-based, or regulatory programs determined by the Congress in a future enactment to be necessary and feasible to reduce the risk of climate change and its impacts; and

(7) to provide for the registration, transfer and tracking of the ownership or holding of such credits for purposes of facilitating voluntary trading among persons and entities

SEC. . DEFINITIONS.

In this title—

(1) ''person'' means an individual, corporation, association, joint venture, cooperative, or partnership;

(2) ''entity'' means a public person, a Federal, interstate, State, or local governmental agency, department, corporation, or other publicly owned organization;

(3) ''facility'' means those buildings, structures, installations, or plants (including units thereof) that are on contiguous or adjacent land, are under common control of the same person or entity and are a source of emissions of greenhouse gases in excess for emission purposes of a threshold as recognized by the guidelines issued under this title;

(4) ''reductions'' means actions, projects or measures taken, whether in the United States or internationally, by a person or entity to reduce, avoid or sequester, directly or indirectly, emissions of one or more greenhouse gases;

(5) ''greenhouse gas'' means—

(A) an anthropogenic gaseous constituent of the atmosphere (including carbon dioxide, methane, nitrous oxide, chlorofluorocarbons, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and tropospheric ozone) that absorbs and reemits infrared radiation and influences climate; and

(B) an anthropogenic aerosol (such as black soot) that absorbs solar radiation and influences climate;

(6) ''Secretary'' means the Secretary of Energy;

(7) ''Administrator'' means the Administrator of the Energy Information Administration; and

(8) ''Interagency Task Force'' means the Interagency Task Force established under title X of this Act.

SEC. . ESTABLISHMENT.

(a) IN GENERAL.—Not later than 1 year after the enactment of this title, the President shall, in consultation with the Interagency Task Force, establish a National Greenhouse Gas Registry to be administered by the Secretary through the Administrator in accordance with the applicable provisions of this title, section 205 of the Department of Energy Act (42 U.S.C. 7135) and other applicable provisions of that Act (42 U.S.C. 7101, et seq.).

(b) DESIGNATION.—Upon establishment of the registry and issuance of the guidelines pursuant to this title, such registry shall thereafter be the depository for the United States of data on greenhouse gas emissions and emissions reductions collected from and reported by persons or entities with facilities or operations in the United States, pursuant to the guidelines issued under this title.

(c) PARTICIPATION.—Any person or entity conducting business or activities in the United States may, in accordance with the guidelines established pursuant to this title, voluntarily report its total emissions levels and register its certified emissions reductions with such registry, provided that such reports—

(1) represent a complete and accurate inventory of emissions from facilities and operations within the United States and any domestic or international reduction activities; and

(2) have been verified as accurate by an independent person certified pursuant to guidelines developed pursuant to this title, or other means.

(d) CONFIDENTIALITY OF REPORTS.—Trade secret and commercial or financial information that is privileged and confidential submitted pursuant to activities under this title shall be protected as provided in section 552(b)(4) of title 5, United States Code.

SEC. . IMPLEMENTATION.

(a) GUIDELINES.—Not later than 1 year after the date of establishment of the registry pursuant to this title, the Secretary shall, in consultation with the Interagency Task Force, issue guidelines establishing procedures for the administration of the national registry. Such guidelines shall include—

(1) means and methods for persons or entities to determine, quantify, and report by appropriate and credible means their baseline emissions levels on an annual basis, taking into consideration any reports made by such participants under past Federal programs;

(2) procedures for the use of an independent third-party or other effective verification process for reports on emissions levels and emissions reductions, using the authorities available to the Secretary under this and other provisions of law and taking into account, to the extent possible, costs, risks, the voluntary nature of the registry, and other relevant factors;

(3) a range of reference cases for reporting of project-based reductions in various sectors, and the inclusion of benchmark and default methodologies and practices for use as reference cases for eligible projects;

(4) safeguards to prevent and address reporting, inadvertently or otherwise, of some or all of the same greenhouse gas emissions or reductions by more than one reporting person or entity and to make corrections and adjustments in data where necessary;

(5) procedures and criteria for the review and registration of ownership or holding of all or part of any reported and independently verified emission reduction projects, actions and measures relative to such reported baseline emissions level;

(6) measures or a process for providing to such persons or entitles transferable credits with unique serial numbers for such verified emissions reductions; and

(7) accounting provisions needed to allow for changes in registration and transfer of ownership of such credits resulting from a voluntary private transaction between persons or entities, provided that the Secretary is notified of any such transfer within 30 days of the transfer having been effected either by private contract or market mechanism.

(b) CONSIDERATION.—In developing such guidelines, the Secretary shall take into consideration—

(1) the existing guidelines for voluntary emissions reporting issued under section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b)), experience in apply such guidelines, and any revisions thereof initiated by the Secretary pursuant to direction of the President issued prior to the enactment of this title;

(2) protocols and guidelines developed under any Federal, State, local, or private voluntary greenhouse gas emissions reporting or reduction programs;

(3) the various differences and potential uniqueness of the facilities, operations and business and other relevant practices of persons and entities in the private and public sectors that may be expected to participate in the registry;

(4) issues, such as comparability, that are associated with the reporting of both emissions baselines and reductions from activities and projects; and

(5) the appropriate level or threshold emissions applicable to a facility or activity of a person or entity that may be reasonably and cost effectively identified, measured and reported voluntarily taking into consideration different types of facilities and activities and the de minimis nature of some emissions and their sources; and

(6) any other consideration the Secretary may deem appropriate.

(c) EXPERTS AND CONSULTANTS.—The Secretary, and any member of the Interagency Task Force, may secure the services of experts and consultants in the private and nonprofit sectors in accordance with the provisions of section 3109 of title 5, United States Code, in the areas of greenhouse gas measurement, certification, and emissions trading. In securing such services, any grant, contract, cooperative agreement, or other arrangement authorized by law and already available to the Secretary or the member of the Interagency Task Force securing such services may be used.

(d) TRANSFERABILITY OF PRIOR REPORTS.—Emissions reports and reductions that have been made by a person or entity pursuant to section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b)) or under other Federal or State voluntary greenhouse gas reduction programs may be independently verified and registered with the registry using the same guidelines developed by the Secretary pursuant to this section.

(e) PUBLIC COMMENT.—The Secretary shall make such guidelines available in draft form for public notice and opportunity for comment for a period of at least 90 days, and thereafter shall adopt them for use in implementation of the registry established pursuant to this title.

(f) REVIEW AND REVISION.—The Secretary, through the Interagency Task Force, shall periodically thereafter review the guidelines and, as needed, revise them in the same manner as provided for in this section.

SEC. . VOLUNTARY AGREEMENTS.

(a) IN GENERAL.—In furtherance of the purposes of this title, any person or entity, and the Secretary, may voluntarily enter into an agreement to provide that—

(1) such person or entity (and successors thereto) shall report annually to the registry on emissions and sources of greenhouse gases from applicable facilities and operations which generate net emissions above any de minimis thresholds specified in the guidelines issued by the Secretary pursuant to this title;

(2) such person or entity (and successors thereto) shall commit to report and participate in the registry for a period of at least 5 calendar years, provided that such agreements may be renewed by mutual consent;

(3) for purposes of measuring performance under the agreement, such person or entity (and successors thereto) shall determine, by mutual agreement with the Secretary—

(A) pursuant to the guidelines issued under this title, a baseline emissions level for a representative period preceding the effective date of the agreement; and

(B) emissions reduction goals, taking into consideration the baseline emissions level determined under subparagraph (A) and any relevant economic and operational factors that may affect such baseline emissions level over the duration of the agreement; and

(4) for certified emissions reductions made relative to the baseline emissions level, the Secretary shall provide, at the request of the person or entity, transferable credits (with unique assigned serial numbers) to the person or entity (and successors thereto) which, inter alia,—

(A) can be used by such person or entity towards meeting emissions reductions goals set forth under the agreement;

(B) can be transferred to other persons or entities through a voluntary private transaction between persons or entities; or

(C) shall be applicable towards any incentive, market-based, or regulatory programs determined by the Congress in a future enactment to be necessary and feasible to reduce the risk of climate change and its impacts.

(b) PUBLIC NOTICE AND COMMENT.—At least 30 days before any agreement is final, the Secretary shall give notice thereof in the Federal Register and provide an opportunity for public written comment. After reviewing such comments, the Secretary may withdraw the agreement or the parties thereto may mutually agree to revise it or finalize it without substantive change. Such agreement shall be retained in the national registry and be available to the public.

(c) EMISSIONS IN EXCESS.—In the event that a person or entity fails to certify that emissions from applicable facilities and operations are less than the emissions reduction goals contained in the agreement, such person or entity shall take actions as necessary to reduce such excess emissions, including—

(1) redemption of transferable credits acquired in previous years if owned by the person or entity;

(2) acquisition of transferable credits from other persons or entities participating in the registry through their own agreements; or

(3) the undertaking of additional emissions reductions activities in subsequent years as may be determined by agreement with the Secretary.

(d) NO NEW AUTHORITY.—This section shall not be construed as providing any regulatory or mandate authority regarding reporting of such emissions or reductions.

SEC. . MEASUREMENT AND VERIFICATION.

(a) IN GENERAL.—The Secretary of Commerce, through the National Institute of Standards and Technology and in consultation with the Secretary of Energy, shall develop and propose standards and practices for accurate measurement and verification of greenhouse gas emissions and emissions reductions. Such standards and best practices shall address the need for—

(1) standardized measurement and verification practices for reports made by all persons or entities participating in the registry, taking into account—

(A) existing protocols and standards already in use by persons or entities desiring to participate in the registry;

(B) boundary issues such as leakage and shifted utilization;

(C) avoidance of double-counting of greenhouse gas emissions and emissions reductions; and

(D) such other factors as the panel determines to be appropriate;

(2) measurement and verification of actions taken to reduce, avoid or sequester greenhouse gas emissions;

(3) in coordination with the Secretary of Agriculture, measurement of the results of the use of carbon sequestration and carbon recapture technologies, including—

(A) organic soil carbon sequestration practices;

(B) forest preservation and re-forestation activities which adequately address the issues of permanence, leakage and verification; and

(4) such other measurement and certification standards as the Secretary of Commerce, the Secretary of Agriculture, and the Secretary of Energy shall determine to be appropriate.

(b) PUBLIC COMMENT.—The Secretary of Commerce shall make such standards and practices available in draft form for public notice and opportunity for comment for a period of at least 90 days, and thereafter shall adopt them, in coordination with the Secretary of Energy, for use in the guidelines for implementation of the registry as issued pursuant to this title.

SEC. . CERTIFIED INDEPENDENT THIRD PARTIES.

(a) CERTIFICATION.—The Secretary of Commerce shall, through the Director of the National Institute of Standards and Technology and the Administrator, develop standards for certification of independent persons to act as certified parties to be employed in verifying the accuracy and reliability of reports made under this title, including standards that—

(1) prohibit a certified party from themselves participating in the registry through the ownership or transaction of transferable credits recorded in the registry;

(2) prohibit the receipt by a certified party of compensation in the form of a commission where such party receives payment based on the amount of emissions reductions verified; and

(3) authorize such certified parties to enter into agreements with persons engaged in trading of transferable credits recorded in the registry.

(b) LIST OF CERTIFIED PARTIES.—The Secretary shall maintain and make available to persons or entities making reports under this title and to the public upon request a list of such certified parties and their clients making reports under the title.

SEC. . REPORTS TO CONGRESS.

Not later than 1 year after guidelines are issued for the registry pursuant to this title, and biennially thereafter, the President, through the Interagency Task Force, shall report to the Congress on the status of the registry established by this title. The report shall include—

(a) an assessment of the level of participation in the registry (both by sector and in terms of total national emissions represented);

(b) effectiveness of voluntary reporting agreements in enhancing participation in the registry;

(c) use of the registry for emissions trading and other purposes;

(d) assessment of progress towards individual and national emissions reduction goals; and

(e) an inventory of administrative actions taken or planned to improve the national registry or the guidelines, or both, and such recommendations for legislative changes to this title or section 1605 of the Energy Policy Act of 1992 (42 U.S.C. 13385) as the President believes necessary to better carry out the purposes of this title.

SEC. . REVIEW OF PARTICIPATION.

(a) IN GENERAL.—Not later than 5 years after the date of enactment of this title, the Director of the Office of National Climate Change Policy shall determine whether the reports submitted to the registry represent less than 60 percent of the national aggregate greenhouse gas emissions as inventoried in the official U.S. Inventory of Greenhouse Gas Emissions and Sinks published by the Environmental Protection Agency for the previous calendar year.

(b) MANDATORY REPORTING.—If the Director of the Office of National Climate Change Policy determines under subsection (a) that less than 60 percent of such aggregate greenhouse gas emissions are being reported to the registry—

(1) all persons or entities, regardless of their participation in the registry, shall submit to the Secretary a report that describes, for the preceding calendar year, a complete inventory of greenhouse gas emissions (as reported at the facility level), including—

(A) the total quantity of each greenhouse gas emitted by such person or entity, expressed in terms of mass and in terms of the quantity of carbon dioxide equivalent;

(B) an estimate of the emissions from products manufactured and sold by such person or entity in the previous calendar year, determined over the average lifetime of those products; and

(C) such other categories of emissions as the Secretary determines by regulation to be practicable and useful for the purposes of this title, such as—

(i) direct emissions from stationary sources;

(ii) indirect emissions from imported electricity, heat, and steam;

(iii) process and fugitive emissions; and

(iv) production or importation of greenhouse gases; and

(2) each person or entity shall submit a report described in this section—

(A) not later than the earlier of—

(i) April 30 of the calendar year immediately following the year in which the Director of the Office of National Climate Change Policy makes the determination under subsection (a); or

(ii) the date that is 1 year after the date on which the Director of the Office of National Climate Change Policy makes the determination under subsection (a); and

(B) annually thereafter.

(c) EXEMPTIONS FROM REPORTING.—

(1) IN GENERAL.—A person or entity shall be required to submit reports under subsection (b) only if, in any calendar year after the date of enactment of this title—

(A) the total greenhouse gas emissions of at least 1 facility owned by the person or entity exceeds 10,000 metric tons of carbon dioxide equivalent greenhouse gas (or such greater quantity as may be established by a designated agency by regulation);

(B) the total quantity of greenhouse gas produced, distributed, or imported by the person or entity exceeds 10,000 metric tons of carbon dioxide equivalent greenhouse gas (or such greater quantity as may be established by a designated agency by regulation); or

(C) the person or entity is not a feedlot or other farming operation (as defined in section 101 of title 11, United States Code).

(2) ENTITIES ALREADY REPORTING.—A person or entity that, as of the date of enactment of this title, is required to report carbon dioxide emissions data to a Federal agency shall not be required to report that data again for the purposes of this title. Such emissions data shall be considered to be reported by the entity to the registry for the purpose of this title and included in the determination of the Director of the Office of National Climate Change Policy made under subsection (a).

(d) ENFORCEMENT.—If a person or entity that is required to report greenhouse gas emissions under this section fails to comply with that requirement, the Attorney General may, at the request of the Secretary, bring a civil action in United States district court against the person or entity to impose on the person or entity a civil penalty of not more than $25,000 for each day for which the entity fails to comply with that requirement.

(e) RESOLUTION OF DISAPPROVAL.—If made, the determination of the Director of the Office of National Climate Change Policy made under subsection (a) shall be considered to be a major rule (as defined in section 804(2) of title 5, United States Code) subject to the congressional disapproval procedure under section 802 of title 5, United States Code.

SEC. . NATIONAL ACADEMY REVIEW.

Not later than 1 year after guidelines are issued for the registry pursuant to this title, the Secretary, in consultation with the Interagency Task Force, shall enter into an agreement with the National Academy of Sciences to review the scientific and technological methods, assumptions, and standards used by the Secretary and the Secretary of Commerce for such guidelines and report to the President and the Congress on the results of that review, together with such recommendations as may be appropriate, within 6 months after the effective date of that agreement.

SEC. . INAPPLICABILITY OF TITLE XI OF THIS ACT.

Title XI of this Act shall be null and void.

SA 3368. Mr. CARPER submitted an amendment intended to be proposed by him to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table, as follows:

In Division H, on page 17, line 23, strike ''and'' and all that follows through line 25, and insert the following:

''(3) the new qualified alternative fuel motor vehicle credit determined under subsection (d), and

''(4) the new qualified advanced lean burn technology motor vehicle credit determined under subsection (aa).

''(aa) ADVANCED LEAN BURN TECHNOLOGY MOTOR VEHICLE CREDIT.—

''(1) IN GENERAL.—For purposes of subsection (a), the advanced lean burn technology motor vehicle credit determined under this subsection with respect to a new qualified advanced lean burn technology motor vehicle placed in service by the taxpayer during the taxable year is the credit amount determined under paragraph (2).

''(2) CREDIT AMOUNT.—

''(A) INCREASE FOR FUEL EFFICIENCY.—The credit amount determined under this paragraph shall be—

''(i) $750, if such vehicle achieves at least 125 percent but less than 150 percent of the 2000 model year city fuel economy,

''(ii) $1,250, if such vehicle achieves at least 150 percent but less than 175 percent of the 2000 model year city fuel economy,

''(iii) $1,750, if such vehicle achieves at least 175 percent but less than 200 percent of the 2000 model year city fuel economy,

''(iv) $2,250, if such vehicle achieves at least 200 percent but less than 225 percent of the 2000 model year city fuel economy,

''(v) $2,750, if such vehicle achieves at least 225 percent but less than 250 percent of the 2000 model year city fuel economy, and

''(vi) $3,250, if such vehicle achieves at least 250 percent of the 2000 model year city fuel economy.

''(B) INCREASE FOR LOW EMMISIONS.—The credit amount determined under subparagraph (A) shall be increased by—

''(i) $250, if such vehicle achieves the emission standards equivalent to TIER 2, bin 6,

''(ii) $500, if such vehicle achieves the emission standards equivalent to TIER 2, bin 5,

''(iii) $750, if such vehicle achieves the emission standards equivalent to TIER 2, bin 4,

''(iv) $1,000, if such vehicle achieves the emission standards equivalent to TIER 2, bin 3 or lower.''

SA 3369. Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H (relating to energy tax incentives), strike section 2307.

SA 3370. Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H (relating to energy tax incentives), strike section 2308.

SA 3371. Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H (relating to energy tax incentives), strike section 2311.

SA 3372. Mr. GRAHAM (for himself and Mr. FEINGOLD) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 216, after line 21, add the following:

SEC. ___. LIMITATION ON EFFECTIVE DATES.

Notwithstanding any other provision of this division, no provision of nor any amendment made by this division shall take effect until the date of the enactment of legislation which raises Federal revenues or reduces Federal spending sufficient to offset the Federal budgetary cost of such provisions and amendments for the 10-fiscal year period beginning on October 1, 2002.

SA 3373. Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 216, after line 21, add the following:

SEC. ___. LIMITATION ON EFFECTIVE DATES.

Notwithstanding any other provision of this division, no provision of nor any amendment made by this division shall take effect until the date of the enactment of legislation which raises Federal revenues sufficient to offset the Federal budgetary cost of such provisions and amendments for the 10-fiscal year period beginning on October 1, 2002.

SA 3374. Mrs. LINCOLN submitted an amendment intended to be proposed to amendment SA 3344 submitted by Mrs. LINCOLN and intended to be proposed to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. ___. CLARIFICATION OF EXCISE TAX EXEMPTIONS FOR AGRICULTURAL AERIAL APPLICATORS.

(a) NO WAIVER BY FARM OWNER, TENANT, OR OPERATOR NECESSARY.—Subparagraph (B) of section 6420(c)(4) (relating to certain farming use other than by owner, etc.) is amended to read as follows:

''(B) if the person so using the gasoline is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes.''.

(b) EXEMPTION INCLUDES FUEL USED BETWEEN AIRFIELD AND FARM.—Section 6420(c)(4), as amended by subsection (a), is amended by adding at the end the following new flush sentence:

''For purposes of this paragraph, in the case of an aerial applicator, gasoline shall be treated as used on a farm for farming purposes if the gasoline is used for the direct flight between the airfield and 1 or more farms.''.

(c) EXEMPTION FROM TAX ON AIR TRANSPORTATION OF PERSONS FOR FORESTRY PURPOSES EXTENDED TO FIXED-WING AIRCRAFT.—Subsection (f) of section 4261 (relating to tax on air transportation of persons) is amended to read as follows:

''(f) EXEMPTION FOR CERTAIN USES.—No tax shall be imposed under subsection (a) or (b) on air transportation—

''(1) by helicopter for the purpose of transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas, or

''(2) by helicopter or by fixed-wing aircraft for the purpose of the planting, cultivation, cutting, or transportation of, or caring for, trees (including logging operations),

but only if the helicopter or fixed-wing aircraft does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to section 44509 or 44913(b) or subchapter I of chapter 471 of title 49, United States Code, during such use. In the case of helicopter transportation described in paragraph (1), this subsection shall be applied by treating each flight segment as a distinct flight.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel use or air transportation after the date of enactment, and before January 1, 2004.

SA 3375. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 3336 submitted by Mr. GRAMM and intended to be proposed to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

In Division H, on page 216, after line 21, add the following:

SEC. ___. TREATMENT OF DAIRY PROPERTY.

(a) QUALIFIED DISPOSITION OF DAIRY PROPERTY TREATED AS INVOLUNTARY CONVERSION.—

(1) IN GENERAL.—Section 1033 (relating to involuntary conversions) is amended by designating subsection (k) as subsection (l) and inserting after subsection (j) the following new subsection:

''(k) QUALIFIED DISPOSITION TO IMPLEMENT BOVINE TUBERCULOSIS ERADICATION PROGRAM.—

''(1) IN GENERAL.—For purposes of this subtitle, if a taxpayer elects the application of this subsection to a qualified disposition:

''(A) TREATMENT AS INVOLUNTARY CONVERSION.—Such disposition shall be treated as an involuntary conversion to which this section applies.

''(B) MODIFICATION OF SIMILAR PROPERTY REQUIREMENT.—Property to be held by the taxpayer either for productive use in a trade or business or for investment shall be treated as property similar or related in service or use to the property disposed of.

''(C) EXTENSION OF PERIOD FOR REPLACING PROPERTY.—Subsection (a)(2)(B)(i) shall be applied by substituting '4 years' for '2 years'.

''(D) WAIVER OF UNRELATED PERSON REQUIREMENT.—Subsection (i) (relating to replacement property must be acquired from unrelated person in certain cases) shall not apply.

''(E) EXPANDED CAPITAL GAIN FOR CATTLE AND HORSES.—Section 1231(b)(3)(A) shall be applied by substituting '1 month' for '24 months'.

''(2) QUALIFIED DISPOSITION.—

''(A) IN GENERAL.—For purposes of this subsection, the term 'qualified disposition' means the disposition of dairy property which is certified by the Secretary of Agriculture as having been the subject of an agreement under the bovine tuberculosis eradication program, as implemented pursuant to the Declaration of Emergency Because of Bovine Tuberculosis (65 Federal Register 63,227 (2000)).

''(B) PAYMENTS RECEIVED IN CONNECTION WITH THE BOVINE TUBERCULOSIS ERADICATION PROGRAM.—For purposes of this subsection, any amount received by a taxpayer in connection with an agreement under such bovine tuberculosis eradication program shall be treated as received in a qualified disposition.

''(C) TRANSMITTAL OF CERTIFICATIONS.—The Secretary of Agriculture shall transmit copies of certifications under this paragraph to the Secretary.

''(3) ALLOWANCE OF THE ADJUSTED BASIS OF CERTIFIED DAIRY PROPERTY AS A DEPRECIATION DEDUCTION.—The adjusted basis of any property certified under paragraph (2)(A) shall be allowed as a depreciation deduction under section 167 for the taxable year which includes the date of the certification described in paragraph (2)(A).

''(4) DAIRY PROPERTY.—For purposes of this subsection, the term 'dairy property' means all tangible or intangible property used in connection with a dairy business or a dairy processing plant.

''(5) SPECIAL RULES FOR CERTAIN BUSINESS ORGANIZATIONS.—

''(A) S CORPORATIONS.—In the case of an S corporation, gain on a qualified disposition shall not be treated as recognized for the purposes of section 1374 (relating to tax imposed on certain built-in gains).

''(B) PARTNERSHIPS.—In the case of a partnership which dissolves in anticipation of a qualified disposition (including in anticipation of receiving the amount described in paragraph (2)(B)), the dairy property owned by the partners of such partnership at the time of such disposition shall be treated, for the purposes of this section and notwithstanding any regulation or rule of law, as owned by such partners at the time of such disposition.

''(6) TERMINATION.—This subsection shall not apply to dispositions made after December 31, 2006.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to dispositions made and amounts received in taxable years ending after the date of enactment of this Act.

(b) DEDUCTION OF QUALIFIED RECLAMATION EXPENDITURES.—

(1) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by adding at the end the following new section:

''SEC. 199B. EXPENSING OF DAIRY PROPERTY RECLAMATION COSTS.

''(a) IN GENERAL.—Notwithstanding section 280B (relating to demolition of structures), a taxpayer may elect to treat any qualified reclamation expenditure which is paid or incurred by the taxpayer as an expense which is not chargeable to capital account. Any expenditure which is so treated shall be allowed as a deduction for the taxable year in which it is paid or incurred.

''(b) QUALIFIED RECLAMATION EXPENDITURE.—

''(1) IN GENERAL.—For purposes of this subparagraph, the term 'qualified reclamation expenditure' means amounts otherwise chargeable to capital account and paid or incurred to convert any real property certified under section 1033(k)(2) (relating to qualified disposition) into unimproved land.

''(2) SPECIAL RULE FOR EXPENDITURES FOR DEPRECIABLE PROPERTY.—A rule similar to the rule of section 198(b)(2) (relating to special rule for expenditures for depreciable property) shall apply for purposes of paragraph (1).

''(c) DEDUCTION RECAPTURED AS ORDINARY INCOME.—Rules similar to the rules of section 198(e) (relating to deduction recaptured as ordinary income on sale, etc.) shall apply with respect to any qualified reclamation expenditure.

''(d) TERMINATION.—This section shall not apply to expenditures paid or incurred after December 31, 2006.''.

(2) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

''Sec. 199B. Expensing of dairy property reclamation costs.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to expenditures paid or incurred in taxable years ending after the date of enactment of this Act.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

COMMITTEE ON INDIAN AFFAIRS

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources and the Committee On Indian Affairs be authorized to hold a joint hearing during the session of the Senate on Wednesday, April 24th, 2002, at 2:30 p.m. in SD–366.

The purpose of this hearing is to receive testimony on S. 2018, to establish the T'uf Shur Bien Preservation Trust Area within the Cibola National Forest in the State of New Mexico to resolve a land claim involving the Sandia Mountain Wilderness, and for other purposes.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, April 24, 2002 at 9:30 a.m. to hold a hearing on U.S.-Colombia Foreign Policy.

Agenda

Witnesses

Panel 1: The Honorable Marc Grossman, Under Secretary for Political Affairs, Department of State, Washington, DC; the Honorable Peter W. Rodman, Assistant Secretary for International Security Affairs, Department of Defense, Washington, DC; and Major General Gary D. Speer, USA, Acting Commander in Chief, U.S. Southern Command Miami, FL.

Panel 2: Mr. Mark Schneider, Senior Vice President, International Crisis Group, Washington, DC; and Mr. Jose Miguel Vivanco, Executive Director, Americas Division, Human Rights Watch, Washington, DC.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet in executive session during the session of the Senate on Wednesday, April 24, 2002, at 10 a.m.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, April 24, 2002, at 10 a.m. in room 485 of the Russell Senate Office Building to conduct a hearing on S. 2017, a bill to amend the Indian Financing Act of 1974 to improve the effectiveness of the Indian loan guarantee and insurance program.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, April 24, 2002 at 2:30 p.m. to hold a closed hearing on intelligence matters.

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

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology, and Space be authorized to meet on Wednesday, April 24, 2002, at 2:30 p.m. on Homeland Security and the Technology Sector, S. 2037 and S. 2182.

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

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. REID. Madam President, as in executive session, I ask unanimous consent that immediately following the Pledge of Allegiance tomorrow morning, the Senate proceed to executive session to consider the following nominations: Calendar Nos. 776 and 781; that the Senate vote immediately on the nominations; that the motions to reconsider be laid upon the table; the President be immediately notified of the Senate's action; that any statements therein be printed in the RECORD; and the Senate return to legislative session, with the preceding occurring without any intervening action or debate.

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

Mr. REID. I further ask unanimous consent that it be in order to order the yeas and nays on both the nominations with one show of seconds.

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

Mr. REID. I ask for the yeas and nays on the nominations.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. REID. Madam President, I ask unanimous consent that the time on these two votes be counted against the 30 hours.

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

EXTENDING AUTHORITY OF EXPORT-IMPORT BANK

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of S. 2248 introduced earlier today by Senator SARBANES.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2248) to extend the authority of the Export-Import Bank until May 31, 2002.

There being no objection, the Senate proceeded to the consideration of the bill.

Mr. REID. I ask unanimous consent the bill be read three times, passed, and the motion to reconsider be laid upon the table, without any intervening action or debate.

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

The bill (S. 2248) was read the third time and passed, as follows:

S. 2248

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

SECTION 1. EXTENSION OF EXPORT-IMPORT BANK.

Notwithstanding the dates specified in section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) and section 1(c) of Public Law 103–428, the Export-Import Bank of the United States shall continue to exercise its functions in connection with and in furtherance of its objects and purposes through May 31, 2002.

ORDERS FOR THURSDAY, APRIL 25, 2002

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m., Thursday, April 25; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed to have expired; the time for the two leaders be reserved for their use later in the day; and the Senate proceed to executive session under the previous order; that there be 6 hours remaining under cloture on the Daschle-Bingaman substitute amendment, and that time consumed in executive session count against cloture.

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

PROGRAM

Mr. REID. There will be two rollcall votes beginning at approximately 9:30 a.m. tomorrow morning. Following these votes, the Senate will resume consideration of the energy reform bill. We expect to complete action on the bill Thursday. There will be no question we would complete action on the bill Thursday.

There is a lot to do. We ask the continued cooperation of Members. We have been able to make a lot of headway. Tomorrow is the day we are going to complete action on this bill, which has been around for approximately 6 weeks.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:48 p.m., adjourned until Thursday, April 25, 2002, at 9:30 a.m.

EXTENSIONS OF REMARKS

ST. MARK AME CHURCH CELEBRATES 133 YEARS OF SERVICE IN THE MILWAUKEE COMMUNITY

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. KLECZKA. Mr. Speaker, on April 26, 2002 St. Mark African Methodist Episcopal (A.M.E.) Church will celebrate its 133rd anniversary in Milwaukee, Wisconsin. In 1869, a time when African American's made up less than 1 percent of the city of Milwaukee's population, St. Mark A.M.E. Church was founded in a former site of a German Congregation. Although no longer at that location today, St. Mark is one of the oldest, largest and most influential congregations in Milwaukee.

The A.M.E. Church in the United States was founded out of the Methodist tradition but with its roots in the segregationist attitudes of that period in our history. In 1787, a group of slaves and former slaves in the Philadelphia area withdrew from St. George's Methodist Episcopal Church when they were not permitted to sit with the congregation, but were forced to sit separately in the gallery. They formed their own church, the African Methodist Episcopal (A.M.E.) Church, and committed themselves to living the gospel and adopted the motto of ''God Our Father, Christ Our Redeemer, Man Our Brother.'' After its founding, the A.M.E. church spread quickly throughout the Northern states, and eventually moved into the South after the Civil War.

Eighty-two years after the A.M.E. church's founding in the United States, a group of African American activists came together in Milwaukee, to establish St. Mark. Several of St. Mark founding members had a positive and permanent impact on the African-American Community in Milwaukee and Wisconsin. Mr. Ezekiel Gillespie, a former slave from Georgia who served as chairman of the group that founded St. Mark in 1869, filed a historic lawsuit that eventually led to full suffrage for African-Americans in Wisconsin. The Reverend Eugene Thompson, a former pastor at St. Mark, was one of the founding board members of Columbia Building, which in 1924 began helping African-Americans buy homes in the Milwaukee area.

This history of living one's faith through activism provides the foundation for a legacy of service to the community. Current initiatives and ministries at St. Mark are operated through the Lovell Johnson Quality of Life Center, and include counseling for alcohol and drug abuse; assistance with economic development, education and employment opportunities, as well as environmental preservation. The church also created the Anvil Housing Corporation and was the first African-American congregation in Wisconsin to sponsor senior citizen and disabled housing. St. Mark also fosters public service and patriotism in its youngest members through its sponsorship of Boy Scout and Girl Scout troops.

So it is with great pride that I congratulate the congregation of St. Mark A.M.E. Church and its Pastor, Reverend Michael A. Cousin, on 133 years of giving glory to God by living the gospel and serving our community.

RECOGNIZING THE IMPORTANCE OF RESTORING FOOD STAMPS ELIGIBILITY FOR LEGAL PERMANENT RESIDENTS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. RANGEL. Mr. Speaker, I rise today to recognize the importance of restoring food stamps eligibility to legal permanent residents. In 1996, Congress stripped legal immigrants of eligibility for food stamps and a variety of other benefits. As a step in the right direction, President Bush proposed to restore food stamps benefits to low income legal immigrants. The President's position on this issue makes sense. The food stamps program is a critical safety net that allows working men and women to feed their families during hard times. All a household needs to qualify is a low income. However, thousands of legal resident families go hungry each day.

Legal residents pay taxes and their labor helps drive the economy. Yet, even hard working families may have a difficult time putting food on the table. A recent study by the Urban Institute found that 36 percent of New York City's limited English Proficiency households, during the previous year, had been unable to acquire adequate food at one time or the other. Food stamps can help provide these needy families with a temporary safety net during difficult times. Hunger does not limit itself to U.S. citizenship. Therefore, we should not create a policy to systematically deny food to needy tax paying immigrants in this country.

But when the conferees to the Farm Bill met last week, Republicans did just that. They crafted a food stamp provision that essentially denies benefits to legal permanent residents of the United States, even though this position is in direct opposition to the President's proposal of restoring food stamps to low income immigrants who lived in the U.S. for at least five years. The Republican's food stamp proposal is much more restrictive and would severely limit legal resident's eligibility and basically punish them for being non-citizens. It is unfortunate that the President's own party is undermining a bi-partisan efforts to help feed the working poor.

Recently, Republicans fashioned themselves as being pro-Hispanics. At the same time the Republicans were courting the Hispanic vote, they were cutting assistance that would help needy working legal immigrant families put food on the table. Democrats have fought for equal rights and just treatment for immigrants, as well as for restoring benefits to immigrants workers. If Republicans were really concerned about the immigrant community, they would restore food stamps eligibility for legal permanent residents.

HONORING RABBI ISRAEL ZOBERMAN

HON. EDWARD L. SCHROCK

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. SCHROCK. Mr. Speaker, it is with great pleasure that I rise today to honor Rabbi Israel Zoberman, spiritual leader of Congregation Beth Chaverim in Virginia Beach. He is also the President of the Hampton Roads Board of Rabbis, and Chairman of the Community Relations Council of the United Jewish Federation of Tidewater. I would like to share the following article that was written by Rabbi Zoberman and appeared in the Virginian-Pilot on April 12, 2002.

AN OPEN LETTER TO CHAIRMAN ARAFAT ON THE OCCASION OF ISRAEL'S 54TH ANNIVERSARY

Your present living accommodations are a far cry from a past of world capitals hopping. However, you are reliving the ''glorious'' 1982 days in Lebanon under siege by the same Sharon encircling you again. In truth, you are both caged in as long as there is no peace for your respective peoples.

You itched to duel again (for the last time?) with your old nemesis, otherwise how explain the Second Intifada following Sharon's visit to the Temple Mount. You trapped each other; he aroused you enough for a pretext of rash action, yet you catapulted him to become a Prime Minister! Soon you may have the time to check out for yourself the over 800 references to Jerusalem in the Hebrew Bible, but why doesn't your Koran mention it even once?

I wanted to believe that you transformed yourself from the terrorist you were—a freedom fighter to you—to a statesman representing a long-enduring people abused as a pawn by its Arab brethren. Your partner to the sacred opportunity and responsibility was an Israel weary of wars imposed upon it, yearning for normalcy and that elusive peace it has sought all along. When entering into official peace with Egypt, entailing painful compromises, it was Sharon as Defense Minister who dismantled the Israeli town of Yaniit. I resisted those doubtful of your famous handshake's sincerity with martyred Rabin—it cost him his life—when signing the 1993 Oslo Accords on that beautiful day at the White House, facing a breathless world celebrating a hopeful beginning. Remember the reward of a Nobel Peace Prize? How have you fallen, Ya Raees .

Of course, the murder of your friend Rabin by a Jewish zealot profoundly affected you for you were justly proud of ''the peace of the brave'' with your ''brother'' Rabin. Then came vicious terrorist attacks on Israelis by Muslin extremists who opposed your peace, and Israel's political power in the only Middle East democracy shifted to the Right. Netanyahu, the victor with an American accent, claimed you were not sincere (were you?) and that Israel risked too much. He

lost the confidence of the Israeli voter in the absence of peace progress, facilitating the Left's comeback with Barak at the helm. Barak miscalculated, focusing on the Syrian track and neglected to develop the same bond you enjoyed with his mentor Rabin. I empathized with your changed status, but as a leader you should have stuck to your people's welfare. Finally when Barak took a visionary and valiant step beyond Israeli premiers before him, with President Clinton's enormous input and personal stake, you simply walked away from the deal of your life. Abandoning your cause of peace, you inexplicably chose the path of violence of your own Arab enemies.

Didn't you realize that indiscriminate suicide bombings with no moral inhibitions, wreaking havoc on Israeli civilians could not indefinitely be tolerated? Did you try to trigger Sharon into a harsh response, gaining from it? Well, he held back, though no nation would have delayed a far more severe answer, particularly an Arab state unencumbered by that democratic stuff and the Judeo-Christian all-consuming regard for a single human life. Why not allow your youth to grow up as God intended them instead of sacrificing your people's future on the revived pagan altars of demonic hate. When Israeli families sat down for a Passover Seder (ironically it's about freedom and standing up to terrorism) at that doomed hotel in Netanya, you greeted them with a massacre. That proved the turning point and you really cannot blame Sharon, you gave him no choice.

Oh yes, an event called September 11 shook great America and President Bush declared a global war on terrorism. Did the Palestinians have to cheer when we were so diabolically attacked as they also did during the 1991 Gulf War in support of Saddam Hussein who underwrites your suicide bombers, always backing evil-doers and losers? Though fifteen of the nineteen hijackers were Arabs, you failed to halt that ship of arms from Iran, and carelessly leaving your signature on incriminating terrorist documents. It is clearer now that the line of American defense and civilization's survival run in Israel, and the unimaginable demise of that small but determined democracy would signal America's fall and both linked propositions are preposterous. Perceived weakness invites the bullies' aggression. The world is yet to accept an Israel that is not the traditional Jewish victim, with Israel bashing the new anti-Semitism. The shameful specter of burning synagogues has returned to a hypocritical Europe.

Lastly, before Israel celebrates at this season its hard-won independence after two millennia of powerlessness and persecution, it pauses to recall a Holocaust you seem to care little about and I cannot forget for I am son of survivors. That monumental tragedy gave the final push for Israel's rebirth, etching forever upon Jewish consciousness the call, ''Never Again''. Do you see why doves like me feel betrayed by the ''new Arafat'', concerned about creating a hostile twenty-third Arab state so close to the only Jewish state? There is one word we Jews have never dared erase even in our darkest hours and we had many of them, for it is our ultimate weapon. Guess, Arafat, it is ''Shalom''.

ELWYN, INC'S 150TH ANNIVERSARY

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. WELDON of Pennsylvania. Mr. Speaker, I want to pay tribute and honor the accomplishments of Elwyn, Inc. on its 150th Anniversary Year of exemplary service to people with special needs in Pennsylvania.

Elwyn, Inc. is among the oldest and largest human services organizations in the nation. Founded in 1852 in the Germantown section of Philadelphia by James B. Richards, a teacher, and Dr. Alfred L. Elwyn, a physician, Elwyn is now a community-based network of programs headquartered in Middletown Township, Delaware County, Pennsylvania and serving 12,000 children and adults with disabilities and disadvantages each year in Delaware, New Jersey, California and Pennsylvania.

I salute Elwyn, Inc. on the outstanding role it has played in teaching people with disabilities and disadvantages how to be as productive and independent as possible. The longevity of the organization is a testament to its deeply committed staff, board members, families and financial supporters who all play an essential role in the ongoing evolution of the collective energy focused on helping people with special needs. I join with the residents of the 7th Congressional District of Pennsylvania in celebrating Elwyn, Inc.'s 150 years of making a difference.

I would like to include a brief history of Elwyn to be printed at this point.

THE HISTORY OF ELWYN

In 1852, James B. Richards, a teacher, came to Philadelphia and opened a private school for ''mental defectives'' on School Lane in Germantown. He enlisted the sympathies of Dr. Alfred L. Elwyn, a physician, and together they were able to arouse interest in the endeavor in Philadelphia. Their efforts led, in 1854, to the incorporation of The Pennsylvania Training School for Idiotic and Feeble-minded Children, later renamed the Elwyn School. An appropriation from the Commonwealth of Pennsylvania of $10,000 and provisions for ten students were obtained. The school and its 17 students were moved to Woodland Avenue in 1855. Edouard Seguin, then a political refugee from France, was appointed educational director the following year.

Before the end of the decade, dissension and financial difficulties threatened to close the new school. Richards retired from the field of special education. Dr. Joseph Parrish was appointed Superintendent and was able to bring about financial stability. An additional appropriation of $20,000 by the legislature for buildings provided an opportunity for expansion and the search for a permanent location began. Dorothea Dix, who had paved the way for humanitarian treatment of both the mentally ill and mentally retarded in Massachusetts, assisted in choosing a new site, fifteen miles south of Philadelphia at Media. Miss Dix was instrumental in securing state appropriations for the new campus.

In 1857, the cornerstone of the main building was laid, and the new school was dedicated to the shelter, instruction, and improvement of mentally retarded children. On September 1, the entire school and its 25 children, attendants, and teachers were loaded into two Conestoga wagons and brought to their new quarters. The formal opening took place on November 2, 1859.

In the early days, Elwyn was a simple, insular, self-contained, and self-sustaining community. The emphasis at Elwyn, and at institutions across the nation, was on segregating people with mental retardation and providing them with care away from the community, for life. In the 1960s, Elwyn began to turn away from the closed institution model, moving toward helping people with disabilities to live and achieve their fullest potential within the larger community.

In 1969, Elwyn established a rehabilitation center in West Philadelphia. Delaware Elwyn in Wilmington and California Elwyn in Fountain Valley opened their doors to the community in 1974. In 1981, the Training School at Vineland in New Jersey came under Elwyn's management, and in 1984, Elwyn initiated programs for both Palestinians and Israelis in Jerusalem, Israel.

Today, under the leadership of Sandra S. Cornelius, Ph.D., the eighth president of Elwyn, the agency continues to lead the way by developing innovative, dynamic programs for adults and children with physical and mental disabilities, mental illness and socioeconomic disadvantages. The new century finds Elwyn with an expanded continuum of care, offering new services in the areas of juvenile justice, child welfare, mental health and case management, and a strong resolve to help people build better lives long into the future.

THE GOOD PEOPLE, GOOD GOVERNMENT ACT

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mrs. MORELLA. Mr. Speaker, I rise today to introduce the ''Good People, Good Government Act.'' This legislation is the first step in addressing the pressing human capital needs of the federal government. The human capital issue, first deemed the ''quiet crisis'' twelve years ago by the Volcker Commission, has now become the central concern for federal agencies.

More than half—53 percent—of the federal workforce will be eligible to retire in the next five years. This includes 71 percent of the government's senior managers—those specialists and supervisors who ensure that government accomplishes its critical missions on behalf of the nation.

These talented people provide a myriad of services, including protecting the air we breathe, the food we eat, and our shores against terrorism.

It is our duty in Congress to ensure that we have qualified people ready to take their place once they begin to retire while also retaining the people we currently have to ensure that there is no significant decline in the quality of service that our federal government provides.

Right now, we have an opportunity to do exactly that.

After September 11, the American people learned the essential role that civil servants play in all our lives.

There was a collective understanding that a nation is only as strong as the people who serve it and that ''the bureaucrats in Washington, DC'' are working for us, not despite us.

This renewed pride in public service translated to a renewed interest in seeking employment with the federal government.

We, in Congress, must capitalize on this interest. My legislation attempts to do just that.

The first title of the bill would establish a Chief Human Capital Officer (CHCO) in each executive agency and strengthens the authority and credibility of federal human resources directors. The structure of the position would be similar to that of the Chief Financial Officer

(CFO) or Chief Information Officer (CIO) established in the 1990s.

For years, human resources bureaus and directors have not been given the authority or respect needed to provide federal employees with the tools and empowerment they need. This new office in the federal government's largest agencies will help address this problem. In each agency, the CHCO would be authorized to: (1) set the agency's workforce development strategy; (2) assess current workforce characteristics and future needs based on the strategic plan and mission; (3) align human resources policies with organization mission, strategic goals and performance outcomes, (4) develop and champion a culture of continuous learning to attract and retain top talent; (5) identify best practices and benchmarking studies; and, (6) create systems for measuring intellectual capital and identifying its links to organizational performance and growth.

In addition, this section of the bill would also give congressional support to the establishment of a Chief Human Capital Officers Council, similar to the CFO and CIO Councils. The Council would meet periodically to advise and coordinate the activities of agencies on a variety of human capital issues, such as: modernization of human resources systems; improved quality of human resources information; and legislation affecting human resources operations and organizations.

The second section of the bill focuses on employee training, recruitment, and retention.

This section would make several changes to enhance the institutional manner in which employees are trained and recruited in the federal government. Many of these responsibilities would fall under the purview of the Chief Human Capital Officer described above.

It would require agencies to link training and recruiting activities with performance plans and strategic goals. Agencies should clearly articulate how their training and recruiting helps to accomplish the agency's mission.

This section would also require agencies to maintain detailed records of their training and recruitment activities, as agencies cannot adequately plan future activities if they have no reliable records of past actions.

This section also includes a measure to help federal agencies retain workers by increasing the government contribution for Federal employee health insurance. If the Federal Government cannot match the salaries of the private sector, it can at least attempt to match or upgrade the benefits available to civil servants.

This legislation should be the first step of this Congress in recognizing that our human capital is essential to the proper functioning of this government.

We must translate this into a policy that recognizes the primacy of people in running an effective, efficient organization.

And we must act quickly because a great nation cannot rely on national emergencies to fill the ranks of its civil service.

Things will—as they must—eventually return to something like normal. The flood of resumes will slow to a trickle. Some of the idealistic new recruits will leave before the year is out, disillusioned by the reality of government service. Some longer-term employees will also leave, out of frustration or because they finally got one too many better offers.

Without a concerted effort to recruit talent, and a serious look at how to make the federal government a better place to work, government will be left with two equally unpalatable choices: Replace the retirees with less competent workers, or don't replace them at all. This country can't afford to do either.

Our civil service is the reason that America is the greatest nation in the world today but that could change if we do not do something about the recruitment and retention crisis that faces it. Fortunately, people have realized what our federal government can do and how rewarding public service can be.

It is our job to follow-up.

REMEMBERING ELIZABETH LESLIE STONE

HON. ED WHITFIELD

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. WHITFIELD. Mr. Speaker, I rise today in remembrance of Elizabeth Leslie Stone who passed away Friday, September 7, 2001 at the age of 15. She was the daughter of Wilson Lee Stone and Lanna Jo Stinson Stone and sister of Catherine Stone of Scottsville, Kentucky. Although Elizabeth was only with us for a short time, her memory lives on through her family and friends in Scottsville, Kentucky.

Elizabeth was an active leader for her peers at Allen County-Scottsville High School. She served on the Student Council as the Freshman Class Vice-President and was also elected to represent her class as ''Miss Freshman''. Throughout the duration of her illness, she remained a loyal friend and role-model for her classmates. One of her truly remarkable talents was her ability to play the clarinet. As a member of the Allen County-Scottsville High Patriot Marching Band, she achieved First Chair All State Clarinet. Her family remembers her main goal as wanting to return to school to play her clarinet in the band. Elizabeth was truly happiest when bringing the joy of music to others.

As a devoted member of the Scottsville Church of Christ, Elizabeth found strength in her faith. Her mother remembers her as learning to see the world in such a way that she found the good in everyone and everything and tried to love the blemishes that inflicted others. Elizabeth's perspective should serve as a lesson for everyone in hopes that we may find happiness regardless of life's many difficulties.

Elizabeth also had a special interest in our government and hoped to come to Washington, D.C. to work as a page. Although she was not able to fulfill this dream, I know she would have made an excellent addition to the page program and would have served her country and Kentucky's First District with patriotism and pride.

Although our time with Elizabeth was cut tragically short, she will always be remembered for her love of family and friends, commitment to her community and zest for life. Elizabeth brought happiness and meaning to the lives of those who were lucky enough to have known her. As she is grieved, her family knows that her spirit has returned to God and that she is smiling down on the world watching over her loved ones.

IN HONOR OF WE THE PEOPLE . . . STUDENT PARTICIPANTS AT HIGHLANDS HIGH SCHOOL, FORT THOMAS, KY

HON. KEN LUCAS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. LUCAS of Kentucky. Mr. Speaker, I rise today in recognition of some outstanding students at Highlands High School in Fort Thomas, located in Kentucky's Fourth Congressional District.

Specifically, I would like to congratulate the Kentucky state champions of the We the People . . . program and I salute the young scholars who will represent the state of Kentucky in the upcoming three-day national event in Washington, D.C. These outstanding students have worked hard to reach the national finals. Their hard work has led to a deeper understanding of the basic principles and values of our constitutional democracy.

In the aftermath of September 11, it is heartening to see these young people promote the fundamental principles of our government. These are ideas that connect us as Americans and bind us together as a nation. It is imperative that our next generation comprehends the importance of these values and principles, which we hold as standards in our endeavor to preserve and realize the promise of our constitutional democracy.

As these students prepare for the upcoming national competition, I wish them the best of luck. The students of Highlands High School have made Kentucky's Fourth Congressional District proud and I am glad I have the opportunity to honor such fine and promising young individuals. Particularly, I want to acknowledge the students—Jessica Horner, Rachel Wallingford, Lexie Dressman, Alexa Summe, Jackie Konen, Lyndsey Hering, Karsten Head, Jamie Baker, Andrew Shipp, Ethan Davis, Megan O'Keefe, Gina Maggio, Brian Healy, Cassie Burke, Jacob Krebs, Andrew Weitze, Chris Hazelwood, Kurt Herschede, Josh Edmondson, Joe Giancola, Jack Altekruse, and Cassie Burke.

I ask my colleagues to join me in commending these outstanding students and their teacher, Brian Robinson.

HONORING THOMAS V. DOOLEY, PRESIDENT, MIDDLESEX COUNTY CENTRAL LABOR COUNCIL, PAPER, ALLIED INDUSTRIAL, CHEMICAL AND ENERGY WORKER INTERNATIONAL UNION

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. PALLONE. Mr. Speaker, it is my great pleasure to rise today to honor a man who has spent more than 35 years fighting for the rights and representing the interests of working men and women in Central New Jersey.

Recently, Thomas V. Dooley retired as President of the Middlesex County Central Labor Council and from the Paper, Allied Industrial, Chemical and Energy Worker International Union.

Mr. Dooley has spent the better part of his life in service to the labor movement and his community. Throughout his career he has served as International Representative, President, Vice President, and Legislative Coordinator to various Labor organizations.

Active in numerous charitable organizations, Mr. Dooley is a member of the Board of Directors of New Brunswick Tomorrow, the Vice President of the David B. Crabiel Scholarship Foundations, and the Assistant Treasurer of the Middlesex County Board of Social Services. He has also been actively involved with the Middlesex County Heart Association, Middlesex County Open Space and Recreation Advisory Board, the United Way, and various religious organizations including the Diocese of Metuchen and St. Peter's Parish.

Mr. Dooley has also been very active in the Irish American community as a member of the Friendly Sons of the Shillelagh of the Jersey Shore, Friendly Sons of St. Patrick of Central New Jersey, and the Ocean County Emerald Society. Just this year the Ancient Order of Hibernians in America named him Irishman of the Year.

With Thomas Dooley's retirement, the Middlesex County Central Labor Council and PACEIU will be losing a worker, a family man, and a leader in the labor community. I want to offer my congratulations and thanks for his outstanding years of service. His hard work and dedication to the labor movement and his community will be sorely missed.

TRIBUTE TO SHAMONG TOWNSHIP

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. SAXTON. Mr. Speaker, I rise today to pay tribute to Shamong Township, Burlington County, New Jersey as it celebrates its 150th Anniversary of Incorporation.

Shamong is an Indian name meaning ''place of the horn,'' so named for the abundance of deer that supplied both food and clothing for the Native Americans living or visiting there for centuries.

Named Brotherton in 1758 when 3,285 acres were set aside for an Indian reservation, all remaining Indians south of the Raritan River were invited to reside there. Native Americans were encouraged to work in the mills then found in the area, thus bringing the areas most popular name, Indian Mills. The reservation was returned to the government in 1801 when the majority of the Indians moved to New York State and joined with the Oneidas.

Farming has long been the most prevalent of Shamong's enterprises, and has long provided a livelihood for its residents.

As a political entity, Shamong Township was formed in February, 1852 from parts of Medford, Southampton and Washington Townships. It was larger then, but soon gave ground to Woodland Township in 1866, and Tabernacle Township in 1901. Some of its former size was regained in 1902 when portions of Atlantic and Camden counties were annexed.

Shamong Township lies near the geographic center of the megalopolis extending from Boston to Richmond. In the heart of the Pinelands, a U.S. Biosphere Reserve, Shamong is home to the history and lore of the Pines. The woodlands are largely a part of the Wharton Tract and are state-owned. Its farms are still productive. New residential areas are planned, while industry and business seek their place in the community as well.

I congratulate Shamong Township and its residents for one and one-half centuries of the embodiment of rural life, and join their celebration of their history.

A TRIBUTE TO MR. DONALD SMITH

HON. JOHN E. SWEENEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. SWEENEY. Mr. Speaker, I would like to take this opportunity to pay honor to a great man. In the aftermath of the September 11th terrorist attacks, we have learned the true definition of a hero. A hero is a person who risks his life every day for the sake of helping others. Donald Smith fits that definition. Mr. Smith served for more than 40 years as a member of the Fort Ann, New York, Volunteer Fire Company and West Fort Ann, New York, Volunteer Fire Company. His service to the community of Fort Ann and the 22d district of New York deserves recognition.

Mr. Speaker, Donald Smith was the epitome of dedication. He worked tirelessly in all activities of the fire company, whether it was responding to a call, conducting a fundraiser, or simply washing one of the fire trucks. He played a vital role in training new firefighters and served as a leader for all to follow. His reliability to the company was unparalleled. No matter what needed to be done, Mr. Smith was always one of the first to respond.

Mr. Speaker, Donald Smith was a member of the West Fort Ann Volunteer Fire Company for only three years before his passing. His service to the company was best exemplified through his constant selflessness. He did not attend one of the company's annual banquets, because he felt that due to his short time with the company, he did not deserve to attend for free. His dedication and tireless efforts however, will not go unrecognized. On May 26, 2002, Mr. Smith will be honored with the Firefighter of the Year award at the West Fort Ann Volunteer Fire Company's annual banquet. This is a great honor to a distinguished individual, who made a great impression on the community and all those he touched and served.

Mr. Speaker, the life of Donald Smith deserves to be recognized. I truly feel that the amount of service one dedicates to the community truly measures the extent of one's character. Risking one's life for the sake of helping others is extremely admirable. What is most striking though, is that Mr. Smith was a volunteer firefighter. He committed these brave and courageous acts day in and day out without compensation or reward for them. His motivation was simply the desire to assist those in his community. Donald Smith was a dedicated firefighter and a true hero, Mr. Speaker, and I ask all members to join me in paying tribute to him.

PERSONAL EXPLANATION

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. ROGERS of Kentucky. Mr. Speaker, on Thursday, April 18, 2002, I was in Somerset, Kentucky attending the funeral services for a dear friend of mine, Pulaski County Sheriff Sam Catron. As such, I was not present for rollcall votes #99–103. The votes were on the approval of the journal, a motion to instruct conferees on the farm security bill, and consideration of H.R. 586, the Tax Relief Guarantee Act of 2002. Had I been present, I would have voted yea on rollcalls #99, 101, 102, 103, and nay on rollcall #100.

CONGRATULATING ''CLUB 60,'' ONE OF THE OLDEST SENIOR CITIZENS CLUBS IN NEW YORK STATE

HON. SUE W. KELLY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mrs. KELLY. Mr. Speaker, I rise today to honor the 50th anniversary of the founding of ''Club 60,'' an organization that promotes social, intellectual and recreational activities for the senior citizens in the Town of Poughkeepsie. In March 1952, the Women's City and Country Club became interested in establishing clubs for the aging. At that same time, Chairman of the New York State Joint Legislature Committee on Problems of the Aging, Thomas C. Desmond, contacted all the mayors of cities and towns and urged them to proclaim May 1952 as the First Senior Citizens Month. The Mayor of the City of Poughkeepsie complied and May 1952 became the first Senior Citizens Month in the town with the formation of this senior 60 group.

Since that first meeting where 25 members came to play games, talk and enjoy a cup of tea, the club has grown to include over 140 seniors today. At the beginning, without much guidance, their aim was to merely get people there and have the type of meetings seniors would be interested in coming back to. Like any other organization, Club 60 has grown tremendously over the years. Not only do members elect their own officers in May of each year, but they now have a constitution and bylaws, as well as weekly business meetings. The seniors, who pride themselves on being self-supporting are encouraged to make their own decisions and plan their own programs. This has aided in continuing some of the members youthful pleasures and enjoyments such as ceramics and painting classes. Keeping active is crucial to both their physical and mental well-being. From day trips, to picnics and annual dinners, this elderly club provides companionship opportunities that seniors wouldn't necessarily have if they did not belong to this group.

It is satisfying to see other clubs for senior citizens are forming around the country. As people are living longer, it is important we continue to promote educational and recreational opportunities for those over 60. A gathering place, such as Club 60, where the

elderly come together to recreate, share hobbies and common interests will certainly enhance their quality of life. For 50 years, this senior citizen group has provided opportunities to meet new friends, develop new interests and socialize with peers. For all their efforts, my fellow colleagues, please join me in honoring Club 60, an organization that has been instrumental in meeting the social, physical and mental needs of our senior citizens.

TRIBUTE TO LAKE CITY, FLORIDA'S USO SHOW PERFORMED BY MEMBERS OF THE AMERICAN LEGION AUXILIARY UNIT 57 AND AMERICAN LEGION POST 57, DEPARTMENT OF FLORIDA

HON. KAREN L. THURMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mrs. THURMAN. Mr. Speaker, I am here today to pay tribute to a wonderful group of men and women in Lake City, Florida who started their own local USO troupe called Reflections of the USO and are delighting audiences near and far. The 16 members that make up the two performing groups—called the Eloquence and the Sweethearts—are all members of the American Legion Auxiliary Unit 57 or the American Legion Post 57, Department of Florida. As part of their USO show, they wear spirited costumes from the 1950s and '60s and lip synch oldies but goodies once performed by entertainers with the United Service Organization (the USO) for our troops overseas.

In celebration of the USO's 60th birthday, the Lake City group performed a special Valentine's Day dance featuring memorable tunes like Boogie Woogie Bugle Boy. They raised $300 that night, which the group generously donated to the USO. Since then, the group has continued to entertain audiences throughout the community and state at Lake City Community College, the VA Hospital, the Shriners and a nursing home in Orlando. They've even performed during Elder Day at the state Capitol in Tallahassee.

I'm so proud of them, and their tremendous spirit, enthusiasm and patriotism. Mr. Speaker, please join me in recognizing the following individuals who are part of this unique mission to rekindle the memory of the USO and to keep its work alive: Ginger Fitzgerald; Pat Barriteau; Annette Burnham; Larry Burnham; Gaynell Burnham; Betty Jo Henderson; Wanda Procoplo; Sandy Reeves; Paula Schuck; Pat Priest; Barbara Reppert; Carol Underhill; Alberto Marriott; Mark Thomas; Phillip Hearne; Randy Sweet and Marian Wyman.

I would also like to submit for the Record a history of the group called ''A Small Flower'' written by troupe member, Patricia Barriteau, who is also the Unit National Security Chairman of the American Legion Auxiliary Unit 57.

A SMALL FLOWER

Like a seed that blossoms into a beautiful flower, a small project within our Auxiliary blossomed beyond belief The spirit of the holidays and the challenge to fill the dance hall for our Holly Ball was the beginning. Someone said, ''Let's sing some songs when the band takes a break.'' Eyes rolled and heads wagged. I thought to myself, 'How ridiculous; I've got the voice of a frog.' But six members took the challenge, and little did they know what was in store.

The first undertaking was to decide exactly what we were going to do. This was the point when we discovered that no one could really sing. So we decided instead to choose a few select songs from the past that brought back memories and lip synch. Among the original songs were Boogie Woogie Bugle Boy, Soldier Boy and God Bless The USA. We wore red, white and blue dresses, shiny fabric with long gloves and high heels. Finally, opening night arrived and we were a hit.

We started planning for the Annual Sweetheart Dance soon after the first of the year. Enthusiasm was high so we decided to entertain at the dance. By now, there was a name for the group: The Eloquence. It was time to make the program a little longer so we added two new acts: The Sweethearts, performing Sincerely and Dedicated To The One I Love and Kate Smith with God Bless America.

Four women make up The Sweethearts. They wear dark pants, white shirts, sequined red vests, cummerbunds and red bow ties. As for Kate Smith, she wears her signature black dress with a sweetheart neck and a long lovely silk handkerchief. She is truly a vision of her early days. Also, a member of the Sons of the American Legion joined the ranks in his army fatigues. He'd Join in Boogie Woogie Bugle Boy and Hang On Sloopy.

The birth of the USO show came about in somewhat of a similar manner. Out of somewhere a voice said, ''We look like a USO troupe!'' and another said, ''Let's build that up.'' We'll take up a collection for the USO. And before you know it, WWII, Korean War and Vietnam-era songs were being practiced and remembered. We gathered information about the USO from the Internet, the library and the encyclopedia, wrote a history of the USO that would serve as the opening to the show.

The night of the Sweetheart Dance arrived, and we had the jitters. So the District Chaplain had us take hands, bow our heads and ask God to help us through this without making fools of ourselves. We walked onto stage and to our surprise there were more than 350 people in the hall. Thankfully, the show went off without a hitch, and after all expenses, we made $300, which we sent to the USO in the name of American Legion Auxiliary Unit 57, Lake City, Florida.

Soon, we received numerous invitations to perform. We were asked to entertain for the residents of the Veterans Home in Lake City. We performed at a luncheon for senior citizens from five surrounding counties at the request of the local chapter of the Florida Association of Community Colleges. By now, the telephone calls were streaming in. Could we perform for the Shriners in May to raise more money for the USO? How about coming to the VA Hospital in April? Can you make it to some of the local festivals? Can you entertain at the Veterans of Foreign Wars Post Home? That would be another place where we can take up a collection for the USO. It seemed as if everyone knew about the American Legion Auxiliary USO presentation. We recognized veterans in the community at every program. The most outstanding request of all came when we were asked to appear in Tallahassee in the Rotunda at the Capitol on April 19.

Our local USO dance troupe of the American Legion Auxiliary Unit 57, Florida, is doing more than preserving an old pastime. We are rekindling a love of our country and recognizing our veterans for a job well done. We are also collecting donations for the USO so that they will be able to continue to make life a little better for our young men and women in the military who serve our country so dutiftilly here and around the world.

This project has truly turned into a very big red poppy.

TREATMENT FOR PROSTATE CANCER

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. KENNEDY of Rhode Island. Mr. Speaker, I wish to insert into the RECORD a study published by Health Policy R&D. The study investigates the promise of the use of brachytherapy as a treatment for prostate cancer.

STUDY SUMMARY—BRACHYTHERAPY: A DESIRABLE AND COST EFFECTIVE OPTION FOR THE TREATMENT OF PROSTATE CANCER

Brachytherapy (pronounced ''brake-e-therapy'') is a cancer therapy that offers individuals with prostate cancer an effective treatment with lower risks of potentially devastating side effects than the leading clinical alternatives. Brachytherapy is a form of radiation treatment in which a radioactive isotope—or ''seed''—is inserted directly into a patient's prostate. Nearly 200,000 men are diagnosed with prostate cancer each year.

This study has been prepared to educate individuals about brachytherapy with hard data and facts. It provides an overview of the science behind brachytherapy, its clinical impact, the relative cost advantages it offers and the improved quality of life it offers to prostate cancer survivors.

This study reveals that if just one in eight men diagnosed with prostate cancer chose brachytherapy over radical prostatectomy, our health care system would save nearly $93 million annually in direct treatment costs, based on Medicare data. Society would save an additional $46 million by avoiding expensive complications and lost work time.

Clinical Advantages of Brachytherapy—Lower Rates of Serious Side Effects: Typically a 45-minute outpatient procedure, brachytherapy treats early-stage prostate cancer as well as or better than the alternatives of radical prostatectomy (surgical excision of the prostate) and external beam radiation. In addition, complications occur less frequently in brachytherapy than with radical prostatectomy (still the most common treatment), including—lower risks of erectile dysfunction (also known as impotence), lower risks of urinary incontinence, lower risks of other significant complications, including surgical mortality.

Cost-Effectiveness of Brachytherapy: Brachytherapy offers not only clinically effective treatment, but also cost-effective treatment. Specifically, brachytherapy offers two tiers of cost savings: lower direct treatment costs than radical prostatectomy and lower indirect costs for treatment and mitigation of serious complications.

This study considers the costs that could be avoided annually if just one in eight men of the nearly 200,000 men annually diagnosed with prostate cancer chose brachytherapy over the most common alternative: surgical removal of the prostate. The resulting savings breaks down as follows: $93 million in direct savings for direct treatment costs, $21.3 million in treatment costs for erectile dysfunction, $14.6 million in costs to address urinary incontinence, $25 million for lost productivity.

The assumptions in this study are conservative. The estimate of savings due to brachytherapy would be even higher if additional considerations were quantified, such

as loss of life from surgical mortality or deteriorations in quality of life from various complications due to radical prostatectomy.

THE INTRODUCTION OF THE ACADEMIC EXCELLENCE AND ENVIRONMENTAL SCIENCES ACT OF 2002

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Ms. NORTON. Mr. Speaker, Monday was Earth Day, marking the 32nd anniversary of an annual commemoration that has served a very useful purpose. I have chosen to commemorate Earth Day Week by encouraging this Congress to do more to protect the earth every day. I am introducing the Academic Excellence and Environmental Sciences Act. My bill seeks to encourage academic rigor in scientific education by beginning at the lower grades through the study of the environmental sciences and the use of hands-on recycling.

The bill would provide grants to local school systems to encourage them to include in their curricula scientific ideas based on conserving the natural resources children see around them and hands on recycling to make vital connections between knowledge and practice.

This bill has two important goals. The first comes from the difficulty of imparting and explaining scientific ideas and concepts, some of them fairly abstract, to elementary school children, and holding their interest. As a result of this difficulty, in the elementary grades, children are often relegated to ''play science'' that does not prepare them for later scientific learning.

Second, I believe that hands-on recycling will help children cultivate habits that conserve our resources at the same time that it will help concretize their interest in science and their understanding of scientific concepts. By the time many youngsters are exposed to science in high schools, large numbers of them have lost interest or simply are unready for the rigors that are necessary to become proficient.

We are starting too late to capture and hold the interest of our children in science. The country loses because of the reduced pool of scientists and scientific experts. Increasingly, many of the places for science study in our colleges and universities are occupied by young people from abroad, who come here to study science because this country has the best science in the world. Part of the impetus for my bill comes from my experience in recruiting our own D.C. youngsters to the U.S. military academies. I am pressing my own school system, the D.C. public schools, to begin science and math at earlier years so that children acquire a lasting interest in science and become prepared for the rigors of the military academies and other colleges.

Although the major emphasis of my bill is scientific education for young children, I also hope to encourage recycling approaches. I believe that recycling techniques involving children—saving papers and crushing cans and discussing where these materials come from and why they degrade, etc.—will help give meaning to the teaching underlying scientific ideas. Children may be the best messengers for recycling and for saving the environment for future generations. They are the real environmentalists in this society. They have the greatest stake.

If we want scientists, we had best get them before they are turned off, even before junior high school; otherwise they are off to computer games or cable and other interests. If we want to save the environment, we had best begin with our children.

COMMENDING DISTRICT OF COLUMBIA NATIONAL GUARD, THE NATIONAL GUARD BUREAU AND ENTIRE DEPARTMENT OF DEFENSE FOR ASSISTANCE PROVIDED IN RESPONSE TO TERRORIST AND ANTHRAX ATTACKS OF SEPTEMBER AND OCTOBER 2001

SPEECH OF

HON. ALBERT RUSSELL WYNN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 23, 2002

Mr. WYNN. Mr. Speaker, I rise in support of H. Con. Res. 378, commending the District of Columbia's National Guard, the National Guard Bureau, and the Department of Defense for their assistance provided to the United States Capitol Police following the terrorist and anthrax attacks of September and October 2001.

The events of September 11 and the subsequent anthrax attacks, increased dramatically the daily workload on U.S. Capitol Police Officers, requiring them to work longer days under difficult conditions. The heightened state of emergency, coupled with the increased need for counter terrorism training, resulted in the deployment of the D.C. National Guard to patrol the Capitol complex with Capitol Police Officers. The National Guard men and women, I am proud to say, stepped up to the plate and performed admirably. The combined efforts of the United States Capitol Police and National Guard secured the symbol of our Nation, the U.S. Capitol, for Members of Congress, Congressional employees, and most importantly, the American people.

As a cosponsor of H. Con. Res. 378, I will vote in favor of this resolution that gives credit where credit is due—to the National Guard and U.S. Capitol Police. I urge my colleagues to support this resolution.

PERSONAL EXPLANATION

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. BONIOR. Mr. Speaker, due to a delayed flight to Washington, DC from Michigan, I did not arrive in time to cast votes last night. Had I been present, I would have voted ''yes'' on the Dooley Motion to Instruct Conferees on the Farm Security Act, H.R. 2646; ''yes'' on the Baca Motion to Instruct Conferees on the Farm Security Act; and ''yes'' on the Keeping Children and Families Safe Act, H.R. 3839.

TRIBUTE TO DR. WILLIAM P. SEXTON

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. VISCLOSKY. Mr. Speaker, It is with great pleasure and admiration that I congratulate Dr. William P. Sexton, of South Bend, Indiana, as he retires after more than thirty years of devoted service to the University of Notre Dame. I can truly say Dr. Sexton is one of the most dedicated, distinguished and committed citizens I have had the pleasure of knowing. Dr. Sexton will be retiring from the University on June 30, 2002. Notre Dame has certainly been rewarded by the true service and uncompromising loyalty he has displayed to its students, alumni, and community.

A native of Columbus, Ohio, Dr. Sexton earned his bachelor's degree in business administration, his master's degree in industrial management, and his doctorate in administrative management and behavioral sciences at Ohio State University. Dr. Sexton began his teaching career at Notre Dame in 1966, where he taught courses specializing in organizational development, corporate strategy, human behavior and group dynamics.

Dr. Sexton, professor and former chair of management and administrative sciences, currently serves as Vice President for University Relations at Notre Dame. In his role he oversees the University's efforts in community relations, publications, and special events, as well as the Notre Dame Alumni Association and Notre Dame Magazine. Under Dr. Sexton's direction, the University is engaged in the most successful capital campaign in the history of Catholic higher education, which already has surpassed its goal of $767 million.

During his years at Notre Dame, Bill Sexton has demonstrated a sincere love for the community in which he lives. While he has dedicated considerable time and energy to his work, he has always made an extra effort to give back to the community. He has volunteered his time to champion many causes aimed at bringing comfort to those in need of assistance. Throughout the years, Dr. Sexton has served in many different leadership positions and has been very involved in several organizations including: South Bend's Center for the Homeless, St. Joseph's Regional Medical Center, and the Logan Foundation. Additionally, he has conducted numerous management seminars for U.S. government agencies, hospitals, and religious communities and has served as an advisor to several not-for-profit health care systems.

Though Dr. Sexton is dedicated to his career and community, he has never limited his time and love for his family. He and his wife Ann, have six children and thirteen grandchildren, of whom they are immensely proud.

Mr. Speaker, Bill has truly dedicated his life to his God, Country and Notre Dame. He is one of the finest gentlemen I know. I respectfully ask that you and my other distinguished colleagues join me in congratulating Dr. William P. Sexton for his service to the University of Notre Dame. The people at Notre Dame will surely miss his enthusiasm, but we wish him happiness and good health in his well-deserved retirement.

HONORING SANDRA W. HEIMANN AS SHE RECEIVES THE JUVENILE DIABETES RESEARCH FOUNDATION'S 2002 CINCINNATIAN OF THE YEAR AWARD

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. PORTMAN. Mr. Speaker, I rise today to recognize Sandra W. Heimann, a distinguished constituent, who will be honored as the Juvenile Diabetes Research Foundation's (JDRF) 2002 Cincinnatian of the Year at JDRF's Cincinnati Chapter Gala on April 27, 2002. The JDRF Cincinnati chapter has done an excellent job of both raising awareness of the issue of juvenile diabetes and raising needed funds for medical research on this debilitating disease and possible cures.

In selecting Sandy Heimann as this year's honoree, JDRF has chosen well. Sandy is well deserving of this honor. She has worked tirelessly to make our community a better place and has done so quietly, without seeking public recognition for her service.

Sandy is a director of the Drake Planetarium, the Tri-State Foundation, the Cincinnati Zoo, the Medical Center Fund at the University of Cincinnati, and the UCATS, the University of Cincinnati's booster organization. She is a member of the Board of Trustees and Administrative Board of Hyde Park Community United Methodist Church, where she chairs the Endowment Committee. A director emeritus for the Hospice of Cincinnati, in 1998 Sandy received Hospice of Cincinnati's prestigious Donna West Award.

She has served with great distinction on the Bethesda Foundation Board, Downtown Council Board, Fine Arts Board and the Cincinnati Zoo's Center for Reproduction of Endangered Species. Sandy is also a founding member of the Metropolitan Club and co-founder of Cincinnati Aquatics Swim Team.

Sandy has a special interest in higher education. In addition to her work with the University of Cincinnati, she is Vice President of the National Executive Board of the Jefferson Scholar Program at the University of Virginia (UVA), Chairman of the Regional Selection Committee for UVA, and is on the National Selection Committee for Jefferson Scholars. She also served as Chairman of the Parents Committee at UVA.

Currently, Sandy is Vice President of American Financial Corporation and Great American Insurance Company, and is a former director of American Financial Enterprises. She has served American Financial in various management capacities since the company was founded in 1959.

Devoted to her family, Sandy and her husband, Bob, have a son, Rob, and a daughter, Paige. All of us in the Cincinnati area congratulate Sandy Heimann on receiving the JDRF's Cincinnatian of the Year award in recognition of her exemplary service to our region.

HONORING JIM MYERS OF THE TULSA WORLD

HON. BRAD CARSON

OF OKLAHOMA

HON. J.C. WATTS, JR.

OF OKLAHOMA

HON. ERNEST J. ISTOOK, JR.

OF OKLAHOMA

HON. FRANK D. LUCAS

OF OKLAHOMA

HON. WES WATKINS

OF OKLAHOMA

HON. JOHN SULLIVAN

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. CARSON of Oklahoma. Mr. Speaker, we as the Congressional delegation from the great state of Oklahoma rise today to extend our congratulations to an individual who is responsible for informing our constituents in Oklahoma of the work we are performing on their behalf in Congress. Jim Myers, the Chief of the Washington Bureau for the Tulsa World, was recently highly honored by his colleagues to be inducted into the Oklahoma Journalism Hall of Fame.

Jim Myers, a native of Tonkawa, began his professional work in journalism with the Enid News and Eagle from 1976–77, as a reporter for the Lawton Constitution, 1977–1979, and Lawton Magazine in 1980. He joined the Tulsa World in 1981, where he covered city and county government. In 1984, he was promoted to the World's statehouse bureau and, in 1990, he was named Washington correspondent. In 1992, he was a Paul Miller Fellow for the Freedom Forum and, in 1995, a Knight Center Fellow at the University of Maryland. The veteran political and government reporter is known for his tenacity to get to the truth and the pursuit of fairness and accuracy. An Army veteran, he has three degrees from Oklahoma State University: bachelor's degrees in social studies and journalism and a master's degree in history.

Jim, congratulations on an honor well deserved. The dedication you have shown to your profession and the valuable service you continue to provide to the people of Oklahoma is worthy of this high commendation of being selected a member of the Oklahoma Journalism Hall of Fame.

HONORING MR. SAMUEL ANGEL OF LAKE VILLAGE, ARKANSAS

HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. ROSS. Mr. Speaker, Sammy Angel is no stranger to public service in Arkansas's Chicot County located in the Arkansas Delta. He served in the Arkansas House of Representatives from 1994–2000 and represented his constituency well.

Sammy is a true leader and a man of action. When a project arises in his community, Sammy is always one of the first people to begin planning and organizing the steps that will be needed to successfully complete the project at hand. When his community of Lake Village recognized the need for a new fire station, Sammy went to work.

Because Sammy is a man of action, he did more than have conversations, make phone calls, and write letters to broaden support for the needed project, he also began the very hard task of raising funds for the newly proposed fire station. He worked hard to find financial support, and, after countless hours, Sammy Angel had raised $150,000 towards the new fire station that will save numerous homes and lives during its years of operation.

To the people of Lake Village and the rest of our state, Sammy Angel is known as a truly selfless public servant. On Thursday, April 25, 2002, they will be dedicating their new fire station, the Lake Village Fire Station No. 2, in his name, a fitting honor for a man who worked so hard to see it built. Sammy is an inspiration to those around him, and I am privileged to call him a friend and even more honored to serve as his Representative in the United States Congress.

Mr. Speaker, I extend my sincerest congratulations to him on this distinguished honor and to the entire Lake Village community on the dedication of this new fire station.

INTRODUCTION OF THE AUCTION REFORM ACT OF 2002

HON. W.J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. TAUZIN. Mr. Speaker, I rise today to introduce the Auction Reform Act of 2002. This bill will eliminate the statutory deadlines that have prompted the FCC to schedule auctions in June for spectrum in the 700 MHz band currently occupied by television broadcasters.

I believe that this legislation should not be necessary to preclude the Commission from conducting the auctions in June. The FCC currently has the authority to delay these auctions, and should do so. But, in addition, to asking the FCC to use its own authority to delay the auctions, I, along with JOHN DINGELL and 50 of our colleagues from the Energy and Commerce Committee, am introducing this bill to strip the deadlines from the books.

It is true that the auction of the upper portion of the 700 MHz band has been delayed five times. But, Mr. Speaker, conducting the auctions for both the upper and lower parts of the 700 MHz band in June would be wrong. These auctions are simply not ready for prime time.

Let me address some of the reasons why these auctions should not take place:

No comprehensive plan exists for allocating additional spectrum for third generation wireless and other advanced mobile communications services. The 700 MHz band may prove to be the commercial mobile wireless industry's only viable short-term option for obtaining additional spectrum for advanced mobile communications services if spectrum from other bands below 3 GHz is not allocated for such purposes.

The study being conducted by the National Telecommunications and Information Administration (NTIA) and the Pentagon to determine whether the Pentagon can share or relinquish

additional spectrum for third-generation wireless and other advanced mobile communications services will not be completed until after the June 19th auction date for the upper 700 MHz band, and long after the applications must be filed to participate in the auction.

It is difficult for wireless carriers to make a sound business decision concerning what options are available for spectrum for third-generation and other advanced mobile communications services until the NTIA/Pentagon report has been released and evaluated.

The Commission is also in the process of determining how to resolve the interference problems that exist in the 800 MHz band, especially for public safety. One option being considered for the 800 MHz band would involve the 700 MHz band. The Commission should not hold the 700 MHz auction before the 800 MHz interference issues are resolved or a tenable plan has been approved.

The 700 MHz band is still occupied by television broadcasters, and will be so until the digital transition is complete. This situation creates a tremendous amount of uncertainty concerning when the spectrum will be available and reduces the value placed on the spectrum by potential bidders. The encumbrance of the 700 MHz band reduces both the amount of money that the auction would be likely to produce and the probability that the spectrum would be purchased by the entities that valued the spectrum the most and would put the spectrum to its most-productive use.

The Commission's rules governing voluntary mechanisms for the vacation of the 700 MHz band by the broadcasters produced no certainty that the band would be available for advanced mobile communications services, public safety operations, and other purposes any earlier than the existing statutory framework provides.

Mr. Speaker, the FCC and the Administration clearly have a lot of work to do with respect to allocating and assigning additional spectrum for advanced mobile communications services and with respect to speeding the transition to digital television. Until more progress is made in these areas, the 700 MHz band auctions should not occur.

Mr. Speaker, I am delighted that 52 Members of the Energy and Commerce Committee are original co-sponsors of this legislation. It demonstrates that an overwhelmingly majority of members of our committee know that holding the auctions in June is the wrong policy decision for the FCC to make. The FCC should use its own authority to delay these auctions. And we are making clear that holding the auctions within the FCC's designated timeframe is contrary to both sound regulatory policy and contrary to the Communications Act.

SITUATION IN THE MIDDLE EAST

HON. SUE WILKINS MYRICK

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mrs. MYRICK. Mr. Speaker, I rise today to speak about the situation in the Middle East that is of grave concern to all of us.

Since September 11th, we have had a taste of normal life in Israel. Americans have experienced the fear, the terrorist alerts, the military and police presence at airports and public sites and we don't like it. Yet we must have it because we are at war with terrorists just as Israel is at war with terrorists.

We must stand by Israel as they work to eliminate terrorism in their homeland and as we try to do the same thing in the United States. We must stand by Israel as they fight for their very own survival and as we fight for ours.

As President Bush said in his address to Congress, we must root out terrorism worldwide and all those organizations that support it.

It is time we firmly support our Israeli friends in their fight against terrorism. We must join Israel now and continue this fight until the wrath of terrorism is ended.

EMERY FLIGHT 17 (DC–8) NTSB HEARING

HON. JOHN E. SWEENEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. SWEENEY. Mr. Speaker, I am very pleased that the National Transportation Safety Board (NTSB) has scheduled a hearing for May 9th regarding Emery flight 17 (DC–8) that crashed in Sacramento on February 16, 2000, killing its entire crew. I strongly urge the NTSB to follow through with the scheduled hearing rather than postponing it as other hearings have been postponed. The Captain of Emery 17 was Kevin P. Stables, 43, of Berlin, New York, the First Officer was George Land, 35, of Placerville, California, and the Flight Engineer was Russell Hicks, 38, of Sparks, Nevada. I look forward to the hearings as part of the ongoing crash investigation to help prevent future air cargo tragedies, encourage government and business accountability, and enhance public confidence in the regulatory oversight of the rapidly expanding air cargo industry.

On February 16, 2000, Emery flight 17, a DC–8, took off from Sacramento en route to Dayton. Two minutes later, the massive jet plowed into a salvage yard. National network news provided live broadcasts of the fiery aftermath. The pictures were telling—none of the crewmembers escaped alive.

Mr. Speaker, an exam of the wreckage found indications that part of the DC–8's mechanical flight controls may not have been connected prior to the flight. Key flight control components of that particular airplane had been overhauled by a Federal Aviation Administration-approved repair station three months before the crash. In August 2001, the Federal Aviation Administration (FAA) finally ''grounded'' Emery and cited safety concerns that included ''mechanical irregularities'' and ''operating unairworthy aircraft.''

Mr. Speaker, Emery 17 is not the only DC–8 cargo jet in recent years to wipe out its entire aircrew shortly after takeoff. Thirty months earlier in Miami, Fine Air flight 101 slammed into the ground, burst into flames, and killed five people. The probable cause finding included the ''failure of the FAA to ensure that known cargo-related deficiencies were corrected.'' Many believe the FAA's failure to provide adequate oversight and its failure to enforce Federal Aviation Regulations are direct causes of the Emery tragedy.

Almost immediately after Emery 17 crashed, safety groups and families of the crews pushed hard for public hearings on the Emery accident and the NTSB announced that official hearings would take place and would center on contract maintenance and oversight by ''airline and FAA personnel.'' Mr. Speaker, these were the identical issues for which the NTSB criticized the FAA in the aftermath of ValuJet's 1996 crash.

Emery's own aircrews warned the FAA in the months leading up to Emery flight 17's crash. In a 1998 letter to the FAA, Capt. Tom Rachford, speaking for the Emery pilots' union, wrote, ''Our maintenance has dramatically fallen off. . . . I can't say it any clearer: This airline is going to put a hole in the ground and kill someone. Please don't let this fall upon deaf cars.'' Later, five months before the fatal crash, the Emery pilots' group expressed their concern yet again with FAA leadership. They wrote: ''EWA is out of the regulator's eye. . . . Why are the authorities continuing to turn a blind eye? The lower echelon of the regulatory agencies have substantiated our concerns. . . . However, it is the upper echelon that appears to be dragging its feet. . . . If we have an accident in the near future, the subsequent investigation will show sainthood on the part of ValuJet when compared to Emery Worldwide Airlines. . . . Emery crews are living on borrowed time.''

Mr. Speaker, it's been two long years since Emery 17 crashed. The rapidly expanding air cargo industry is still waiting for the overdue hearings. The air cargo industry is the fastest-growing segment of the commercial airline industry. Many government and industry experts consider oversight of third-party maintenance stations inadequate. The NTSB has never before convened public hearings on an air-cargo-only accident. I am pleased the board is sticking to its earlier decision and promise to convene the Emery hearings. To many, this suggests a turning point and an indication that relaxed oversight and maintenance, and unsafe operational practices will no longer be ignored. I look forward to expedient and thorough public hearings.

The U.S. government must not wait for another massive air cargo disaster to force the NTSB into action. This is a race against time: The NTSB must convene the public hearings on Emery 17 before another air cargo blunder kills yet again.

POSTHUMOUS HONORARY U.S. CITIZENSHIP FOR ANDREI DMITRIEVICH SAKHAROV

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. SMITH of New Jersey. Mr. Speaker, it is with great pleasure and a deep sense of solemnity that I introduce, along with Mr. Frank of Massachusetts, a resolution to bestow honorary citizenship posthumously upon a man whose contribution to world peace and the struggle for human rights inspired, and continues to inspire, his own generation and those who have followed him. That man is the late Dr. Andrei Dmitrievich Sakharov, renowned physicist, humanitarian, and winner of the Nobel Peace Prize.

Dr. Sakharov was a man of great stature in the Soviet scientific community, working on defense projects of the greatest importance to the Soviet government. His induction into the Academy of Sciences in 1953 made him the youngest-ever member of the Academy. He enjoyed every privilege that Soviet society had to offer, but he abandoned his elevated position to protest the threat to humankind posed by nuclear testing and the build up of nuclear arms. This led to Dr. Sakharov's becoming a leader of the effort for internal reform in the Soviet Union and a strong advocate for human rights throughout the world.

In 1962, Dr. Sakharov proposed to his government that the Soviet Union sponsor a partial Test Ban treaty along the lines proposed by U.S. President Dwight Eisenhower in the late 1950s. On August 5, 1963, the effort resulted in the signing of the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space, and Under Water in Moscow.

In 1968, The New York Times published Dr. Sakharov's ground-breaking essay ''Progress, Coexistence, and Intellectual Freedom'' which pursued two major themes. The first was to challenge Soviet authorities to increase intellectual freedom in the interest of peaceful coexistence with the West and ending the Cold War. Conversely, it stimulated Western interest in disarmament and scientific exchanges, and convinced many opinion-makers in the West that it was worth entering into a dialogue with Soviet intellectuals and that change from within was possible in the USSR. Ultimately, more than 18,000,000 copies of the essay were printed around the world in various languages.

Within two years, Dr. Sakharov, along with Valery Chalidze and Andrei Tverdokhlebov, became one of the three founding members of the Moscow Human Rights Committee. This gave institutional expression to Sakharov's developing interest in human rights and the rule of law as guiding principles in the effort to reform and liberalize the Soviet regime. When the Helsinki Accords were signed in 1975 by the Soviet Union, the United States, Canada and 32 European countries, he noted that the Accords had meaning ''only if [the Accords] are observed fully and by all parties. No country should evade a discussion on its own domestic problems * * * [n]or should a country ignore violations in other participating states. The whole point of the Helsinki Accords is mutual monitoring, not mutual evasion of difficult problems.''

As he became more committed to the human fights struggle in his country and peace throughout the world, Dr. Sakharov continued to speak out on peace and disarmament, as well as freedom of association and movement, freedom of speech, against capital punishment, and in defense of preserving the environment.

Such ''heresy'' against his government's denial of basic human rights brought upon him reprisals from the Soviet government and its secret police, the KGB. He was barred from classified work, and many of his professional privileges rescinded. Only after a 17-day hunger strike by Dr. Sakharov and his wife and fellow human rights activist, Dr. Elena Bonner, did authorities allow his daughter-in-law to join her husband in the United States. Only after another long struggle was Dr. Bonner permitted to go abroad for medical treatment.

At the same time, the international community was closely following his efforts, understanding that his struggle touched us all. In 1975, the Nobel Peace Prize was awarded to Dr. Sakharov for his ''personal and fearless effort in the cause of peace.'' It was, Dr. Sakharov wrote, ''a great honor for me, as well as recognition for the entire human rights movement in the USSR.''

On January 22, 1980, in response to Dr. Sakharov's protests against the Soviet invasion of Afghanistan, Dr. Sakharov was picked up by the police on a Moscow street and sent into ''Internal exile'' in the closed city of Gorky. Joined subsequently by Dr. Elena Bonner, he was kept under house arrest, with a round-the-clock police guard, until December 1986. Dr. Bonner describes their plight eloquently in her book, Alone Together.

Meanwhile, at the direction of the Congress, President Ronald Reagan proclaimed May 21, 1983—Dr. Sakharov's birthday—''National Andrei Sakharov Day.'' In his published statement, President Reagan praised Dr. Sakharov's ''tireless and courageous efforts on behalf of international peace and on behalf of human freedoms for the peoples of the Soviet Union.''

Upon his release from internal exile on December 16, 1986 by Soviet leader Mikhail Gorbachev, Dr. Sakharov continued the fight for human rights in the Soviet Union and was elected to the newly-formed Congress of People's Deputies. Just before his death in 1989, he completed his draft of a new constitution and submitted it to the Constitutional Commission. While many of its specific points were provisional and advanced to provoke debate, the draft fundamentally provided for a democratic political system, revoking the Communist Party monopoly on power. Indeed, a few months after Dr. Sakharov's death, the Congress of People's Deputies repealed Article 6 of the Constitution which had provided the legal basis for the Communist Party's monopoly on power in the Soviet Union. This loss of Communist Party monopoly led inexorably to the collapse of the Soviet Union, which removed from the earth a vast state that repressed its own citizens and presented a powerful military threat to the United States.

Recently, President Putin, a former KGB agent himself, called Dr. Sakharov ''a visionary * * * someone who was able to not only see the future, but to express, to articulate his thoughts, and do that without any fear.''

Fearless in the face of state repression, principled in his devotion to peace and disarmament, selfless in the pursuit of human rights for all, this was Dr. Sakharov's character.

Mr. Speaker, honorary citizenship is conferred by the United States Government on rare occasions to individuals who have made extraordinary contributions to this country or to humankind throughout the world. It is and should remain an extraordinary honor not lightly conferred nor frequently granted.

Mr. Speaker, I believe that for his contribution to world peace, the end of the Cold War, the recognition of the inextricable link between human rights and genuine security and the achievement of human rights, however rudimentary in some areas, in the nations of the former Soviet Union, Dr. Andrei Sakharov is worthy of being posthumously granted honorary citizenship of the United States. I hope my colleagues share my enthusiasm for this initiative and will support this resolution.

RECOGNIZING HEAR O' ISRAEL INTERNATIONAL INC.

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. BENTSEN. Mr. Speaker, In light of the tragedy that struck our nation September 11th, and the continued violence in the middle east, I believe it's fitting to recognize a valued organization within the Houston community, Hear O'Israel International Inc., which is currently sponsoring its National Mercy, Love and Compassion Campaign. This year long event is being conducted in conjunction with the ongoing initiative ''Listen to the Cries of the Children National.'' Hear O'Israel works to make a difference in the lives of the physically challenged, the elderly, neglected children, and battered women across Houston. They work to give these men and women a stronger sense of self-worth and instill in them the need to treat others with compassion and respect. National Mercy, Love and Compassion Campaign has been endorsed by Mayor Lee P. Brown and every member of the Houston City Council which further demonstrates the high regard for Hear O'Israel in our community.

Hear O'Israel International, Inc., a non-profit, non-denominational organization works to increase public awareness of those that are less fortunate. ''Listen to the Cries of the Children National'' is designed to strengthen unity among families and further public awareness of the negative consequences that drug abuse, family violence, child abuse, and gang activity have on children. Another ongoing program worth commending is ''Turning the Hearts of the Fathers back to Their Children and the Hearts of Their Children Back to Their Fathers.'' The mission of this program is to reach out to at risk youth in schools, juvenile justice facilities, and those that may be involved in gang activity. Additionally, this program encourages parents to strengthen their relationship with their children, in an effort to unite families and bridge existing gaps among cultures.

National Mercy, Love and Compassion Campaign is an initiative to call attention to the plight of children around who do not have access to adequate food, shelter, clothing, and health care. As a symbol of compassion for suffering children, Hear O'Israel International, Inc., encourages supporters to adopt a family or an individual in need as a gesture of support in resounding, the alarm for those who have been forgotten and many times rejected by our communities.

Again, I would like to recognize Hear O'Israel International, Inc. for its efforts to improve and enhance the quality of life for our children, and extend my personal best wishes for a successful and rewarding campaign.

TRIBUTE TO COLONEL MICHAEL R. REGNER

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. SKELTON. Mr. Speaker, let me take this means to congratulate and pay tribute to

Colonel Michael R. Regner, who performed in an outstanding manner as the Marine Corps' Liaison Officer to the U.S. House of Representatives from May 1999 to May 2002.

Colonel Regner began his service in the military in 1976, following graduation from the Citadel. Commissioned a Second Lieutenant, he commanded Rifle and Weapons Platoons, a Rifle Company, Headquarters Battalion, and an Infantry Battalion. Colonel Regner was also a recruiter on duty in Little Rock, Arkansas. His staff assignments include duty as Battalion Logistics and Executive Officer, Staff Secretary to the 2nd Marine Division Commander and Joint Amphibious Operations Planner and Partnership for Peace Staff Officer to the Supreme Headquarters Allied Powers Europe.

Colonel Regner served with distinction in Operation Desert Storm, United Nations operations in the Former Republic of Yugoslavia, and in Bosnia. He has completed the Advanced Infantry Officer's Course, Airborne Course, Marine Command and Staff College, and the NATO Defense College. He also holds a Masters Degree in Public Administration/Human Relations. Colonel Regner's awards include the Defense Meritorious Service Medal, three Meritorious Service Medals, and two Navy and Marine Corps commendation Medals.

In Colonel Regner's three years as the Marine Corps' House Liaison Officer he has provided this Congress with a working knowledge of the Marine Corps. He has been instrumental in directing Marine Corps legislative activities in Congressional hearings, official travel, constituent services, and other important legislative functions.

Colonel Michael Regner has served our Nation with distinction for the last 26 years. As he takes post as Commanding Officer of the 13th Marine Expeditionary Unit at Camp Pendleton, California, I know that the Members of the House will join me in wishing him all the best in the days ahead.

COMMEMORATING THE 10TH ANNIVERSARY OF THE 1992 LOS ANGELES RIOTS

HON. LUCILLE ROYBAL-ALLARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise to commemorate the 10th anniversary of the 1992 Los Angeles Riots, one of the worst events of its kind in our history and the first multiracial one in the United States.

Thousands of people and businesses were devastated by the three days of rioting and looting, which began on April 29, 1992. Fifty-eight people died, 2,400 were injured, and 11,700 were arrested. Damages totaled $717 million. In less than 24 hours, 1,000 fires seized Los Angeles, causing flight delays and cancellations. Governor Pete Wilson deployed 6,000 National Guard troops at the request of Mayor Tom Bradley. President George Bush sent 5,500 military troops and law enforcement specialists and put the National Guard under federal command.

The Korean American community in Los Angeles, which is home to the largest Korean population outside of Seoul, sustained the most damages. Korean Americans lost more than half of their 3,100 businesses in Los Angeles, with damages totaling more than $350 million. Out of the 200 liquor stores that were destroyed during the riots, 175 were Korean-owned. A survey, conducted by the Korean American Inter-Agency Council 10 months after the riots, found that out of 1,500 respondents, about 75 percent had yet to recover from the riots' after effects, including post-traumatic stress disorder, temporary memory loss, and suicidal tendencies. Some families moved back to Korea, declared bankruptcy, or permanently relocated their businesses to safer areas.

Korean Americans termed the tragic three days as Sa-ee-gu, which literally translates into the numbers 4.29, the first date of the riots. It is common for Koreans to refer to historically and politically significant events by their dates. Immediately following the riots, the Korean American community and its supporters held the largest Korean American demonstration in the United States. It signified the birth of a community shaken but standing firm in demanding its fair share of the riot relief funds, adequate representation in government, corporate responsibility, and accurate media coverage.

A decade after the riots, the Korean American community vividly recalls the destruction and mayhem of those three days. But more importantly, this community has risen from the ashes to reclaim their space in American society and regain their dignity as Americans through unprecedented levels of civic participation and heightened political consciousness. The 1992 Los Angeles Riots forced the Korean American community to face a grim reality, but the future holds a community that has been strengthened and made wiser by this experience. The community is in the process of building its political leadership and establishing the infrastructure and resources necessary to stand up for themselves in times of trouble and gain recognition in times of triumph.

Today, I join the Korean American community in Los Angeles and nationwide to commemorate the 1992 Los Angeles Riots and to celebrate the spirit and determination of Korean Americans throughout the country.

HONORING JOHN GURDA, 2002 POLISH HERITAGE AWARD WINNER

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. KLECZKA. Mr. Speaker, On Sunday, May 5, 2002, the Pulaski Council of Milwaukee will be observing Polish Constitution Day with its 23rd annual Heritage Award Dinner. This year's Polish Heritage Award is being given to Milwaukee author and historian John Gurda.

John is a native Milwaukeean, with a lifelong love for local history. He is author of 13 books, including his most recent work, The Making of Milwaukee, a superbly written and richly illustrated account of our community's past and present.

An 8-time winner of the Wisconsin Historical Society's Award of Merit, John Gurda serves as a guest lecturer, tour guide and local history columnist for the Milwaukee Journal/Sentinel. He has also received well-deserved honors from the Council for Wisconsin Writers, which awarded him the Leslie Cross Award for book-length nonfiction, and was the Milwaukee Public Library's 2000 inductee to the Wisconsin Writers Wall of Fame.

Anyone who has had the opportunity to hear John speak, read his books and articles, or take one of his neighborhood tours has truly been enriched by the experience. He is a masterful storyteller, bringing Milwaukee's colorful and fascinating past to life, and often finding, in the telling, important relevance to our community's present and future.

Milwaukee is a city of immigrants, a weave of many nationalities and cultures. John Gurda has eloquently captured the histories of our ethnic neighborhoods, including Milwaukee's Polonia, or Polish-American community. From Polonia's early struggles with poverty and language barriers to its growth to one of Milwaukee's largest ethnic groups, John has skillfully chronicled the community's rich Polish heritage.

As Gurda himself has said, ''We look back to look ahead; the deepest value of the past is to help the present shape its future.'' John Gurda's gift to Milwaukee's Polish-American community is a deeper connection to its past, and a greater understanding of its role in our city's present and future. The Pulaski Council of Milwaukee has made an outstanding choice for its 2002 Polish Heritage Award, for John's words will continue to educate, inspire and bring Milwaukee Polonia's history to life for generations to come.

Congratulations, John!

NATIONAL PARK WEEK AND NATIONAL VOLUNTEER WEEK

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. NEAL of Massachusetts. Mr. Speaker, this week we celebrate National Park Week. This special commemoration was first proclaimed in 1991 by President George H.W. Bush and has become an annual celebration of the National Park Service. This week is an opportunity to celebrate what the National Park Service is all about by educating the public about the great work performed by park rangers, resource specialists, scientists, managers and all the other important employees that make the National Park Service special.

In conjunction with National Park Week, Mr. Speaker, we also celebrate this week, the many volunteers at our National Parks. These volunteers in parks, or VIP's, play a crucial role in helping Park Service staff with their duties. I am proud to recognize the park volunteers in my own district, Mr. Speaker. These volunteers at the John H. Chafee Blackstone River Valley National Heritage Corridor are making a difference. Whether helping guide a canoe trip down the Blackstone river or assisting with a historic village tour, these volunteers make important contributions to the success of the Blackstone Heritage Corridor.

America's democratic experiment shines through in the 24 cities in Massachusetts and Rhode Island that make up the Blackstone River Valley. It is a quilt of America's past, present and future that tells the story of America's progression from an agrarian society to

an advanced industrial powerhouse. The National Park Service provides a great and honorable service by preserving the vestiges of this rich past.

Mr. Speaker, let us celebrate this week, the important and enjoyable role that our National Parks play in our lives as well as the dedication and hard work of their employees and volunteers. These individuals reflect America's commitment to its National Parks and thus deserve our full appreciation.

HONORING THE FREE KITCHEN PROJECT IN LAKEPORT, CALIFORNIA

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. THOMPSON of California. Mr. Speaker, I rise today to recognize the outstanding achievements of the Free Kitchen Project. Ten years ago four distinguished organizations in Lakeport, California, a town of about 5000 people, began the Free Kitchen Project. The Free Kitchen Project serves people who are needy, lonely, transient, or families with an ill or handicapped person, each week, by providing a warm meal and environment.

The United Christian Parish, St. John's Episcopal Church, Lakeport Lions Club, and St. Mary's Parish organize over 200 Free Kitchen Project volunteers. These dedicated volunteers provide those less fortunate with a hot meal and warm environment every week.

In 1992, three people attended their first dinner. Now in the tenth year of operation, these devoted volunteers typically serve 50–100 people a week. Since its inception, the Free Kitchen Project has served over 30,000 meals. This incredible growth is testament to the value they create for the Lake County Community.

The Board of Directors of the Free Kitchen Project, comprised of members of participating churches and organizations, governs the project and oversees health department regulations which include disability issues and safe food handling practices.

Mr. Speaker, after ten years of serving people in need, I would like to recognize the American spirit within the Free Kitchen Project and the town of Lakeport, California. The Free Kitchen Project has dedicated, selfless people performing a service to those in need. I am honored to recognize this immense act of volunteerism in one town on the occasion of their tenth anniversary. They truly deserve our recognition.

A TRIBUTE TO ONCOLOGY NURSES, CAREGIVERS FOR CANCER PATIENTS

HON. DEBORAH PRYCE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Ms. PRYCE of Ohio. Mr. Speaker, I rise today to bring to the attention of my colleagues the important and essential role that oncology nurses play in the care of patients diagnosed with cancer. I know first hand the powerful positive impact that oncology nurses have on the provision of quality cancer care and know that cancer patients would be lost without their expertise, care, love, and dedication. As anyone ever treated for cancer will tell you, oncology nurses are intelligent, well-trained, highly skilled, kind-hearted angels who provide quality clinical, psychosocial, and supportive care to patients and their families. In short, they are integral to our Nation's cancer care delivery system.

Cancer is a complex, multifaceted, and chronic disease, and people with cancer are best served by a multidisciplinary health care team specialized in oncology care, including nurses who are certified in that specialty. This year alone 1,284,900 Americans will hear the words ''You have cancer.'' In addition, 555,500 will lose their battle with this terrible disease. Everyday, oncology nurses see the pain and suffering caused by cancer and understand the physical, emotional, and financial challenges that people with cancer face throughout their diagnosis and treatment. Oncology nurses play a central role in the provision of quality cancer care as they are principally involved in the administration and monitoring of chemotherapy and the associated side-effects patients may experience.

The Oncology Nursing Society (ONS) is the largest organization of oncology health professionals in the world with more than 30,000 registered nurses and other health care professionals. Since 1975, the Oncology Nursing Society has been dedicated to excellence in patient care, teaching, research, administration and education in the field of oncology. The Society's mission is to promote excellence in oncology nursing and quality cancer care. To that end, ONS honors and maintains nursing's historical and essential commitment to advocacy for the public good by providing nurses and healthcare professionals with access to the highest quality educational programs, cancer-care resources, research opportunities, and networks for peer support.

The ONS has 8 chapters in the great state of Ohio. These chapters located in the Cincinnati, Cleveland, Columbus, Toledo, Saint Paris, Zanesville, Lima, and Cuyahoga Falls areas serve the oncology nurses in the state and helps them to continue to provide high quality cancer care to those patients and their families in the state.

In particular, I would like to acknowledge three special oncology nurses from my district who will be in Washington this week to participate in the ONS Annual Congress and the ONS inaugural Hill Day—Deborah Babb and Luana Lamkin from Hilliard, Ohio and their colleague Betty Coffelt from Worthington, Ohio. I am looking forward to the pleasure of meeting with these outstanding women who have dedicated their lives to improving the health and well-being of people affected by cancer.

On behalf of all the people with cancer and their families in Ohio's 15th Congressional District, I thank Deborah, Luana, and Betty as well as all of their colleagues in the Oncology Nursing Society for their outstanding contributions to the provision of quality cancer care to those in need. Also, I would like to acknowledge Luana Lamkin for her leadership within the Oncology Nursing Society as she currently serves on the ONS Board of Directors as the Treasurer. I have had the pleasure of working with ONS and Luana over the past few years to advance programs and policies that work to reduce suffering from cancer. Through Luana's and ONS' leadership, our Nation is charting a course that will help us win the war on cancer.

As part of the ONS inaugural Hill Day, approximately 550 oncology nurses—representing 48 states—will come to Capitol Hill to discuss issues of great significance to people with cancer and the field of oncology nursing. Specifically, these oncology nurses will call upon us in Congress to move quickly to reconcile the differences between the House and Senate versions of the ''Nurse Reinvestment Act'' and send a comprehensive measure to the President for signature by June 1st so that the measure can be funded fully in FY 2003; reform Medicare to ensure that the program reimburses adequately and accurately for the full-range of services provided by oncology nurses so that Medicare payment policy reflects the real value of oncology nursing and in turn, helps sustain our Nation's system of community-based cancer care for all Medicare beneficiaries; and allocate $27.3 billion to the National Institutes of Health (NIH) to fulfill the commitment to double the NIH budget over five years, $5.69 billion to the National Cancer Institute (NCI)—the amount the NCI Director deems necessary to take advantage of extraordinary opportunities, $199.6 million for the NIH National Center for Minority Health and Health Disparities—the course necessary to double the Center's budget over the course of three years, and $348 million for the Centers for Disease Control and Prevention (CDC) Comprehensive Cancer Control, National Cancer Registries, Prostate Cancer Awareness, National Breast and Cervical Cancer Early Detection, Ovarian Cancer, Skin Cancer, and Colorectal Cancer Screening, Education and Outreach programs—to ensure that all Americans benefit from breakthroughs in cancer research, prevention, early detection, and treatment.

I commend the Oncology Nursing Society for all of its efforts and leadership over the last 27 years and thank the Society and its members for their ongoing commitment to improving and assuring access to quality cancer care for all cancer patients and their families. I urge all of my colleagues to support them in their important endeavors.

HONORING NATIONAL COMMUNITY RESIDENTIAL CARE MONTH—2002

HON. DOUG OSE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. OSE. Mr. Speaker, I rise today to honor the men and women who work hard everyday to provide quality health care for the elderly, disabled, and mentally ill. May is National Community Residential Care Month, and I can't think of a better way to pay tribute to these men and women.

Community care providers offer medical, social, and nutritional assistance to those in need. They are committed professionals who work hard to create comfortable environments for people who are unable to care for themselves in their own homes.

More importantly, these professionals work hard to boost the self-confidence of those whose confidence is often broken as a result

of their dependence on others. By caring and interacting with those in need, they have enriched the lives of those who they help.

Again, I want to congratulate all the men and women in this field of work. The U.S. Congress certainly appreciates the valuable service they provide. We thank you for the job you do and for the compassion which you bring to your field.

RECOGNITION OF CHAUNCEY VEATCH, NATIONAL TEACHER OF THE YEAR, COACHELLA VALLEY HIGH SCHOOL, THERMAL, CA

HON. MARY BONO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mrs. BONO. Mr. Speaker, I rise today to recognize Chauncey Veatch, the National Teacher of the Year, from Coachella Valley High School in Thermal, CA. Mr. Veatch deserves our praise and admiration for this honor, and I am proud to have him teaching America's future leaders in California's 44th Congressional district.

Chauncey Veatch teaches social studies in Thermal to a particularly diverse group of students, where out of the 2,900 students at his school, approximately 96 percent are Latino and about half of those come from migrant families. Some of these students continue to struggle with the English language, though Mr. Veatch is able to work through these barriers to assist the youth around him. The high school itself lies in a desert area, and is thus unlike more urbanized areas of southern California, but boasts of rich agricultural resources and a proud community.

Mr. Veatch's background is one that undoubtedly helps in his ability to convey those concepts most important for his students while having a lasting effect on their educational careers. After the gulf war, and a distinguished military career that introduced him to many differing countries and cultures, Chauncey entered the Defense Language Institute at the Presidio of Monterey. There he immersed himself in Spanish, becoming an honor graduate in the Basic Class, in the Intermediate Class, and in the Advanced Class.

Given the passage last year of H.R. 1, the No Child Left Behind Act, the integral role that teachers play in the lives of our children was again apparent. Without guidance and assistance from teachers like Chauncey, we will not be able to properly introduce these reforms and have their implementation be successful. Both President Bush and Mrs. Bush have been great leaders in the vital role that teachers play in our society. President Bush stated well this concept in saying how important it is to ''thank our teachers,'' and ''herald such a noble and important profession for the future of our country.''

The unique and extremely rewarding time spent in a classroom with Chauncey has already shown results, with his students receiving acclaim with regard to Math Day, Art Awards, and History Day, among many other awards. His classroom is truly a place for opportunity for all, where literacy and dreams are modeled into a lifetime of learning and believing in one's highest potential.

Thus it is easy to see why Chauncey Veatch has been selected as the National Teacher of the Year, as he represents the professionalism, humility, understanding, and intelligence that deserves our attention.

Again, I would like to personally recognize and congratulate Chauncey Veatch for winning this award and for his continued contributions to the students and future of California's 44th District.

CALLING FOR A COMMITMENT TO ABOLISH NUCLEAR WEAPONS

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. KUCINICH. Mr. Speaker, I rise today to include in the RECORD an urgent call for the world to end the threat of destruction from nuclear and other weapons of mass destruction. Despite the Cold War's demise over a decade ago, the possibility that a nuclear device or other weapon of mass destruction will one day wreak devastation remains real. Rather than defuse this threat by working to reduce the world's stores of these weapons, the current Administration has instead begun to explore ways to enhance our nuclear capabilities. The time has come for this Administration, this Congress, and this country to commit to the abolition of nuclear, chemical, and biological weapons. We must heed this urgent call.

An urgent call ending threats of mass destruction. Today, cities and nations are threatened as never before by weapons of mass destruction. The events of September 11 have brought home to Americans what it means to experience a catastrophic attack. Yet the horrifying losses that day were but a fraction of what any nation would suffer if a single nuclear weapon were used on a city, or a deadly, contagious disease were set loose in the land.

The peril from weapons of mass destruction is growing. Even as the great powers have refused to give up their nuclear arms, more nations have built nuclear weapons and threatened to use them. Terrorist groups are now seeking to acquire and use every kind of weapon of mass destruction.

The threats posed by huge stocks, proliferation, and terrorists can no longer be considered in isolation from one another. The nuclear powers' refusal to disarm fuels proliferation, and proliferation makes weapons of mass destruction ever more accessible to terrorists.

Despite the end of the cold war, U.S. administrations of both parties have planned to keep nuclear weapons indefinitely. Recently, the Bush administration's Nuclear Posture Review proposed to reduce ''active'' warheads; but this plan would keep the whole U.S. nuclear arsenal, active plus reserve, at its present size of about 10,000 warheads through 2012. Meanwhile, President Bush has requested funds to expand nuclear-weapons construction facilities and develop new ''usable'' nuclear weapons for a growing list of targets in the third world.

This drift toward catastrophe must be reversed. The time has come to say, Enough! Enough to the great powers who hold vast populations hostage to nuclear terror. Enough to nations that are spreading the threat of annihilation to new regions. Enough to the terrorists who plan the murder of hundreds of thousands of innocent people, Safety from all weapons of mass destruction must be our goal. We can reach it only through cooperation among nations embodied in binding treaties and agreements.

We therefore call on the governments of the nuclear powers to commit themselves to abolish nuclear weapons and to set forth plans to move together, step by carefully inspected and verified step, toward this goal. As a first step, we call on the United States and Russia to reduce their nuclear arsenals over the next few years, tactical and strategic, active and reserve, to 1,000 weapons each. As a second step, we call on these countries and the other nuclear powers—England, France, China, Israel, India, and Pakistan—to proceed in the following few years to reduce their arsenals to no more than 100 nuclear weapons each. As a third step, these nations should separate all nuclear-warheads from their delivery vehicles, in preparation for their ultimate elimination. Simultaneously, the nuclear powers should strengthen the Nonproliferation Treaty by ratifying the Comprehensive Test Ban and adopting a ban on the Production of Fissile Material. The United States should complete talks to end North Korea's missile program, and the UN should institute an effective inspection regime in Iraq. The existing international bans on chemical and biological weapons should be made universal and fortified with stronger means of inspection and verification. Thus, measures to prevent proliferation and terrorist uses of weapons of mass destruction would go hand in hand with nuclear reductions.

Steps to eliminate weapons of mass destruction should be accompanied by steps to reduce the temptation to acquire or use them. The United States and other countries should redouble their efforts to resolve regional conflicts and prevent conventional war, and to build respect for the rule of law, protect human rights, and promote democratic institutions. And the wealthy industrial nations should launch a new Marshall Plan to help the poorest nations end starvation, illiteracy, and preventable disease, wipe out the burden of debt, and move toward sustainable development and a lasting peace, based on respect for the dignity and worth of every individual.

IN RECOGNITION OF JUNE, 2002 AS NATIONAL SAFETY MONTH

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 24, 2002

Mr. NEAL of Massachusetts. Mr. Speaker, I rise today to urge my colleagues to recognize June, 2002, as National Safety Month in an effort to promote awareness and education in safety matters not only in Western and Central Massachusetts, but across the entire United States of America.

The National Safety Council, founded in 1913 and chartered by Congress in 1953, designated June as National Safety Month in the hopes that if Americans spend a month practicing safety, the increased attention will continue throughout the year and decrease the number of unintentional injuries and deaths.

In 2000, over 97,000 people suffered unintentional-injury deaths. Motor vehicle crashes

alone accounted for 43,000 deaths, while another 51,500 people died in the home or community. Unintentional injuries are the fifth leading cause of death in America, and the leading cause of death for Americans under 45. Yet even with improvements in safety and technology that have created a safer environment for Americans, the unintentional-injury death toll remains unacceptably high.

The Safety Council of Western Massachusetts, under the direction of Jeanette P. Jez, has endeavored to train people in the prevention of accidents, as well as the formulation and application of safety and health policies, since its inception in 1917. Celebrating their 85th anniversary this year, they identified six focus areas for the coming year: Driving Safety, Home, Community and Environmental Safety, Emergency Preparedness, and Workplace Safety. We can all agree that these important concerns should be a priority in our day-to-day lives.

With the summer season approaching, a time when unintentional-injury deaths traditionally increase, American citizens deserve a solution to nationwide safety and health threats. Mr. Speaker, in this 7th year of National Safety Month, let us build on the efforts of the past six years. Let us devote our time and energy to preventing unnecessary accidents and deaths. And let us help Americans build and nurture an environment that values safety above all else.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, April 25, 2002 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 26

9:30 a.m.
Armed Services
To hold hearings on the nomination of Adm. Thomas B. Fargo, USN, to be Admiral and Commander in Chief, United States Pacific Command; and the nomination of Lt. Gen. Leon J. LaPorte, USA, to be General and Commander in Chief, United Nations Command/Combined Foreces Command/Commander, United States Forces Korea.
SR–222

10 a.m.
Health, Education, Labor, and Pensions
Children and Families Subcommittee
To hold hearings to examine families and funeral practices issues.
SD–430

APRIL 30

9:30 a.m.
Governmental Affairs
Investigations Subcommittee
To hold hearings to examine how gasoline prices are set and why they have become so volatile.
SD–342

Indian Affairs
Small Business and Entrepreneurship
To hold joint hearings to examine small business development in Native American communities.
SR–428A

10 a.m.
Health, Education, Labor, and Pensions
To hold hearings on the nominations of Richard Carmona, to be Surgeon General, and Elias Zerhouni, to be Director of the National Institutes of Health, both of the Department of Health and Human Services (pending receipt by the Senate).
SD–430

2:30 p.m.
Judiciary
Antitrust, Competition and Business and Consumer Rights Subcommittee
To hold hearings to examine hospital group purchasing, focusing on patient health and medical innovation.
SD–226

Commerce, Science, and Transportation
Consumer Affairs, Foreign Commerce, and Tourism Subcommittee
To hold hearings to examine the influence of the Enron Corporation regarding state pension funds.
SR–253

MAY 1

9:30 a.m.
Commerce, Science, and Transportation
Oceans, Atmosphere, and Fisheries Subcommittee
To hold hearings on the President's proposed budget request for fiscal year 2003 for the National Oceanic&Atmospheric Administration.
SR–253

Banking, Housing, and Urban Affairs
To hold oversight hearings to examine the Treasury Department's report to Congress on International Economic and Exchange Rate Policy.
SD–538

10:30 a.m.
Appropriations
Legislative Branch Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2003 for the Office of the Senate Sergeant at Arms and U.S. Capitol Police.
SD–124

2:30 p.m.
Banking, Housing, and Urban Affairs
Housing and Transportation Subcommittee
To hold oversight hearings to examine proposed legislation authorizing funds for the Temporary Assistance for Needy Families and Federal Housing Policy.
SD–538

Intelligence
To hold closed hearings on pending intelligence matters.
SH–219

MAY 2

9:30 a.m.
Veterans' Affairs
To hold hearings to examine pending legislation.
SR–418

Governmental Affairs
Investigations Subcommittee
To resume hearings to examine how gasoline prices are set and why they have become so volatile.
SD–342

2:30 p.m.
Judiciary
To hold hearings to examine restructuring issues within the Immigration and Naturalization Service, Department of Justice.
SD–226

MAY 3

10 a.m.
Governmental Affairs
International Security, Proliferation and Federal Services Subcommittee
To hold hearings to examine transformation plans of the United States Postal Service.
SD–342

MAY 9

9:30 a.m.
Finance
To hold hearings to examine revenue issues related to the Highway Trust Fund.
SD–215

MAY 10

10:30 a.m.
Governmental Affairs
International Security, Proliferation and Federal Services Subcommittee
To hold hearings to examine non-proliferation programs, focusing on U.S. cruise missile threat.
SD–342

POSTPONEMENTS

APRIL 26

10 a.m.
Governmental Affairs
International Security, Proliferation and Federal Services Subcommittee
To hold hearings to examine difficulties and solutions concerning nonproliferation disputes between Russia and China.
SD–342

Daily Digest

HIGHLIGHTS

The House passed H.R. 3763, Corporate and Auditing Accountability, Responsibility, and Transparency Act.

Committee ordered reported 26 sundry measures.

Senate

Chamber Action

Routine Proceedings, pages S3233–S3335

Measures Introduced: Fifteen bills were introduced, as follows: S. 2235–2249. **Pages S3302–03**

Measures Passed:

Export-Import Bank Extension: Senate passed S. 2248, to extend the authority of the Export-Import Bank until May 31, 2002. **Page S3335**

Energy Policy Act: Senate continued consideration of S. 517, to authorize funding for the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, taking action on the following amendments proposed thereto: **Pages S3233–93**

Adopted:

Nelson (NE) Amendment No. 3140 (to Amendment No. 2917), of a perfecting nature. **Pages S3251–57**

Smith (OR) Amendment No. 3306 (to Amendment No. 3140), to clarify the definition of renewable energy. **Pages S3255–56**

Carper Amendment No. 3197 (to Amendment No. 2917), to encourage the efficient generation of electricity through combined heat and power and to modify the provision relating to termination of mandatory purchase and sale requirements under PURPA. (By 37 yeas to 60 nays (Vote No. 82), Senate earlier failed to table the amendment.) **Pages S3257–60**

Nickles Amendment No. 3256 (to Amendment No. 2917), to provide that not withstanding any other provision in this Act, ''3 cents'' shall be considered by law to be ''1.5 cents'' in any place ''3 cents'' appears in Title II of this Act. (By 38 yeas to 59 nays (Vote No. 83), Senate earlier failed to table the amendment.) **Pages S3265–83**

Bingaman (for Byrd) Modified Amendment No. 3187 (to Amendment No. 2917), to provide for increased energy savings and greenhouse gas reduction benefits through the increased use of recovered material in federally funded projects involving procurement of cement or concrete. **Pages S3287–88**

Bingaman Amendment No. 3243 (to Amendment No. 2917), to strike section 721, with respect to the Application of the Historic Preservation Act to operating pipelines. **Pages S3287–88**

Bingaman (for Shelby) Amendment No. 3268 (to Amendment No. 2917), to direct the Secretary of Energy to establish a program to provide guarantees of loans by private institutions for the construction of facilities for the processing and conversion of municipal solid waste into fuel ethanol and other commercial byproducts. **Pages S3287–88**

Rejected:

Cantwell Amendment No. 3234 (to Amendment No. 2917), to protect electricity consumers. (By 58 yeas to 39 nays (Vote No. 80), Senate tabled the amendment.) **Pages S3241–51**

Bingaman Amendment No. 3316 (to Amendment No. 3140), in the nature of a substitute. (By 54 yeas to 43 nays (Vote No. 81), Senate tabled the amendment.) **Pages S3252–55**

Fitzgerald Amendment No. 3124 (to Amendment No. 2917), to modify the definitions of biomass and renewable energy to exclude municipal solid waste. (By 50 yeas to 46 nays (Vote No. 84), Senate tabled the amendment.) **Pages S3285–87**

Withdrawn:

Landrieu/Kyl Amendment No. 3050 (to Amendment No. 2917), to increase the transfer capability of electric energy transmission systems through participant-funded investment. **Page S3287**

Schumer/Clinton Amendment No. 3093 (to Amendment No. 2917), to prohibit oil and gas

drilling activity in Finger Lakes National Forest, New York. **Page S3287**

Dayton Amendment No. 3097 (to Amendment No. 2917), to require additional findings for FERC approval of an electric utility merger. **Page S3287**

Landrieu Amendment No. 3274 (to Amendment No. 2917), to increase the transfer capability of electric energy transmission systems through participant-funded investment. **Page S3287**

Pending:

Daschle/Bingaman Further Modified Amendment No. 2917, in the nature of a substitute. **Pages S3233–93**

Murkowski/Breaux/Stevens Amendment No. 3132 (to Amendment No. 2917), to create jobs for Americans, to reduce dependence on foreign sources of crude oil and energy, to strengthen the economic self determination of the Inupiat Eskimos and to promote national security. **Page S3233**

Feinstein Amendment No. 3225 (to Amendment No. 2917), to modify the provision relating to the renewable content of motor vehicle fuel to eliminate the required volume of renewable fuel for calendar year 2004. **Page S3233**

Feinstein Amendment No. 3170 (to Amendment No. 2917), to reduce the period of time in which the Administrator may act on a petition by 1 or more States to waive the renewable fuel content requirement. **Page S3233**

Durbin Amendment No. 3342 (to Amendment No. 2917), to strike the nonbusiness use limitation with respect to the credit for the installation of certain small wind energy systems. **Pages S3283–85**

Harkin Amendment No. 3195 (to Amendment No. 2917), to direct the Secretary of Energy to revise the seasonal energy efficiency ratio standard for central air conditioners and central air conditioning heat pumps within 60 days. **Pages S3289–92**

Carper Amendment No. 3198 (to Amendment No. 2917), to decrease the United States dependence on imported oil by the year 2015. **Pages S3289–90**

Reid (for Bingaman) Amendment No. 3359 (to Amendment No. 2917), to modify the credit for new energy efficient homes by treating a manufactured home which meets the energy star standard as a 30 percent home. **Page S3292**

Reid (for Boxer) Amendment No. 3139 (to Amendment No. 2917), to provide for equal liability treatment of vehicle fuels and fuel additives. **Page S3292**

Reid (for Boxer) Amendment No. 3311 (to Amendment No. 3139), to provide for equal liability treatment of vehicle fuels and fuel additives. **Pages S3292–93**

Senate will continue consideration of the bill on Thursday, April 25, 2002.

Modified Submitted Amendments—Agreement: A unanimous-consent agreement was reached providing that notwithstanding Rule 22, it be in order to modify submitted amendment numbers 3239 and 3146. **Pages S3260–65**

Nominations—Agreement: A unanimous-consent agreement was reached providing for the consideration of the nominations of Percy Anderson and John F. Walter, each to be a United States District Judge for the Central District of California, at 9:30 a.m., on Thursday, April 25, 2002, with a vote to occur on the confirmation of each nomination. **Pages S3334–35**

Messages From the House: **Page S3302**

Measures Referred: **Page S3302**

Executive Reports of Committees: **Page S3302**

Additional Cosponsors: **Pages S3303–04**

Statements on Introduced Bills/Resolutions: **Pages S3304–19**

Additional Statements: **Pages S3296–S3302**

Amendments Submitted: **Pages S3319–34**

Authority for Committees to Meet: **Page S3334**

Record Votes: Five record votes were taken today. (Total—84) **Pages S3251, S3255, S3259–60, S3283, S3287**

Adjournment: Senate met at 9:30 a.m., and adjourned at 7:48 p.m., until 9:30 a.m., on Thursday, April 25, 2002. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S3335).

Committee Meetings

(Committees not listed did not meet)

APPROPRIATIONS—NATIONAL GUARD AND RESERVE

Committee on Appropriations: Subcommittee on Defense concluded hearings on proposed budget estimates for fiscal year 2003, after receiving testimony in behalf of funds for their respective activities from Lt. Gen. Russell C. Davis, USAF, Chief, National Guard Bureau; Lt. Gen. Roger C. Schultz, USA, Director, and Brig. Gen. David A. Brubaker, Deputy Director, USAF, both of the Air National Guard; VAdm. John B. Totushek, USNR, Chief of Naval Reserve; Lt. Gen. Dennis M. McCarthy, USMC, Commander, Marine Forces Reserve; Lt. Gen. James E. Sherrard III, USAF, Chief of Air Force Reserve; and Lt. Gen. Thomas J. Plewes, USA, Chief of Army Reserve.

D.C. FAMILY COURT REFORM

Committee on Appropriations: Subcommittee on District of Columbia concluded hearings to examine reformation efforts of the District of Columbia Family Court, focusing on the transition from the Family Division of the Superior Court of the District of Columbia to the Family Court of the Superior Court, recruiting trained and experienced judges, and promoting consistency and efficiency in the assignment of judges and actions and proceedings in the Family Court, after receiving testimony from Cornelia M. Ashby, Director, Education, Workforce, and Income Security Issues, General Accounting Office; Rufus King III, Chief Judge, and Lee Satterfield, Presiding Judge, Family Court, both of the Superior Court of the District of Columbia; Matthew I. Fraidin, Children's Law Center, and Deborah Luxenberg, on behalf of the Council for Court Excellence, both of Washington, D.C.; and Jacqueline Dolan, Pasadena, California, on behalf of the California Partnership for Children.

APPROPRIATIONS—STATE

Committee on Appropriations: Subcommittee on Foreign Operations concluded hearings on proposed budget estimates for fiscal year 2003 for the Department of State, after receiving testimony from Colin L. Powell, Secretary of State.

APPROPRIATIONS—NATIONAL DRUG CONTROL POLICY

Committee on Appropriations: Subcommittee on Treasury and General Government concluded hearings on proposed budget estimates for fiscal year 2003 for the Office of National Drug Control Policy, after receiving testimony from John P. Walters, Director, Office of National Drug Control Policy.

APPROPRIATIONS—LOW-INCOME COMMUNITIES

Committee on Appropriations: Subcommittee on VA, HUD, and Independent Agencies concluded hearings on proposed budget estimates for fiscal year 2003, after receiving testimony in behalf of funds for their respective activities from Ellen W. Lazar, Executive Director, Neighborhood Reinvestment Corporation; and Tony T. Brown, Director, Community Development Financial Institutions, Department of the Treasury.

HOMELAND SECURITY AND THE TECHNOLOGY SECTOR

Committee on Commerce, Science, and Transportation: Subcommittee on Science, Technology, and Space concluded hearings on S. 2037, to mobilize technology and science experts to respond quickly to the threats posed by terrorist attacks and other emergencies, by providing for the establishment of a national emergency technology guard, a technology reliability advisory board, and a center for evaluating antiterrorism and disaster response technology within the National Institute of Standards and Technology; and S. 2182, to authorize funding for computer and network security research and development and research fellowship programs, after receiving testimony from Representative Boehlert; George Strawn, Acting Assistant Director, Directorate for Computer and Information Science and Engineering, National Science Foundation; Ronil Hira, Institute of Electrical and Electronics Engineers-USA, and Lance J. Hoffman, George Washington University Department of Computer Science, on behalf of the Association for Computing Machinery, both of Washington, D.C.; Jeffrey M. Logan, M/A-COM Wireless Systems, Inc., Harrisburg, Pennsylvania; W. Wyatt Starnes, Tripwire, Inc., Portland, Oregon.

T'UF SHUR BIEN PRESERVATION TRUST AREA ACT

Committee on Energy and Natural Resources/Committee on Indian Affairs: Committees concluded joint hearings on S. 2018, to establish the T'uf Shur Bien Preservation Trust Area within the Cibola National Forest in the State of New Mexico to resolve a land claim involving the Sandia Mountain Wilderness, after receiving testimony from William G. Myers III, Solicitor, Department of the Interior; Thomas L. Sansonetti, Assistant Attorney General, Environment and Natural Resources Division, Department of Justice; Nancy Bryson, General Counsel, Department of Agriculture; Stanley M. Hordes, HMS Associates, Inc., Santa Fe, New Mexico; John D. Leshy, University of California Hastings College of Law, San Francisco, former Solicitor, Department of the Interior; Stuwart Paisano, Sandia Tribal Council, Bernalillo, New Mexico; and E. Tim Cummins, Bernalillo County Commission, Walter E. Stern, Modrall, Sperling, Roehl, Harris, and Sisk, on behalf of the Sandia Peak Tram and Ski Company, Guy Riordan, Piedra Lisa Tract, Anita P. Miller, Sandia Mountain Coalition, and Edward Sullivan, New Mexico Wilderness, all of Albuquerque, New Mexico.

U.S.-COLOMBIA POLICY

Committee on Foreign Relations: Subcommittee on Western Hemisphere, Peace Corps and Narcotics Affairs concluded hearings to examine future relations between the United States and Colombia, focusing on economic stabilization, drug and arms trafficking, and respect for human rights, after receiving testimony from Marc Grossman, Under Secretary of State for Political Affairs; Peter W. Rodman, Assistant

Secretary of Defense for International Security Affairs; Maj. Gen. Gary D. Speer, USA, Acting Commander in Chief, U. S. Southern Command; and Mark L. Schneider, International Crisis Group, and Jose Miguel Vivanco, Human Rights Watch, both of Washington, D.C.

BUSINESS MEETING

Committee on Health, Education, Labor, and Pensions: Committee ordered favorably reported the following business items:

S. 1284, to prohibit employment discrimination on the basis of sexual orientation, with an amendment in the nature of a substitute; and

The nominations of Evelyn Dee Potter Rose, of Texas, to be a Member of the National Council on the Arts, and James R. Stoner, Jr., of Louisiana, to be a Member of the National Council on the Humanities, both of the National Foundation on the Arts and the Humanities, and Kathleen M. Harrington, of the District of Columbia, to be an Assistant Secretary of Labor.

INDIAN FINANCING ACT

Committee on Indian Affairs: Committee concluded hearings on S. 2017, to amend the Indian Financing Act of 1974 to improve the effectiveness of the Indian loan guarantee and insurance program, after receiving testimony from Representative Bono; Les Minthorn, Confederated Tribes of the Umatilla Indian Reservation, Pendleton, Oregon; Marcia Warren Edelman, National Congress of American Indians, Washington, D.C.; and Kevin McGuire, Palm Desert National Bank, Palm Desert, California.

INTELLIGENCE

Select Committee on Intelligence: Committee held closed hearings on intelligence matters, receiving testimony from officials of the intelligence community.

Committee will meet again on Wednesday, May 1.

House of Representatives

Chamber Action

Measures Introduced: 29 public bills, H.R. 4559–4587; 1 private bill, H.R. 4588; and 1 resolution, H.J. Res. 89, were introduced. **Pages H1618–19**

Reports Filed: Reports were filed as follows:

Supplemental report on H.R. 3764, to authorize appropriations for the Securities and Exchange Commission (H. Rept. 107–415, Pt. 2); and

H. Res. 396, providing for consideration of H.R.3231, to replace the Immigration and Naturalization Service with the Agency for Immigration Affairs (H. Rept. 107–419). **Page H1618**

Guest Chaplain: The prayer was offered by the guest Chaplain, Dr. Richard Lee of First Redeemer Church, of Alpharetta, Georgia. **Page H1537**

Motion to Instruct Conferees on the Farm Security Act: The House agreed to the Hooley motion to instruct conferees on H.R. 2646, an act to provide for the continuation of agricultural programs through fiscal year 2011, to agree to the provisions contained in section 1001 of the Senate amendment and section 944 of the House bill, relating to country of origin labeling requirements for agricultural commodities, but to insist on the six-month implementation deadline contained in the House bill by voice vote. **Pages H1537–40**

Recess: The House recessed at 10:24 a.m. and reconvened at 10:30 a.m. **Page H1540**

Supplemental Report: The Committee on Financial Services received permission to file a supplemental report on H.R. 3764, to authorize appropriations for the Securities and Exchange Commission. **Page H1544**

Corporate and Auditing Accountability, Responsibility, and Transparency Act: The House passed H.R. 3763, to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws by a recorded vote of 334 ayes to 90 noes, Roll No. 110. **Pages H1544–92**

Rejected the LaFalce motion to recommit the bill to the Committee on Financial Services with instructions to report it back to the House forthwith with an amendment that sought to strike sections 11 and 12 and insert provisions that provide for the removal of unfit corporate officers, require disgorgement of compensation if an officer or director engages in misconduct resulting in erroneous financial statements, and require principal executive officers and financial officers to certify financial statements by a recorded vote of 205 ayes to 222 noes, Roll No. 109. **Pages H1589–92**

Agreed to the Committee on Financial Services amendment in the nature of a substitute now printed in the bill, H. Rept. 107–414, and made in order by the rule. **Page H1589**

Agreed To:

Oxley amendment no. 1 printed in H. Rept. 107–418 that makes technical and conforming changes and strikes provisions pertaining to the adoption of a senior financial officers code of ethics; **Pages H1563–64**

Capuano amendment no. 2 printed in H. Rept. 107–418 that specifies that one member of the public regulatory organization (PRO) shall be a person who has never been licensed to practice public accounting; **Pages H1564–65**

Rejected:

Sherman amendment no. 3 printed in H. Rept. 107–418 that sought to require the net capital of an accountant to be equal to one-half of the annual audit revenue received from issuers registered with the Securities and Exchange Commission; **Pages H1565–67**

Kucinich amendment in the nature of a substitute, no. 4 printed in H. Rept. 107–418 that sought to create the Federal Bureau of Audits to conduct an annual audit of the financial statements that are required to be submitted by reporting issuers and to be certified under the securities laws, rules or regulations (rejected by a recorded vote of 39 ayes to 381 noes, Roll No. 107); **Pages H1567–74**

LaFalce amendment in the nature of a substitute, no. 5 printed in H. Rept. 107–418 that sought to establish a Public Regulatory Organization within ninety days of enactment, define the nature and composition of the organization, and delineate its specific roles and responsibilities (rejected by a recorded vote of 202 ayes to 219 noes, Roll No. 108); **Pages H1574–89**

The Clerk was authorized to make technical corrections and conforming changes in the engrossment of the bill. **Page H1592**

H. Res. 395, the rule that provided for consideration of the bill was agreed to by voice vote. **Pages H1540–44**

Recess: The House recessed at 5:58 p.m. and reconvened at 6:28. **Page H1617**

Senate Messages: Messages received from the Senate today appear on page H1537.

Quorum Calls Votes: Four recorded votes developed during the proceedings of the House today and appear on pages H1573–74, H1588–89, H1591–92 and H1592. There were no quorum calls.

Adjournment: The House met at 10 a.m. and adjourned at 6:29 p.m.

Committee Meetings

COMMERCE, JUSTICE, STATE AND JUDICIARY APPROPRIATIONS

Committee on Appropriations: Subcommittee on Commerce, Justice, State and Judiciary held a hearing on Public Diplomacy. Testimony was heard from Charlotte Beers, Under Secretary, Department of State; the following officials of the Broadcasting Board of Governors: Marc Nathanson, Chairman; and Norman Pattiz, member of the Board; and public witnesses.

FOREIGN OPERATIONS APPROPRIATIONS

Committee on Appropriations: Subcommittee on Foreign Operations, Export Financing and Related Programs held a hearing on Secretary of the Treasury. Testimony was heard from Paul H. O'Neill, Secretary of Treasury.

LABOR, HHS AND EDUCATION APPROPRIATIONS

Committee on Appropriations: Subcommittee on Labor, Health and Human Services, and Education held a hearing on Department of Education Panel: Teacher Recruitment, Preparation and Development. Testimony was heard from the following officials of the Department of Education: Thomas P. Skelly, Director, Budget Service; Susan B. Neuman, Assistant Secretary, Elementary and Secondary Education; Robert H. Pasternack, Assistant Secretary, Special Education and Rehabilitative Services; Sally Stroup, Assistant Secretary, Postsecondary Education; Grover J. Whitehurst, Assistant Secretary, Educational Research and Improvement; and Maria Hernandez Ferrier, Director, Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students.

The Subcommittee also continued appropriation hearings. Testimony was heard from public witnesses.

LEGISLATIVE APPROPRIATIONS

Committee on Appropriations: Subcommittee on Legislative held a hearing on House of Representatives, Library of Congress, GPO; and on GAO. Testimony was heard from the following Officers of the House of Representatives: Jeff Trandahl, Clerk; Wilson Livingood, Sergeant at Arms; and James M. Eagen III, Chief Administrative Officer; James H. Billington, Librarian of Congress; the following officials of GPO: Robert T. Mansker, Deputy Public Printer; Francis J. Buckley, Jr., Superintendent of

Documents; Charles C. Cook, Superintendent, Congressional Printing Management Division; William M. Guy, Budget Officer; and Andrew M. Sherman, Director, Office of Congressional, Legislative, and Public Affairs; the following officials of the GAO: David M. Walker, Comptroller General; Gene L. Dodaro, Chief Operating Officer; Sallyanne Harper, Chief Mission Support and Chief Financial Officer; Anthony Gamboa, General Counsel; and Richard L. Brown, Controller.

NATIONAL DEFENSE AUTHORIZATION ACT

Committee on Armed Services: Special Oversight Panel on the Merchant Marine approved for full Committee action recommendations to H.R. 4546, National Defense Authorization Act for Fiscal Year 2003.

NATIONAL DEFENSE AUTHORIZATION ACT

Committee on Armed Services: Special Oversight Panel on Morale, Welfare and Recreation approved for full Committee action recommendations to H.R. 4546, National Defense Authorization Act for Fiscal Year 2003.

MISCELLANEOUS MEASURES

Committee on Energy and Commerce: Ordered reported the following: a measure to amend title V of the Social Security Act to extend abstinence education funding under maternal and child health program through fiscal year 2007; a measure to amend title XIX of the Social Security Act to extend the authorization of transitional medical assistance for one year; a concurrent resolution expressing the sense of the Congress that there should be established a National Minority Health and Health Disparities Month; H. Con. Res. 271, expressing the sense of the Congress that public awareness and education about the importance of health care coverage is of the utmost priority and that a National Importance of Health Care Coverage Month should be established to promote these goals; H. Con. Res. 358, supporting the goals and ideals of National Better Hearing and Speech Month; H. Con. Res. 165, expressing the sense of the Congress that continual research and education into the cause and cure for fibroid cancer be addressed; and H. Con. Res. 309, recognizing the importance of good cervical health and of detecting cervical cancer during its earliest stages.

HOUSING AFFORDABILITY FOR AMERICA ACT

Committee on Financial Services: Subcommittee on Housing and Community Opportunity continued hearings on H.R. 3995, Housing Affordability for America Act of 2002. Testimony was heard from the following officials of the Department of Housing and Urban Development: John Weicher, Assistant Secretary, Housing, and Commissioner, Federal Housing Administration; Roy Bernardi, Assistant Secretary, Community, Planning and Development; and Michael Liu, Assistant Secretary, Public and Indian Housing; Thomas J. McCool, Managing Director, Financial Markets and Community Investment, GAO; and public witnesses.

PRESIDENTIAL RECORDS ACT AMENDMENTS

Committee on Government Reform: Subcommittee on Government Efficiency, Financial Management, and Intergovernmental Relations held a hearing on H.R. 4187, Presidential Records Act Amendments of 2002. Testimony was heard from Morton Rosenberg, Specialist, American Public Law, Congressional Research Service, Library of Congress; and public witnesses.

INTERNATIONAL GLOBAL TERRORISM

Committee on International Relations: Held a hearing on International Global Terrorism: Its Links with Illicit Drugs as Illustrated by the IRA and Other Groups in Colombia. Testimony was heard from Asa Hutchinson, Administrator, DEA, Department of Justice; Mark Wong, Deputy Coordinator, Counterterrorism, Department of State; and public witnesses.

U.N. AND THE SEX SLAVE TRADE IN BOSNIA

Committee on International Relations: Subcommittee on International Operations and Human Rights held a hearing on the U.N. and the Sex Slave Trade in Bosnia: Isolated Case or Larger Problem in U.N. System? Testimony was heard from Nancy Ely-Raphel, Director, Office of Monitor and Combat Trafficking, Department of State; and public witnesses.

MISCELLANEOUS MEASURES

Committee on the Judiciary: Ordered reported the following bills: H.R. 1577, amended, Federal Prison Industries Competition in Contracting Act of 2001; H.R. 1877, amended, Child Sex Wiretapping Act of 2001; H.R. 2624, Law Enforcement Tribute Act; H.R. 3375, Embassy Employee Compensation Act; and H.R. 3892, amended, Judicial Improvements Act of 2002.

The Committee also approved private relief bills.

MISCELLANEOUS MEASURES

Committee on Resources: Ordered reported the following bills: S. 506, Huna Totem Corporation Land Exchange Act; H.R. 1370, amended, to amend the National Wildlife Refuge System Administration Act of

1966 to authorize the Secretary of the Interior to provide for maintenance and repair of buildings and properties located on lands in the National Wildlife Refuge System by lessees of such facilities; H.R. 1462, amended, Harmful Nonnative Weed Control Act of 2001; H.R. 1906, amended, to amend the Act that established the Pu'uhonua O Honaunau National Historical Park to expand the boundaries of that park; H.R. 2643, amended, Fort Clatsop National Memorial Expansion Act of 2001; H.R. 2818, to authorize the Secretary of the Interior to convey certain public land within the Sand Mountain Wilderness Study Area in the State of Idaho to resolve an occupancy encroachment dating back to 1971; H.R. 3908, amended, North American Wetlands Conservation Reauthorization Act; H.R. 3954, amended, Caribbean National Forest Wild and Scenic Rivers Act of 2002; and H.R. 4044, amended, to authorize the Secretary of the Interior to provide assistance to the State of Maryland for implementation of a program to eradicate nutria and restore marshland damaged by nutria.

MISCELLANEOUS MEASURES

Committee on Resources: Subcommittee on Water and Power held a hearing on the following bills: H.R. 1946, Rock Boys'/North Central Montana Regional Water System Act of 2001; and H.R. 4129, to amend the Central Utah Project Completion Act to clarify the responsibilities of the Secretary of the Interior with respect to the Central Utah Project, to redirect unexpended budget authority for the Central Utah Project for wastewater treatment and reuse and other purposes, to provide for prepayment of repayment contracts for municipal and industrial water delivery facilities, and to eliminate a deadline for such prepayment. Testimony was heard from Bennett Raley, Assistant Secretary, Water and Science, Department of the Interior; John E. Tubbs, Bureau Chief, Resource Development Bureau, Conservation and Resource Development Division, Department of Natural Resources and Conservation, State of Montana; and public witnesses.

BARBARA JORDAN IMMIGRATION AND ACCOUNTABILITY ACT

Committee on Rules: Granted, by voice vote, a structured rule providing 1 hour of debate on H.R. 3231, Barbara Jordan Immigration and Accountability Act of 2001. The rule waives all points of order against consideration of the bill. The rule provides that the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill shall be considered as an original bill for the purpose of amendment and shall be considered as read. The rule waives all points of order against the bill, as amended. The rule makes in order only those amendments printed in the report of the Committee on Rules accompanying the resolution. The rule provides that the amendments printed in the report shall be considered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The rule waives all points of order against the amendments printed in the report. Finally, the rule provides one motion to recommit with or without instructions. Testimony was heard from Chairman Sensenbrenner; Representatives Cannon, Bilirakis, Kolbe, Conyers, Lofgren, Jackson-Lee of Texas, Hastings of Florida, Gutierrez and Roybal-Allard.

WHY ADD AN INTEREST RATE HIKE ON OUR STRUGGLING SMALL MANUFACTURERS

Committee on Small Business: Held a hearing on Why Add an Interest Rate Hike on Our Struggling Small Manufacturers. Testimony was heard from Roger W. Ferguson, Jr., Vice Chairman, Board of Governors, Federal Reserve System; and public witnesses.

MISCELLANEOUS MEASURES

Committee on Transportation and Infrastructure: Ordered reported the following bills: H.R. 1979, amended, to amend title 49, United States Code, to provide assistance for the construction of certain air traffic control towers; H.R. 4006, to designate the United States courthouse located at 100 Federal Plaza in Central Islip, New York, as the ''Alfonse M. D'Amato United States Courthouse;'' H.R. 4028, to designate the United States courthouse located at 600 West Capitol Avenue in Little Rock, Arkansas, as the ''Richard S. Arnold United States Courthouse;'' H.R. 4466, amended, to amend title 49, United States Code, to authorize appropriations for the National Transportation Safety Board for fiscal years 2003, 2004, and 2005; H.R. 4481, amended, Airport Streamling Approval Process Act of 2002.

The Committee also approved pending Committee business.

VETERANS' MAJOR MEDICAL FACILITIES CONSTRUCTION ACT

Committee on Veterans' Affairs: Subcommittee on Health held a hearing on H.R. 4514, Veterans' Major Medical Facilities Construction Act of 2002. Testimony was heard from D. Mark Catlett, Principal Deputy Assistant Secretary, Management, Department of Veterans Affairs; Col. David D.

Gilbreath, USAF, Commander, Elmendorf Air Force Base Hospital, Department of the Air Force; and representatives of veterans organizations.

DISAPPROVAL RESOLUTION—STEEL SAFEGUARD ACTION

Committee on Ways and Means: Ordered adversely reported H.J. Res. 84, disapproving the action taken by the President under section 203 of the Trade Act of 1974 transmitted to the Congress on March 5, 2002.

NATIONAL RECONNAISSANCE PROGRAM BUDGET—CIA PROGRAM BUDGET

Permanent Select Committee on Intelligence: Met in executive session to hold a hearing on Budget for the National Reconnaissance Program. Testimony was heard from departmental witnesses.

The Committee also met in executive session to hold a hearing on the Budget for the Central Intelligence Agency Program. Testimony was heard from departmental witnesses.

COMMITTEE MEETINGS FOR THURSDAY, APRIL 25, 2002

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Appropriations: Subcommittee on Interior, to hold hearings on proposed budget estimates for fiscal year 2003 for the Forest Service, Department of Agriculture, 2 p.m., SD–192.

Committee on Banking, Housing, and Urban Affairs: Subcommittee on Housing and Transportation, to hold hearings to examine transit accomplishments and challenges in the 21st Century, 2:30 p.m., SD–538.

Committee on Commerce, Science, and Transportation: to hold hearings on S. 2201, to protect the online privacy of individuals who use the Internet, 9:30 a.m., SR–253.

Full Committee, to hold hearings on the nomination of Harold D. Stratton, of New Mexico, to be Commissioner and Chairman of the Consumer Product Safety Commission, 2:30 p.m., SR–253.

Committee on Environment and Public Works: business meeting to consider pending calendar business, 9:30 a.m., SD–406.

Committee on Finance: Subcommittee on Social Security and Family Policy, to resume hearings on proposed legislation authorizing funds for the Temporary Assistance for Needy Families (TANF) Program, created by the Welfare Reform Law of 1996, focusing on helping hard-to-employ families, 2:30 p.m., SD–215.

Committee on Health, Education, Labor, and Pensions: to hold hearings to examine the implementation of the Individuals With Disabilities Education Act, focusing on behavioral support in schools, 10 a.m., SD–106.

Subcommittee on Public Health, to hold hearings to examine women's health issues, 2:30 p.m., SD–430.

Committee on the Judiciary: business meeting to consider pending calendar business, 10 a.m., SD–226.

Full Committee, to hold hearings to examine the nomination of Julia Smith Gibbons, of Tennessee, to be United States Circuit Judge for the Sixth Circuit, Leonard E. Davis, to be United States District Judge for the Eastern District of Texas, David C. Godbey, to be United States District Judge for the Northern District of Texas, Andrew S. Hanen, to be United States District Judge for the Southern District of Texas, Samuel H. Mays, Jr., to be United States District Judge for the Western District of Tennessee, and Thomas M. Rose, to be United States District Judge for the Southern District of Ohio, 2:30 p.m., SD–226.

Committee on Veterans' Affairs: to hold hearings to examine the Department of Veterans Affairs preparedness regarding options to nursing homes, 9:30 a.m., SR–418.

House

Committee on Appropriations, Subcommittee on Defense, executive, on National Foreign Intelligence Program, 2 p.m., H–405 Capitol.

Subcommittee on District of Columbia, on D.C. Public Schools and D.C. Charter Schools, 10 a.m., 2362 Rayburn.

Subcommittee on Labor, Health and Human Services, and Education, on Department of Education Panel: Transition into the Workforce, 9:45 a.m., 2358 Rayburn.

Subcommittee on Legislative, on Architect of the Capitol, 10 a.m., and on CBO, 11 a.m., H–140 Capitol.

Committee on Armed Services, Subcommittee on Military Installations and Facilities, to mark up H.R. 4546, National Defense Authorization Act for Fiscal Year 2003, 10 a.m., 2212 Rayburn.

Subcommittee on Military Personnel, to mark up H.R. 4546, National Defense Authorization Act for Fiscal Year 2003, 1 p.m., 2118 Rayburn.

Subcommittee on Military Readiness, to mark up H.R. 4546, National Defense Authorization Act for Fiscal Year 2003, 11:30 a.m., 2212 Rayburn.

Committee on the Budget, hearing on the Predictability and Control Twin Reasons for Restoring Budget Disciplines, 9 a.m., 210 Cannon.

Committee on Education and the Workforce, Subcommittee on Select Education, hearing on Citizen Service in the 21st Century, 10 a.m., 2261 Rayburn.

Subcommittee on Workforce Protections, hearing on A Review of OSHA's Plan to Reduce Ergonomic Injuries, 10 a.m., 2175 Rayburn.

Committee on Energy and Commerce, to mark up H.J. Res. 87, approving the site at Yucca Mountain, Nevada, for the development of a repository for the disposal of high-level radioactive waste and spent nuclear fuel, pursuant to the Nuclear Policy Act of 1982, 9:30 p.m., 2123 Rayburn.

Subcommittee on Telecommunications and the Internet, hearing entitled "Ensuring Content Protection in the Digital Age," 12:30 p.m., 2123 Rayburn.

Committee on Financial Services, Subcommittee on Financial Institutions and Consumer Credit, to continue hearings on H.R. 3951, Financial Services Regulatory Relief Act of 2002, 10 a.m., 2128 Rayburn.

Committee on Government Reform, Subcommittee on Technology and Procurement Policy, hearing on Ensuring the safety of our Federal Workforce: GSA's Use of Technology to secure Federal Buildings, 2 p.m., 2154 Rayburn.

Committee on International Relations, to mark up the following: H.R. 4073, to amend the Microenterprise for Self-Reliance Act of 2000 and the Foreign Assistance Act of 1961 to increase assistance for the poorest people in developing countries under microenterprise assistance programs under those Acts; and H.R. 3969, Freedom Promotion Act of 2002, 11 a.m., 2172 Rayburn.

Committee on Resources, Subcommittee on Forests and Forest Health, oversight hearing on Community-Based Land Management and Charter Forests, 10 a.m., 1334 Longworth.

Subcommittee on National Parks, Recreation and Public Lands, oversight hearing on the 2001 National Park Service Management Policies, 2 p.m., 1334 Longworth.

Committee on Transportation and Infrastructure, Subcommittee on Highways and Transit and the Subcommittee on Railroads, joint hearing on Transportation of Spent Rods to the Proposed Yucca Mountain Storage Facility, 10:30 a.m., 2167 Rayburn.

Committee on Ways and Means, Subcommittee on Social Security, to mark up H.R. 4070, Social Security Program Protection Act of 2002, 9:30 a.m., B–318 Rayburn.

Permanent Select Committee on Intelligence, Subcommittee on Intelligence Policy and National Security and the Subcommittee on Human Intelligence, Analysis and Counterintelligence, executive, joint hearing on Latin America Issues, 10 a.m., H–405 Capitol.

Next Meeting of the **SENATE**

9:30 a.m., Thursday, April 25

Senate Chamber

Program for Thursday: Senate will consider and vote on the nominations of Percy Anderson and John F. Walter, each to be a United States District Judge for the Central District of California; to be followed by consideration of S. 517, Energy Policy Act.

Next Meeting of the **HOUSE OF REPRESENTATIVES**

10 a.m., Thursday, April 25

House Chamber

Program for Thursday: Consideration of H.R. 3231, Barbara Jordan Immigration Reform and Accountability Act (structured rule, one hour of general debate).

Extensions of Remarks, as inserted in this issue

HOUSE

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